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FEDERAL FINANCIAL ASSISTANCE FOR CRIME CONTROL: LESSONS OF THE LEAA EXPERIENCE

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I. INTRODUCTION

Crime is once again a major issue on the political agenda. At all levels of government, policymakers are grappling with the question of what government can and should do to stem the tide of lawlessness.

It is not hard to understand this concern. Just a glance at the morning headlines or the evening news reveals the American preoccupation with crime and violence. Although the stories in the media are often sensationalized, the pervasive problems they symbolize are nonetheless real and urgent. Crime—particularly violent crime—is a grave threat to the safety of all Americans.

The Federal Bureau of Investigation Uniform Crime Reports (UCR) measure the amount of crime actually reported to the police.¹ According to the UCR, crime increased by nine percent in 1980 and violent crime rose by eleven percent.² On the average, violent crime (murder, forcible rape, robbery, and aggravated assault) is rising at an annual rate of five percent. In 1971 there were 396 reported violent crimes per 100,000 people.³ By 1980 the rate was 581 violent crimes per 100,000 persons.⁴

Historically, a great deal of crime is never reported to the police.⁵ The other major source of crime data, the National Crime Survey (NCS), sponsored by the Bureau of Justice Statistics, therefore attempts

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¹ FEDERAL BUREAU OF INVESTIGATION U.S. DEP'T OF JUSTICE, CRIME IN THE UNITED STATES 1980, at 1 (1981).

² *Id.* at 38.

³ *Id.* at 41.

⁴ *Id.*

⁵ Data from the 1979 National Crime Survey show that only 45% of all crimes of violence and about 36% of household crimes were reported to the police. BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, CRIMINAL VICTIMIZATION IN THE UNITED STATES 1979, at 15 (1981) [hereinafter cited as CRIMINAL VICTIMIZATION].

to give a more complete picture of the incidence of crime by interviewing randomly-selected citizens. The NCS reveals that in 1980 almost one-third of all American households were affected by crime and nearly five million were touched by rape, robbery or assault.⁶ In effect, at least one family member in each of these residences was the victim of one of these serious crimes.

While the UCR and the NCS differ in the way they measure the incidence of crime and, therefore, paint slightly differing pictures of crime rates and trends, both show that violent crime affects the lives of many Americans. In fact, the United States is the most violent of the world's industrialized democracies.⁷ Young people are especially vulnerable to violent crime. Americans aged twelve to twenty-four years experience the highest victimization rates, while those over sixty-five experience the lowest.⁸ Violent crime also disproportionately affects minority group members.⁹

Violent crime not only inflicts personal hardship and suffering, but also exacts an economic toll. Businesses are prime targets, experiencing a robbery rate ten times higher than that for private citizens.¹⁰ One estimate places business losses from crime at approximately \$30 billion annually.¹¹ Overall, about one-fourth of all violent crimes, whether against persons or businesses, results in economic loss.¹² Moreover, merely administering the criminal justice system costs the taxpayer about \$25 billion a year.¹³

Along with the tangible costs of this crime wave, there is deepening concern and growing public fear about crime. Four out of ten Americans are highly fearful that they will become victims of violent crimes such as murder, rape, robbery, or assault.¹⁴ In March 1981, a poll found that fifty-eight percent of the public believe that more crime occurs in their communities now compared to a year ago; more than half of those

⁶ BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE BULL., THE PREVALENCE OF CRIME 1 (Mar. 1981).

⁷ In a comparison of homicide rates in 14 countries over the last five years, the United States was found to have a murder rate nearly twice that of the next highest nation. See STATISTICS CANADA, CANADIAN CENTRE FOR JUSTICE STATISTICS (Jan. 1982).

⁸ CRIMINAL VICTIMIZATION, *supra* note 5, at 25.

⁹ *Id.* at 26.

¹⁰ NAT'L INDICATORS SYSTEM, EXECUTIVE OFFICE OF THE PRESIDENT, BRIEFING BOOK, VIOLENT CRIME IN THE UNITED STATES 12 (1981).

¹¹ NAT'L INST. OF LAW ENFORCEMENT & CRIMINAL JUSTICE, U.S. DEP'T OF JUSTICE, SECURITY AND THE SMALL BUSINESS RETAILER 5(1979).

¹² CRIMINAL VICTIMIZATION, *supra* note 5, at 67.

¹³ BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, EXPENDITURE AND EMPLOYMENT DATA FOR THE CRIMINAL JUSTICE SYSTEM 1978, at 33 (1981).

¹⁴ A-T-O INC., THE FIGGIE REPORT ON FEAR OF CRIME, 1 THE GENERAL PUBLIC 18 (1980).

polled were afraid to walk alone at night in areas within a mile of their homes.¹⁵

It is against this backdrop of rising crime and fear of crime that the issue of the federal role in crime control has once again surfaced. Much of the debate centers on whether the federal government should provide financial assistance to state and local law enforcement efforts. For the past thirteen years the Law Enforcement Assistance Administration (LEAA) has provided such assistance. From fiscal year 1969 through fiscal year 1980, LEAA received about \$7.5 billion.¹⁶ Despite this investment, crime soared and critics charged that the LEAA program was a failure.¹⁷ In 1980, President Carter recommended that the program be ended,¹⁸ a decision later reaffirmed by the Reagan Administration.¹⁹

Whatever the successes or failures of the LEAA program, it provides a useful case study. Any proposals for future federal activity in this area should draw heavily on the experience of LEAA, not only to avoid its mistakes, but also to capitalize on its successes.

II. HISTORY OF LEAA

LEAA was created by the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act)²⁰ in an environment of social turbulence. Crime rates were climbing, the incidence of drug abuse was on the rise, riots and disorders were becoming commonplace, and America's polit-

¹⁵ NEWSWEEK, Mar. 23, 1981, at 47.

