93D CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
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LAW ENFORCEMENT ASSISTANCE AMENDMENTS

JUNE 5, 1973.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

Mr. RODINO, from the Committee on the Judiciary, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 8152]

The Committee on the Judiciary, to whom was referred the bill (H.R. 8152) to amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to improve law enforcement and criminal justice and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

1. Page 4, beginning on line 13 and ending on line 14, strike out "(including any Criminal Justice Coordinating Council)".

2. Page 6, lines 17–25, section 204: strike out section 204 and insert the following in lieu thereof:

> "SEC. 204. A Federal grant authorized under this part shall not exceed 90 per centum of the expenses incurred by the State and units of general local government under this part, and may be up to 100 per centum of the expenses incurred by regional planning units under this part. The non-Federal funding of such expenses, shall be of money appropriated in the aggregate by the State or units of general local government, except that the State shall provide in the aggregate not less than one-half of the non-Federal funding required of units of general local government under this part.

3. Page 14, line 23, strike out "and".

4. Page 15, immediately after line 3, insert the following:

"(13) provide for procedures that will ensure that (A) all applications by units of general local government or combinations thereof to the State planning agency for assistance shall be approved or disapproved, in whole or in part, no later than 60 days after receipt by the State planning agency, (B) if not disapproved (and returned with the reasons for such disapproval, including the reasons for the disapproval of each fairly severable part of such application which is disapproved) within 60 days of such application, any part of such application which is not so disapproved shall be deemed approved for the purposes of this title, and the State planning agency shall disburse the approved funds to the applicant in accordance with procedures established by the Administration, (C) the reasons for disapproval of such application or any part thereof, in order to be effective for the purposes of this section, shall contain a detailed explanation of the reasons for which such application or any part thereof was disapproved, or an explanation of what supporting material is necessary for the State planning agency to evaluate such application, and (D) disapproval of any application or part thereof shall not preclude the resubmission of such application or part thereof to the State planning agency at a later date.

5. Page 15, line 3, strike out the period and insert in lieu thereof "; and".

6. Page 25, line 25, strike out "$1,800", and insert in lieu thereof "$2,200".

7. Page 26, line 22, strike out "$200", and insert in lieu thereof "$250".

8. Page 26, line 22, strike out "$300", and insert in lieu thereof "$400".

9. Page 28, line 19, strike out "$50" and insert in lieu thereof "$65".

10. Page 31, line 22, strike out "(9)" and insert in lieu thereof "(10)".

11. Page 31, line 21, strike out "and".

12. Page 31, immediately after line 21, insert the following new paragraph:

"(9) provides necessary arrangements for the development and operation of narcotic treatment programs in correctional institutions and facilities and in connection with probation or other supervisory release programs for all persons, incarcerated or on parole, who are drug addicts or drug abusers; and

13. Page 32, immediately after line 3, insert the following new paragraph:

"In addition, the Administration shall issue guidelines for drug treatment programs in State and local prisons and for those to which persons on parole are assigned.

14. Page 38, line 12, strike out "four succeeding fiscal years" and insert in lieu thereof "fiscal year ending June 30, 1975".

15. Page 42, beginning on line 21 and ending on line 22, strike out "each succeeding fiscal year through the fiscal year ending June 30, 1978" and insert in lieu thereof "the fiscal year ending June 30, 1975".

16. Page 44, beginning on line 13, strike all after the word "title" down through line 20 and insert in lieu thereof the following:

> shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title.