¹⁶ U.S. DEP'T OF JUSTICE, FIRST ANNUAL REPORT OF THE JUSTICE SYSTEM IMPROVEMENT ACT AGENCIES 39 (1981). LEAA appropriations levels rose swiftly from \$63 million in fiscal year 1969 to a peak of \$886 million in fiscal year 1975.

¹⁷ Congressional debate on the 1979 reauthorization of the LEAA program highlighted the arguments between supporters and critics as to whether the program's failure to reduce crime meant that the program itself was a failure. See, e.g., *Law Enforcement Assistance Administration: Hearings Before the Subcomm. on Crime of the Senate Comm. on the Judiciary*, 94th Cong., 2d. Sess. 97 (1976) (statement of Sarah C. Carey & Leda R. Judd) [hereinafter cited as *LEAA Hearings*]; CONG. REC. S. 2280 (daily ed. Feb. 25, 1976) (remarks of Sen. Kennedy), reprinted in *LAW ENFORCEMENT ASSISTANCE ADMIN., INDEXED LEGISLATIVE HISTORY OF THE CRIME CONTROL ACT OF 1976*, at 387 (1977).

One assessment of the program concluded that LEAA should not be blamed for the increase in crime, but held LEAA sharply accountable for helping to perpetuate through its own rhetoric a false expectation of crime reduction. TWENTIETH CENTURY FUND TASK FORCE ON THE LAW ENFORCEMENT ASSISTANCE ADMIN. *LAW ENFORCEMENT: THE FEDERAL ROLE 4-6* (1976) [hereinafter cited as *TWENTIETH CENTURY FUND*].

¹⁸ EXECUTIVE OFFICE OF THE PRESIDENT, FISCAL YEAR 1981 BUDGET REVISIONS 79 (1980).

¹⁹ EXECUTIVE OFFICE OF THE PRESIDENT, BUDGET OF THE UNITED STATES GOVERNMENT, FISCAL YEAR 1982, at 470 (1981). Only funding for the LEAA-administered criminal justice assistance programs has been eliminated. Funding has continued for the research, statistics, juvenile justice, and public safety officers' benefits programs.

²⁰ Pub. L. No. 90-351, § 101, 82 Stat. 197, 198 (codified as amended at 42 U.S.C. § 3711 (1976 & Supp. IV 1980)).

ical leaders were targets for assassination attempts. In the mid-sixties, a presidential commission undertook a study of the problem and issued its report under the troublesome heading, "The Challenge of Crime in a Free Society."²¹

It was clear that something had to be done to improve crime control efforts. It also was clear that local law enforcement was not effective and that greater resources, including those of the federal government, had to be applied to the problem. As the primary responsibility for law enforcement traditionally rests with state and local governments, any suggested federal role had to avoid even the slightest appearance that local authority for crime control was being usurped by the federal government. The national government was, however, expected to identify methods that made law enforcement more effective, and to provide support to state and local governments for their improvement efforts.

This purpose—fostering system change and improvement through national leadership and assistance—became the mandate and the mission of the LEAA. The LEAA program had four basic and highly significant purposes: (1) to encourage state comprehensive planning for criminal justice improvements; (2) to provide technical and financial assistance to improve and strengthen law enforcement and criminal justice; (3) to conduct research and development projects to improve criminal justice operations; and (4) to develop and transfer to the states new techniques and methods to reduce crime, and detect, apprehend, and rehabilitate criminals.²²

The LEAA program was the first program of significant federal aid for state and local law enforcement.²³ Indeed, it was an innovative ex-

²¹ The President's Commission on Law Enforcement and the Administration of Criminal Justice was appointed by President Johnson in 1965 and chaired by then-Attorney General Nicholas deB. Katzenbach. Its 1967 report put forward more than 200 recommendations for criminal justice improvements, including a call for federal financial assistance to state and local government. *PRESIDENT'S COMM'N ON LAW ENFORCEMENT & THE ADMIN. OF CRIMINAL JUSTICE, THE CHALLENGE OF CRIME IN A FREE SOCIETY* 634 (1967).

²² Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-351, § 100, 82 Stat. 197, 197 (1968) (codified as amended at 42 U.S.C. § 3701 (1976)). Some observers of the program believe that one of its failings was the lack of clarity as to purpose. *See generally* *ADVISORY COMM'N ON INTERGOVERNMENTAL RELATIONS, SAFE STREETS RECONSIDERED: THE BLOCK GRANT EXPERIENCE 1968-1975*, at 176-77 (1976) [hereinafter cited as *SAFE STREETS RECONSIDERED*]; T. E. CRONIN, T. Z. CRONIN, M. MILAKOVICH, *U.S. v. CRIME IN THE STREETS* 134-39 (1981) [hereinafter cited as *U.S. v. CRIME IN THE STREETS*].