17. Page 8, line 20, insert "and criminal justice" immediately after "law enforcement".

18. Page 13, line 11, strike out "of".

19. Page 22, line 1, insert a comma immediately after "conducting".

20. Page 23, line 15, insert "and" immediately before "shall describe".

21. Page 38, line 8, strike out "1251" and insert in lieu thereof "1254".

22. Page 39, line 15, strike out "unit" and insert in lieu thereof "units".

23. Page 48, line 19, strike out ", the" and insert in lieu thereof a semicolon.

24. Page 48, line 20, strike out "and" immediately before "custodial treatment" and insert in lieu thereof a semicolon.

25. Page 48, line 24, strike out "obtain" and insert in lieu thereof "obtains".

26. Page 49, line 18, insert "and criminal justice" immediately after "law enforcement".

27. Page 47, line 20, strike out "501(a)" and insert in lieu thereof "1201(a)".

28. Page 47, line 21, strike out "79 Stat. 1269;".

29. Page 2, line 15, insert a semicolon immediately before "(2)".

30. Page 2, line 17, insert a semicolon immediately before "and (3)".

31. Page 51, line 3, strike out "(131)" and insert in lieu thereof "(133)", and strike out "the".

32. Page 51, line 4, strike out "Administration".

Purpose

The purpose of H.R. 8152 is to make a variety of amendments to Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.), that established the Federal Law Enforcement Assistance Program. Most importantly, the bill would authorize appropriations for the next 2 fiscal years for the Law Enforcement Assistance Administration (LEAA), created by the 1968 Act as a financial and technical partner for State and local governments in reducing crime and improving the Nation's criminal justice system.

Cost

The bill authorizes appropriations of $1 billion for the fiscal year ending June 30, 1974, and an additional $1 billion for the fiscal year ending June 30, 1975.

GENERAL STATEMENT AND ANALYSIS

LEAA's initial 5-year authorization expires on June 30, 1973. Beginning on March 15 of this year, Subcommittee No. 5 of the House Committee on the Judiciary held nine full days of hearings on legislation to extend the program. The Subcommittee's hearing record comprises 1,000 pages, and is a thorough review of LEAA's achievements and failures to date, with a primary focus on its institutional future. ("Law Enforcement Assistance Administration", Hearings before Subcommittee No. 5 of the House Committee on the Judiciary, 93rd Congress, 1st Session, Serial No. 4.) During the course of the hearings, testimony was received from witnesses from all over the country, including the Attorney General, Members of Congress, Governors, Mayors, and representatives of every aspect of law enforcement and criminal justice.

Subsequent to those hearings, the Subcommittee met for seven days of mark-up sessions to produce H.R. 8152, drafted as an amended Title I of the basic 1968 Act, in large part retaining the basic features of that Act.

The bill was reported to the full Committee on the Judiciary for its consideration on May 30 and May 31, 1973, and approved with amendments by that Committee.

The Committee believes the changes in existing law represented by H.R. 8152, as amended, are major steps forward in the fight against crime. Most importantly, the new language addresses those deficiencies that have most severely hampered aspects of LEAA performance in the past.

The bill eliminates the unwieldly "troika" system of LEAA administration, and replaces it with a single Administrator and a Deputy Administrator appointed by the President with the advice and consent of the Senate.

It makes more emphatic the intention of the Congress that monies expended under this Act address all aspects of the criminal justice system—not merely police, and not merely the purchase of police hardware. The Committee, to clarify this end, has added the words "and criminal justice" to the words "law enforcement" wherever they appear throughout the bill. Thus, for example, a part of the Declarations and Purpose Section of the Act is amended to read:

> It is, therefore, the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement *and criminal justice* at every level by National assistance.

Also in this regard, the Committee has broadened the definition of law enforcement and criminal justice to include prosecutorial and defender services, and has defined "comprehensive" as it relates to plans under the Act as "a total and integrated analysis of the problems regarding the law enforcement and criminal justice system within the State."

The purpose of rehabilitating criminals as well as simply detecting and apprehending them is added to the purposes of the Act.

The Committee has rejected proposals to convert this program into a simple "no strings attached" special revenue sharing program

(H.R. 5613), and in so doing has retained Federal responsibility for administering the program and for assisting the States in comprehensive planning. In this regard, LEAA is made more accountable. Approval of State plans is retained as a condition precedent to funding. No plan is to be approved unless and until LEAA finds a determined effort by the plan to improve law enforcement and criminal justice throughout the State. Such an effort must be more than a good faith effort to distribute funds widely either geographically or institutionally throughout a State. What is necessary is a balanced and integrated plan that addresses the State's particular needs. The "determined effort" standard will require more of a plan than its failure to transgress any provision of the act or LEAA regulation. Some States are meeting the standard at present but all too many are not. Not until the threat of nonfunding becomes real can the citizenry expect the quality of anti-crime efforts to improve. The committee feels that LEAA has in the past not exercised the leverage provided to it by law to induce the States to improve the quality of law enforcement and criminal justice. Such failure is regrettable, for the approval function of LEAA is the keystone of the Act. At the same time, under the bill, LEAA is mandated to exercise its approval or disapproval function within 90 days, assuring both an adequate time for meaningful consideration and a prompt flow of funds to the States and units of general local government. Similarly, the States are directed to provide procedures that will ensure that all fund applications by localities to State planning agencies be expedited, to be approved or disapproved, in whole or in part, within 60 days. The purpose of this new provision is to assure that units of general local government receive their monies promptly in accordance with procedures established by the administration. The procedures referred to are those written fiscal controls established by the Administration for recipients of funds under this title.

The needs of the units of general local government, the needs of the Nation's cities where much of our crime occurs, are in other ways very much addressed by H.R. 8152. Although the Committee has rejected proposals to provide revenue sharing payments directly to cities, the "variable pass-through formula", which as a national average assures that about 70% of a State's block grant must be passed on to units of general local government, is retained. The bill also requires that 40% of a State's planning monies be passed through to units of local government, and increases the minimum planning monies to each State from $100,000 to $200,000. It provides that before a State plan can be approved, it must assure an "allocation of adequate assistance to deal with law enforcement and criminal justice problems in areas characterized by both high crime incidence and high law enforcement and criminal justice activity". Other provisions of the bill provide funding incentives for localities that coordinate law enforcement and criminal justice activities with other localities, even where such coordination is achieved over a bi-state region. Moreover, under the law it is within the discretion of the State planning agencies to fund localities for a package of program and projects as well as simply for single programs or projects on an individual basis.

Matching requirements, the requirements calling for a non-Federal share of the funding, which have traditionally fallen most harshly

on the localities, are made more realistic. All "match" is reduced to a 10% cash match and the requirement of the State share of that match is increased from 25% to 50% with regard to Part C, and from 0% to 50% in Part B. (In the case of planning monies, there is no match requirement at all for Regional Planning Units.) The so-called "soft-match", the non-cash match, is eliminated, ending procedures the Committee believes are only causes of imaginative bookkeeping by recipients and nightmarish monitoring problems for LEAA charged with ensuring compliance.

The Committee retained language providing that cash matches shall be appropriated in the aggregate, so that a governmental unit need show only that its *total* grants under the Act do not exceed 90% of the cost of programs and projects undertaken, rather than being required to demonstrate that there is a 10% "match" for each and every of its programs and projects. In view of the Committee's conclusion regarding the undesirability of requiring "soft match," the Committee also eliminated the soft match with regard to funds made available under parts B, C, and E prior to July 1, 1973 which have not been obligated (or were obligated and later de-obligated) by the States or units of general local government in making awards. Such funds may provide up to 90 percent of the cost of any program or project. It is expected that the Administration, however, will not provide in excess of 50% of the cost of any construction program or project funded under part C lest these non-obligated funds become more "desirable" than funds made available after July 1, 1973.

The State "buy-in" provisions, with respect to funds passed through to units of general local government under part B or C, are also written in the "aggregate." This does not mean that a State is obligated to buy into any specific program or project. Rather, a State may pick and choose which programs or projects and whose programs or projects to assist, provided that the total of such assistance at least equals 50% of the total of all local obligations with respect to the funds passed through. This flexibility is believed desirable so that each State may decide which units of general local government within the State are in greatest need and render assistance accordingly.

Also eliminated by the bill as reported are limitations on the use of grant monies by localities to compensate law enforcement and criminal justice personnel, other than police. In this context, the Committee intends the term "police" to mean public officers or employees, whether of a State or any political subdivision thereof, primarily engaged in the detection or apprehension of persons who have violated criminal laws. The Committee also deleted from present law a requirement that each State plan demonstrate a willingness to assume the costs of continuing, in the future, programs and projects assisted with Federal funds. This deletion resulted not from a belief by the Committee that the requirement reflected bad policy, but rather that it appeared unenforceable.