²³ An earlier, more modest program had been established by the Law Enforcement Assistance Act of 1965, Pub. L. No. 89-197, 79 Stat. 828, *repealed by* Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-351, § 405, 82 Stat. 197, 204 (codified as amended at 42 U.S.C. § 3745 (1976)). This Act created an Office of Law Enforcement Assistance within the Department of Justice to administer a small-scale categorical grant program with about \$7 million of annual congressional appropriations during the 1966-1968 fiscal year period. *SAFE STREETS RECONSIDERED*, *supra* note 22, at 9-15.

periment in intergovernmental relations. Funds were to be awarded to the states as "block grants" and the states were to select both the recipients and the uses of these grants.²⁴ The states, not the Congress or the federal government, would make choices, set priorities, and allocate funds. New administrative structures called State Planning Agencies (later renamed Criminal Justice Councils) were created to plan for, receive, and administer the federal funds and to coordinate criminal justice programs within their states.²⁵ Regional and local planning units were set up to participate in this process.²⁶

In the decade following its passage, the Safe Streets Act was amended five times. Reacting in part to the early concentration of funding on police programs, the 1971 amendments earmarked funds for correctional purposes.²⁷ In 1973 there was a new emphasis placed on evaluating the various programs and projects to determine the extent to which they met the goals of the Act.²⁸ In 1974 Congress made special provision for funding juvenile justice programs.²⁹ Further additions in 1976 provided for court programs³⁰ and community anti-crime initiatives,³¹ and established a program to pay survivors benefits to public safety officers killed in the line of duty.³²

Congressional tinkering with the Act during this period also focused on adjustment in the roles of states, major cities, and counties.³³

²⁴ Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-351, §§ 301-307, 82 Stat. 197, 199-202 (codified as amended at 42 U.S.C. §§ 3731-3737 (1976 & Supp. IV 1980)).

²⁵ See *infra* notes 49-53 and accompanying text.

²⁶ The 1968 Safe Streets Act required that local governments be allowed to participate in the state's planning activities. Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-351, § 303(3), 82 Stat. 197, 201 (codified as amended at 42 U.S.C. § 3733(c) (1976)). It also provided that local governments, or combinations, would receive a portion of the funds available for planning. *Id.* § 203(f), 82 Stat. 197, 199 (codified as amended at 42 U.S.C. § 3723(f) (1976)). By 1970, 45 states had established a total of 452 regional planning units. ADVISORY COMM'N ON INTERGOVERNMENTAL RELATIONS, MAKING THE SAFE STREETS ACT WORK, 33 (1970).

²⁷ Omnibus Crime Control and Safe Streets Act Amendments of 1971, Pub. L. No. 91-644, §§ 451-455, 84 Stat. 1881, 1885-1887 (codified as amended at 42 U.S.C. §§ 3732-3737, 3751, 3757, 3781 (1976)).

²⁸ Crime Control Act of 1973, Pub. L. No. 93-83, § 2(c), 87 Stat. 197, 206 (codified as amended in scattered sections of 5, 40, 42 U.S.C.).

²⁹ Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. No. 93-415, 88 Stat. 1109 (codified as amended in scattered sections of 5, 18, 42 U.S.C.).

³⁰ Crime Control Act of 1976, Pub. L. No. 94-503, § 109 (b)(10), 90 Stat. 2407, 2411 (codified at 42 U.S.C. § 3731 (1976)). In addition, the amendments provided for the establishment of judicial planning committees. *Id.* §105, 90 Stat. at 2408 (codified at 42 U.S.C. § 3723 (1976)).

³¹ *Id.* 103, 90 Stat. 2407 (codified at 42 U.S.C. § 3711 (1976)).

³² Public Safety Officers' Benefits Act of 1976, Pub. L. No. 94-430, 90 Stat. 1346 (codified as amended in 42 U.S.C. 3796-3796(c) (1976)).

³³ The 1971 Amendments required states to assure that major cities and counties received

Statutory and administrative changes gradually attempted to guarantee to the larger jurisdictions a role in planning and decision-making in what had been an almost totally state-directed program in 1968.³⁴

For those officials at the federal, state, and local levels charged with administering the program, the dislocations caused by these frequent statutory changes were compounded by frequent changes in leadership at the national level. With each new LEAA Administrator came new direction and new program priorities.³⁵

In 1979, the Justice System Improvement Act (JSIA) made sweeping changes in the LEAA program.³⁶ It attempted to deal with past criticisms by creating the National Institute of Justice³⁷ and the Bureau

planning funds, and authorized funding of criminal justice coordinating councils in jurisdictions of 250,000 or more. Omnibus Crime Control and Safe Streets Act Amendments, Pub. L. No. 91-6444, § 4, 84 Stat. 1881, 1882 (codified as amended at 42 U.S.C. § 3731 (1976)). The 1973 Amendments required states to allow localities or combinations with a population of 250,000 or more to submit plans directly to the state. Crime Control Act of 1976, Pub. L. No. 94-503, § 111, 90 Stat. 2407, 2413-2414 (codified at 42 U.S.C. § 3732 (1976)). The Justice System Improvement Act of 1979 capped this trend by providing that larger local jurisdictions would be entitled to a set portion of formula grant funds. Justice System Improvement Act of 1979, Pub. L. No. 96-157, § 402, 93 Stat. 1167, 1181 (codified as amended at 42 U.S.C. § 3742 (1976)).

³⁴ See generally *SAFE STREETS RECONSIDERED*, *supra* note 22, at 66-68.

³⁵ See generally *DEPT OF JUSTICE STUDY GROUP, REPORT TO THE ATTORNEY GENERAL* 9 (1977); *SAFE STREETS RECONSIDERED*, *supra* note 22, at 44-45; *U.S. v. CRIME IN THE STREETS*, *supra* note 22, at 139-46. Until 1971 LEAA was headed by a *troika* — one administrator and two associates — no more than two of which could be of the same political party. Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-351, § 101, 82 Stat. 197, 198 (codified as amended in scattered sections of 5, 18, 42 U.S.C.). The *troika* system was abolished in 1973. Crime Control Act of 1973, Pub. L. No. 93-83, § 101, 87 Stat. 197, 197 (codified as amended at 42 U.S.C. § 3701 (1976)).

The personnel records of the Office of Justice Assistance, Research, and Statistics (OJARS) reveal a long succession of administrators. From October 1968 to March 1969, Patrick V. Murphy served as acting administrator, with Ralph Siu and Wesley Pomeroy as acting associate administrators. In 1969, President Nixon named Charles H. Rogovin as Administrator, with Richard Velde and Clarence Coster as associates. Rogovin resigned in June of 1970 and the top post remained vacant until May 1971, when Jerris Leonard took over. Leonard held the job of LEAA administrator for about two years, resigning in March 1973. His successor was Donald E. Santarelli, who served until his resignation in August 1974. Richard W. Velde was appointed in September 1974 and remained in the office until February 1977, when he resigned following the election of Jimmy Carter. For about 18 months thereafter the agency was headed by a career civil servant, James M. H. Gregg, who served as acting administrator from February 1977 until President Carter appointed Henry S. Dogin in October 1978. With the restructuring of the agency as a result of the Justice System Improvement Act of 1979, Dogin became the director of OJARS and was succeeded as LEAA Administrator by Homer Broome. Broome resigned in February 1981 after the election of President Reagan. George Bohlinger, also a career bureaucrat, was acting administrator from February 1981 until February 1982.

³⁶ Justice System Improvement Act of 1979, Pub. L. No. 96-157, 93 Stat. 1167 (codified at 42 U.S.C. § 3701 (Supp. IV 1980)).

³⁷ *Id.* §§ 201-204, 93 Stat. 1167, 1171-75 (codified at 42 U.S.C. §§ 3721-3723 (Supp. IV 1980)).

of Justice Statistics,³⁸ with each to have largely independent authority for the federal criminal justice research and statistics programs, respectively. It restructured LEAA's criminal justice financial assistance programs to eliminate needless red tape and administrative complexity.³⁹ Moreover, it created an Office of Justice Assistance, Research, and Statistics⁴⁰ to coordinate and provide support to these three units. In 1980 the Office of Juvenile Justice and Delinquency Prevention⁴¹ was established as part of this five-sided arrangement.

Although the JSIA authorized the LEAA program for four years (through fiscal year 1983), no funds have been requested or appropriated since fiscal year 1980.⁴² Today, the LEAA program is in the final process of termination. Projects formerly financed with federal funds are seeking other sources of support. A number of the agencies created to administer the program are already disbanded or face an uncertain future.⁴³ While many of the positive changes which the program helped bring about are likely to remain, the LEAA program as a continuing source of financial aid for criminal justice improvement is at an end.

III. WHAT WENT WRONG

A. UNREALISTIC EXPECTATIONS

The optimistic expectations embodied in the original Safe Streets Act fell far short of fruition over the thirteen years of the program's existence. At the most basic level, the program clearly was not a panacea to the problem of crime, as some had billed it. In some ways, LEAA was a victim of the propaganda proclaiming it as a centerpiece in the nation's "war on crime." Indeed, the very slogan "war on crime" implied that crime is not the complex, intractable problem most observers agree it is. Rather, there was an implicit assumption that crime could be defeated simply by improving the criminal justice system—by making police, courts, and corrections agencies work better. This as-

³⁸ *Id.* §§ 301-305, 93 Stat. 1167, 1176-79 (codified at 42 U.S.C. §§ 3731-3735 (Supp. IV 1980)).

³⁹ *Id.* §§ 401-405, 501-505, 601-606, 93 Stat. 1167, 1179-1195 (codified as amended in scattered sections of 42 U.S.C.).

⁴⁰ *Id.* § 801, 93 Stat. 1167, 1201 (codified at 42 U.S.C. § 3781 (Supp. IV 1980)).

⁴¹ Juvenile Justice Amendments of 1980, Pub. L. No. 96-509, § 262, 94 Stat. 2750 (codified as amended in scattered sections of 42 U.S.C.).

⁴² See *supra* note 19.

⁴³ As of April 1982, seven of the State Planning Agencies, see *infra* notes 49-53 and accompanying text, had formally closed, transferring their residual administrative duties to other state agencies. Unpublished data from the files of the Office of Justice Assistance, Research, and Statistics. A recent survey of the status of regional and local planning offices shows that the number still operating has declined from 246 in June 1981 to 177 in March 1982. LEAA NEWSLETTER, Apr. 26, 1982, at 1.

sumption was staggering in its simplicity and, in hindsight, in its wrong-headedness. It foreordained the LEAA program to be labeled a failure, regardless of its other achievements.

B. IS MONEY ENOUGH?

The LEAA had flaws not only in program concept, but also in program implementation. First, there was an assumption that money makes a difference—the more money, the greater the likelihood of reducing crime. Thirteen years and about \$7.5 billion later, it is clear that money alone is not an answer.

LEAA did help attract additional dollars to underfinanced and understaffed criminal justice agencies. In the past decade, state and local spending for criminal justice increased almost 150%, outdistancing increases for general government expenditures.⁴⁴ On the other hand, more money has not guaranteed better or expanded services. In fact, the ratio of police to crime incidents has declined,⁴⁵ many court calendars continue to be clogged,⁴⁶ and jails and prisons are severely overcrowded.⁴⁷ Although more resources may be needed, the reality is that criminal justice agencies will have to find better, more efficient ways of doing business without massive infusions of money or people.

LEAA funds, which at their peak accounted for only about five percent of state and local criminal justice budgets, sometimes were used to find innovative and effective answers for criminal justice problems. But too often agencies dissipated the funds by scattering them widely or by applying them to unwise, frivolous, or routine expenditures,⁴⁸ with the result that their potential impact was sharply diluted.

C. THE PLANNING RITUAL

Another assumption of the Safe Streets Act was that comprehensive planning would overcome the fragmentation and fractionalism of the criminal justice system and pave the way for meaningful reform. The

⁴⁴ NAT'L INDICATORS SYSTEM, *supra* note 10, at 38.

⁴⁵ A recent study found that the number of police officers for each reported violent crime fell from 3.32 in 1948 to 0.5 in 1978. Center for Urban Affairs & Policy Research, Northwestern Univ., Government Responses to Crime (study conducted for the National Institute of Justice, U.S. Dep't of Justice, awaiting publication).

⁴⁶ A 1975 survey concluded: "Despite improved staffing, felony case backlogs and civil case backlogs in courts of general jurisdiction increased by 10 percent and 13 percent, respectively." 4 NAT'L INST. OF LAW ENFORCEMENT & CRIMINAL JUSTICE, U.S. DEP'T OF JUSTICE, THE NATIONAL MANPOWER SURVEY, COURTS 1 (1978).

⁴⁷ Twenty-eight states and the District of Columbia are presently under court order to reduce overcrowding. NAT'L INDICATORS SYSTEMS, *supra* note 10, at 46.

⁴⁸ See generally SEN. COMM. ON THE JUDICIARY, LAW ENFORCEMENT ASSISTANCE REFORM ACT OF 1979, S. REP. NO. 142, 96th Cong., 1st Sess. 7-8, reprinted in 1979 U.S. CODE CONG. & AD. NEWS 2471, 2478 [hereinafter cited as S. REP.].

newly-created State Planning Agencies (SPAs) were intended to develop comprehensive plans for improvement in the criminal justice system as a whole and translate these plans into action by applying federal funds.⁴⁹

Once again, the gap between theory and reality was wide. There is general agreement that, in practice, planning came to be an exercise in compliance with federal requirements. Federal statutory and guideline specifications were excessive and helped turn planning into a purely paperwork assignment. By 1978, a state's average annual comprehensive plan was approximately 1000 pages long.⁵⁰

But the failure of planning can be traced to a far more deep-rooted problem. SPAs, not surprisingly, seldom had the authority or resources to carry out the planning function.⁵¹ Officials instead perceived them as conduits for federal funds and frequently viewed their deliberations as mere battlegrounds for cutting the federal pie.⁵² Compounding this inherently weak position of the SPAs was the unwillingness of the governors to get involved and to use the SPA as their arm for coordinating and improving criminal justice.⁵³

D. IN SEARCH OF PRIORITIES

The Safe Streets Act left decisions regarding the use of funds to state and local governments. To this extent it emphasized process over substance. Drafters of the statute deliberately refrained from specifying what types of programs or policies should be pursued. The results were twofold: at the state level, there was scattershot funding with no discernible impact;⁵⁴ at the national level, priorities were shifting and un-

⁴⁹ The 1968 Safe Streets Act authorized grants to the states for the establishment and operation of the SPAs. The Act required that SPAs be created or designated by the state's chief executive and be representative of law enforcement and local government. It further defined the SPA's duties to be preparation of a comprehensive plan, development of programs, and establishment of law enforcement priorities. Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-351, §§ 202, 203(a), 203(b), 82 Stat. 197, 198-199 (codified as amended at 42 U.S.C. §§ 3722, 3723(a)-(b) (1976)). By December of 1968 all states had created an SPA. ADVISORY COMM'N ON INTERGOVERNMENTAL RELATIONS, *supra* note 26, at 23.

⁵⁰ *LEAA Hearings*, *supra* note 17, at 14-15 (statement of Att'y Gen. Benjamin R. Civiletti).

⁵¹ M. FEELEY & A. SARAT, *THE POLICY DILEMMA* 63 (1980).

⁵² *Id.* at 69.

⁵³ *SAFE STREETS RECONSIDERED*, *supra* note 22, at 60. While the SPAs generally were unable to carry out the "comprehensive planning" mission of the Safe Streets Act, a number of these agencies over time carved out valuable roles for themselves in state government, particularly in the areas of coordination, information gathering and analysis, budget review, and policy and program development. Thus, despite the end of federal support for the SPAs, many will continue with state funding because they have proven to be of worth in helping states, and particularly governors, manage and coordinate criminal justice concerns. *See generally* NAT'L ACADEMY OF PUBLIC ADMINISTRATION, *CRIMINAL JUSTICE IN THE GOVERNING PROCESS* (1979); NAT'L GOVERNORS' ASS'N, *CRIMINAL JUSTICE* (1980).

⁵⁴ The broad discretion that the Act allowed to the states in determining which programs

clear.⁵⁵ As new administrators came on board, so did "bold new initiatives" like Pilot Cities,⁵⁶ Impact Cities,⁵⁷ or Standards and Goals.⁵⁸ The cumulative effect of these constant changes and pressures was a lack of a fully coherent strategy at the national level. When added to the basic deficiencies in our understanding of what works and what does not, and why, the predictable outcome was a series of short-term efforts, often hurriedly developed and hastily abandoned.

E. A TANGLE OF RED TAPE

Originally, the LEAA program envisioned a rather simple process whereby states would prepare plans and LEAA would approve the plans and award funds for implementation. Over time, one requirement after another was added, creating a bureaucratic and administrative maze that drove up costs and curtailed performance. For example, by 1976 the Safe Streets Act had imposed special requirements in the areas of corrections,⁵⁹ detailed the composition and functions of SPAs,⁶⁰ man-

to fund, coupled with the lack of an adequate reporting and evaluation system, made it difficult for LEAA to document progress and results on an aggregate national basis. *See e.g., LEAA Hearings, supra* note 17, at 450 (statement of Rep. Elizabeth Holtzman); GEN. ACCOUNTING OFF. DIFFICULTIES OF ASSESSING RESULTS OF LAW ENFORCEMENT ASSISTANCE ADMINISTRATION PROJECTS TO REDUCE CRIME (1974): TWENTIETH CENTURY FUND, *supra* note 17, at 107-13. In the Justice System Improvement Act Congress tried to respond to this problem by narrowing the range of eligible fund uses; requiring that funds be used only for those programs which were of proven effectiveness or had a high probability of success; and calling for a report on the contributions of the program in 18 specific areas. Justice System Improvement Act of 1979, Pub. L. No. 96-157, §§ 401, 816(b), 93 Stat. 1167, 1179-1181, 1210-1211 (codified at 42 U.S.C. §§ 3741, 3789 (Supp. IV 1980)).

⁵⁵ TWENTIETH CENTURY FUND, *supra* note 17, at 47. *See also* SAFE STREETS RECONSIDERED, *supra* note 22, at 44.

⁵⁶ Pilot Cities was an LEAA initiative launched in 1970 to establish laboratory settings in eight cities for comprehensive research, development, testing, and evaluation of criminal justice improvements. For a description and assessment of the program, see NAT'L INST. OF LAW ENFORCEMENT & CRIMINAL JUSTICE U.S. DEP'T OF JUSTICE, NATIONAL EVALUATION OF THE PILOT CITIES PROGRAM (1975).

⁵⁷ The Impact Cities program was announced by LEAA Administrator Jerris Leonard in 1972. It concentrated funds in eight cities to support crime-oriented planning and the implementation and evaluation of crime-reduction programs. *See* NAT'L INST. OF LAW ENFORCEMENT & CRIMINAL JUSTICE, U.S. DEP'T OF JUSTICE, HIGH IMPACT ANTI-CRIME PROGRAM (1976).

⁵⁸ The Standards and Goals program began in 1971 with the formation by LEAA of the National Advisory Commission on Criminal Justice Standards and Goals to compile specific recommendations for improving criminal justice and reducing crime. *See* NAT'L ADVISORY COMM'N ON CRIMINAL JUSTICE STANDARDS & GOALS, A NATIONAL STRATEGY TO REDUCE CRIME (1973). Under LEAA Administrator Donald Santarelli, LEAA undertook an initiative to promote the discussion and implementation of the Commission's standards. *See* AMERICAN INST. OF RESEARCH, THE NATIONAL EVALUATION OF THE STANDARDS AND GOALS PROJECT (1978).

⁵⁹ Crime Control Act of 1976, Pub. L. No. 94-503, § 109, 90 Stat. 2407, 2411 (codified at 42 U.S.C. § 3731 (1976)).

⁶⁰ *Id.* § 105, 90 Stat. 2407, 2408 (codified at 42 U.S.C. § 3723 (1976)).

dated special units for judicial planning,⁶¹ prescribed the content of state plans,⁶² and added extensive civil rights enforcement procedures.⁶³ Moreover, about twenty-five other federal laws imposed conditions on the receipt of LEAA funds.⁶⁴

Increasingly, therefore, recipients found the program mired in red tape and were frustrated at the time-consuming and intricate process to obtain project funding. As the level of funding for the program began to taper off in the late seventies, some jurisdictions concluded that participation in the program simply was not worth the administrative expense and headache.⁶⁵

In sum, the LEAA program ran afoul of unrealistic expectations, wasteful uses of funds, mounting red tape, and uncertain direction. In the face of growing criticism, the program had difficulty demonstrating that it was having any measurable impact on crime or on the administration of justice.

IV. WHAT WORKED

Although much of the criticism was justified, it tended to overshadow the program's accomplishments. LEAA fell short on many counts, but it was neither as dismal a failure as its critics claimed, nor as shining a success as its proponents hoped.

Many observers agree that LEAA contributed to significant criminal justice improvements. It educated and trained thousands of criminal justice personnel, implemented new and worthwhile projects,⁶⁶ and developed new skills and capacities for criminal justice analysis, planning, and coordination.⁶⁷ There is little doubt that the criminal justice system has benefitted from the LEAA experience. But what instruction

⁶¹ *Id.* § 105, 90 Stat. 2407, 2409 (codified at 42 U.S.C. § 3723 (1976)).

⁶² *Id.* § 111, 90 Stat. 2407, 2413 (codified at 42 U.S.C. § 3733 (1976)).

⁶³ *Id.* § 122, 90 Stat. 2407, 2413 (codified at 42 U.S.C. § 3766 (1976)).

⁶⁴ DEP'T OF JUSTICE STUDY GROUP, *supra* note 35, at 8.

⁶⁵ S. REP., *supra* note 48, at 13.

⁶⁶ See, e.g., *id.* at 9-13; LAW ENFORCEMENT ASSISTANCE ADMIN., PROGRAM RESULTS INVENTORY (1977) [hereinafter cited as PROGRAM RESULTS INVENTORY]; Office of Justice Assistance, Research & Statistics, U.S. Dep't of Justice, Programs Meeting Effectiveness Criteria (1980); U.S. DEP'T OF JUSTICE, *supra* note 16.

⁶⁷ NAT'L GOVERNORS' ASS'N, *supra* note 53, at 9. In its 1970 study the Advisory Commission on Intergovernmental Relations had concluded that the SPAs were experiencing problems finding qualified staff. ADVISORY COMM'N ON INTERGOVERNMENTAL RELATIONS, *supra* note 26, at 23. Five years later it found that the "visibility of the program, the increasing number of institutions of higher education that offer degrees in criminal justice planning and administration, and the efforts by both LEAA and the states to develop trained personnel have contributed to the meeting of SPA staffing needs." SAFE STREETS RECONSIDERED, *supra* note 22, at 59.

for the future, and what useful guides for federal policy, did this experience provide?

A. USE OF FEDERAL DOLLARS TO PROMOTE INNOVATION

Proponents intended the LEAA program to be the catalyst for new ideas and techniques. The federal government would provide the impetus for innovation by providing leadership and seed money, with state and local governments eventually assuming the costs of those projects that proved to be effective.

While LEAA clearly did not fully meet this goal, there is evidence that the concept of federal seed money for criminal justice improvements worked. According to the Advisory Commission on Intergovernmental Relations, LEAA funds, even though constituting a small portion of total criminal justice funds, represented a primary resource for new and innovative activities at the state and local level.⁶⁸ In addition, state and local governments assumed the costs of a substantial number of projects, once federal support ended. In 1976, the Advisory Commission found a cost assumption rate of nearly two-thirds.⁶⁹ More recently, LEAA reported a rate of about eighty-five percent.⁷⁰

This evidence suggests that the use of federal funds as a carrot to implement new programs and new practices is a workable idea. It also suggests that federal funding does not need to be massive or open-ended; rather, it can be limited to short-term support until a new program is operational and has demonstrated its worth.

B. DEVELOPMENT OF EFFECTIVE PROGRAMS

The LEAA experience also points out that effective criminal justice improvement programs can be developed to respond to high-priority national problems. In recent years, LEAA had adopted an approach to program development that targeted funds for priority areas, built upon the findings of research, tested and evaluated new concepts, and replicated concepts that worked.⁷¹ The process therefore linked research with action. It led to the implementation of several programs of proven effectiveness that achieved significant improvements in the performance

⁶⁸ SAFE STREETS RECONSIDERED, *supra* note 22, at 189.

⁶⁹ *Id.* at 150.

⁷⁰ U.S. DEP'T OF JUSTICE, *supra* note 16, at 23. The rate of cost assumption is based on those projects that are eligible for continuation (that is, more than one-time efforts such as training) and that have been found to be successful.

⁷¹ Law Enforcement Assistance Admin., U.S. Dep't of Justice, Instruction No. 3000.2A, Program Development Policy (1977).

of criminal justice agencies in a number of jurisdictions.⁷² These programs have demonstrated the potential impact of limited funds when carefully targeted and effectively used. Some examples are illustrative:

- The Career Criminal Program⁷³ pioneered the concept of focusing prosecutorial resources on repeat, serious offenders. Through this program, some 12,000 career criminal defendants have been prosecuted, and more than ninety percent have been convicted.⁷⁴ Today, the Career Criminal Program has been widely replicated in cities throughout the country.⁷⁵

- PROMIS, the Prosecutor's Management Information System,⁷⁶ has complemented the Career Criminal Program by helping prosecutors manage their cases. PROMIS is an automated system that produces reports for tracking cases, defendants, and charges; generating trial lists, forms and notices; and scheduling cases. PROMIS has improved the operational efficiency of prosecutor's offices and in some cases resulted in cost savings.⁷⁷

- ICAP, the Integrated Criminal Apprehension Program,⁷⁸ has improved police operations through sophisticated crime analysis and investigative and management procedures. ICAP is recognized by many in the law enforcement community as an effective approach for police improvements. In some cases it has reduced overtime costs and increased patrol strength.⁷⁹

- STING,⁸⁰ another LEAA-sponsored law enforcement initiative, created phony fencing operations which resulted in the arrest and con-

⁷² HOUSE COMM. ON THE JUDICIARY, JUSTICE ASSISTANCE ACT OF 1981, H. REP. NO. 293, 97th Cong., 1st Sess. 10-12 (1981).

⁷³ National Priority Program and Discretionary Program Announcements, 45 Fed. Reg. 10,703 (1980) [hereinafter cited as Program Announcements]. The Career Criminal Program has been evaluated in E. CHELIMSKY & J. DAHMANN, CAREER CRIMINAL PROGRAM NATIONAL EVALUATION (1981). See also NAT'L INST. OF JUSTICE, U.S. DEP'T OF JUSTICE, POLICY BRIEFS: CAREER CRIMINAL PROGRAMS (1980).

⁷⁴ Unpublished data compiled from LEAA project grant files.

⁷⁵ See INST. FOR LAW & SOCIAL RESEARCH, NATIONAL DIRECTORY OF CAREER CRIMINAL PROGRAMS (1980).

⁷⁶ Program Announcements, *supra* note 73, at 10,706.

⁷⁷ PROGRAM RESULTS INVENTORY, *supra* note 66, at 16. See also J. HOGG, S. BROWN-STEIN, J. FIRESTONE, J. ROBINSON, J. ROTH, NATIONAL EVALUATION PROGRAM PHASE I SUMMARY REPORT: PROSECUTION MANAGEMENT INFORMATION SYSTEMS (1980). PROMIS is operational in 56 cities and is being installed in 222 others. Unpublished material submitted to the Attorney General's Task Force on Violent Crime in August 1981 by the Office of Justice Assistance, Research and Statistics.

⁷⁸ Program Announcements, *supra* note 73, at 10,705-06.

⁷⁹ Unpublished material submitted to the Attorney General's Task Force on Violent Crime in August 1981 by the Office of Justice Assistance, Research and Statistics.

⁸⁰ Program Announcements, *supra* note 73, at 10,703 (referred to as Anti-Fencing Program). See also LAW ENFORCEMENT ASSISTANCE ADMIN., U.S. DEP'T OF JUSTICE, PROPERTY CRIME PROGRAM (1981).

viction of thieves. The LEAA investment of \$31 million in 142 operations has led to the recovery of \$337 million in stolen property, over 12,000 arrests, and a ninety percent conviction rate.⁸¹

- LEAA's Treatment Alternatives to Street Crime (TASC)⁸² program reduces recidivism among drug/alcohol abusing offenders, improves harmony between treatment and criminal justice agencies, and provides the criminal justice system with more alternatives in dealing with the substance-abusing offender. Between 1972 and 1980, LEAA supported seventy-two TASC projects, including nine statewide efforts, with some \$43 million.⁸³ An evaluation report shows that sixty-four percent of the offenders placed in TASC projects were successfully discharged⁸⁴ and concludes that it is a cost-effective alternative.⁸⁵

- LEAA has also been in the forefront of developing programs to respond to emerging criminal justice concerns, such as victim and witness assistance,⁸⁶ arson control,⁸⁷ and community crime prevention.⁸⁸

Not only are these programs effective, but they also meet a real and important need at the state and local level. The lesson is that the federal government can play a valuable role in developing worthwhile programs and encouraging the replication of such programs. Table 1 illustrates that with federal leadership and the incentive of federal aid, these and other improvement efforts have been adopted fairly widely in the nation's largest cities. Nevertheless, none of these cities has yet initiated all of the ten model programs identified, and only seven have implemented more than half of these programs. In addition, many smaller jurisdictions have been unable to participate even to this extent, due to lack of funds.

V. CONCLUSION

The questions of how the federal government can best contribute to

⁸¹ Data compiled from LEAA project grant files for projects active during the period June 1975 to March 1982.

⁸² Program Announcements, *supra* note 73, at 10,704.

⁸³ Unpublished data compiled from LEAA files.

⁸⁴ NAT'L INST. OF LAW ENFORCEMENT & CRIMINAL JUSTICE, U.S. DEP'T OF JUSTICE, EVALUATION OF TREATMENT ALTERNATIVES TO STREET CRIME 119 (1979).

⁸⁵ *Id.* at 119-21.

⁸⁶ Program Announcements, *supra* note 73, at 10,713. *See also* NAT'L INST. OF JUSTICE, ASSESSMENT OF VICTIM/WITNESS PROJECTS (1981); NAT'L INST. OF LAW ENFORCEMENT AND CRIMINAL JUSTICE, U.S. DEP'T OF JUSTICE, VICTIM/WITNESS ASSISTANCE (1979).

⁸⁷ Program Announcements, *supra* note 73, at 10,707. *See also* NAT'L INST. OF LAW ENFORCEMENT & CRIMINAL JUSTICE, U.S. DEP'T OF JUSTICE, ARSON PREVENTION AND CONTROL (1980).

⁸⁸ Program Announcements, *supra* note 73 at 10,714. *See also* NAT'L INST. OF LAW ENFORCEMENT & CRIMINAL JUSTICE, U.S. DEP'T OF JUSTICE, AN EXEMPLARY PROJECT: COMMUNITY CRIME PREVENTION, SEATTLE, WASHINGTON (1977).

improved state and local law enforcement, and more specifically, whether or not the federal government should provide financial assistance for this purpose, are not susceptible to easy answers. The debate is likely to continue and intensify as crime escalates and budgets dwindle.

The Final Report of the Attorney General's Task Force on Violent Crime⁸⁹ summarized the conflicting views. As the Report notes, some observers believe that the federal role should be limited to researching criminal justice issues and testing and evaluating new approaches and techniques.⁹⁰ They think it is up to state legislatures and local governing bodies to decide whether or not to appropriate funds to implement any of these new approaches.⁹¹

Others think that research alone is not enough.⁹² They argue that the federal government should provide limited financial incentives to state and local governments to initiate successful programs spawned by research. This is the position of the Task Force, which concluded, "Most of us . . . believe that federal funds should be made available to state and local governments to implement those programs that have been demonstrated and proven to be effective through rigorous independent evaluation."⁹³ The Task Force, however, specifically cautioned against recreating LEAA, a program it saw as too expensive, too bureaucratic, and too difficult to control, and which had "scattered funds thinly over a wide variety of initiatives."⁹⁴

The Task Force criticisms of LEAA are correct. But the LEAA experience also shows that financial assistance, when it is targeted for effective programs, can be a useful lever to encourage state and local adoption of proven, successful approaches. If federal aid is to achieve measurable impact, it must be aimed at innovative programs that work, and not spent randomly on routine operations. This is the overriding lesson of LEAA, and should be the fundamental principle guiding the development of any new federal effort in this area.

The LEAA experience also strongly suggests that a program of federal aid, if one is to be enacted, should have the following characteristics. First, funds should be limited. *How* the money is spent is more important than the amount; massive funding is neither necessary nor desirable. Second, federal funds should be used as seed money only, with definite limits set on the time period over which a program will be supported by federal aid. Once a program has been started and has had a reasonable period to prove itself, the states and localities should be left to decide whether the program should be continued. Third, and in the same vein, states and localities should make a significant commitment to

⁸⁹ ATTORNEY GENERAL'S TASK FORCE ON VIOLENT CRIME, U.S. DEP'T OF JUSTICE, FINAL REPORT (1981).

⁹⁰ *Id.* at 74.

⁹¹ *Id.*

⁹² *Id.* at 73.

⁹³ *Id.*

⁹⁴ *Id.* at 74.

assume full program funding when federal support ends, and should be encouraged in this direction by sharing the costs of the program from the outset. Finally, it is important that any new program avoid the red tape morass that engulfed LEAA, and instead maximize state and local participation by retaining flexibility and minimizing regulations.

It is always easy to "second guess" a program by rendering judgments which are insulated by thirteen years from the social conditions which precipitated its creation. LEAA was designed as an *experiment* in a very turbulent time in this nation's history. To those of us who have been associated with the program, the shame is not that the program was flawed, nor that so many things "went wrong" with it during its brief history. Rather, the shame will be if the lessons which were taught by this experiment are lost. When one embarks on an experiment, a certain element of risk is assumed. One can expect major failures as well as major successes. The expenditure of \$7.5 billion in public funds will not have been wasteful if it assures that the mistakes of the past are not repeated, particularly if the conditions which provoked the federal response in 1968 were to repeat themselves.