The National Institute of Law Enforcement and Criminal Justice is strengthened, and given a major new role in evaluating projects, developing training programs, and acting as a clearinghouse to stimulate research and reform. In performing its evaluation function, the Institute will find it necessary to evaluate programs or projects on the

basis of standards. The committee believes that it will be useful in appropriate cases for the Institute to refer to recommendations of the National Advisory Commission on Criminal Justice Standards and Goals. The State plans themselves must assure that programs and projects funded under the Act maintain the data and information necessary to allow the Institute to perform meaningful evaluation.

Part E, the special section added in 1970 to assure adequate attention to corrections is retained despite proposals before the Committee to leave the expenditures of these funds purely at the unchecked discretion of the State. Also retained and strengthened to keep pace with the cost of living, is LEEP, the Law Enforcement Education Program.

In addition there are new requirements that all planning meetings be open to the public when final action is taken on State plans, and that there be participation in the planning process by citizen and community groups. Beyond that, each plan must provide for "fund accounting, audit, monitoring, and evaluation procedures," to assure "fiscal control and proper management" of funds.

The bill also provides that LEAA may make grants from its 15% discretionary funds to private non-profit organizations. Many important programs relating to law enforcement and criminal justice involve more than one State or locality or are national in scope. Such programs cannot be appropriately funded by a single State. Nonetheless, present law requires that LEAA grants be awarded to units of State and local government with the result that a State planning agency must be willing to accept the administrative burden of serving as the conduit for funding to non-profit organizations which are qualified to operate the multi-State programs. The addition of non-profit organizations to the list of those entities entitled to receive LEAA funds would eliminate the cumbersome administrative arrangement currently employed and relieve State Planning Agencies of the unwarranted burden of administering grants to non-profit organizations for programs which may have little direct relationship to the "host" State. The addition of non-profit organizations is intended to facilitate the funding of programs operated by organizations such as, but by no means limited to: The National District Attorneys Association, The National Association of Attorneys General, The American Bar Association, the YMCA and The Urban League. It is not the intention of the Committee that private "non-profit organization" in this context be construed to mean neighborhood, community patrol activities.

For the first time the Act itself contains provisions protecting civil rights and civil liberties. In addition to deleting prohibitions against conditioning a grant on the adoption by an applicant of a quota system or other program to achieve racial balance, the bill reiterates the anti-discrimination requirements of title VI of the Civil Rights Act of 1964, but also prohibits discrimination on the basis of sex. The bill strengthens the ban on discrimination by making clear that the fund cut-off provisions of section 509 of the Act and of title VI of the Civil Rights Act of 1964 both apply, and that appropriate civil actions may be filed by the Administration, and that "pattern and practice" suits may be filed by the Attorney General. The bill would also add provi-

sions guaranteeing the right to privacy with regard to research and statistical data gathered under the Act.

The Committee has retained language regarding criminal penalties for embezzlement, fraud, etc., prohibited under the Act, but has added the crime of attempt to commit any of those offenses now prohibited.

The bill would extend the life of LEAA for an additional 2 years and authorize appropriations of $1 billion for each of those years.

Lastly, the Committee has made certain purely technical amendments to existing law and to H.R. 8152 as printed.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE I—LAW ENFORCEMENT ASSISTANCE

DECLARATIONS AND PURPOSE

Congress finds that the high incidence of crime in the United States threatens the peace, security, and general welfare of the Nation and its citizens. To *reduce and* prevent crime *and juvenile delinquency*, and to insure the greater safety of the people, law enforcement *and criminal justice* efforts must be better coordinated, intensified, and made more effective at all levels of government.

Congress finds further that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively.

It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement *and criminal justice* at every level by national assistance. It is the purpose of this title to (1) encourage States and units of general local government to [prepare] *develop* and adopt comprehensive plans based upon their evaluation of State and local problems of law enforcement *and criminal justice*; (2) authorize grants to States and units of local government in order to improve and strengthen law enforcement *and criminal justice*; and (3) encourage research and development directed toward the improvement of law enforcement *and criminal justice* and the development of new methods for the prevention and reduction of crime and the [detection and apprehension] *detection, apprehension, and rehabilitation* of criminals.

PART A—LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

SEC. 101. (a) There is hereby established within the Department of Justice under the general authority of the Attorney General, a Law Enforcement Assistance Administration (hereinafter referred to in this title as "Administration") composed of an Administrator of Law

Enforcement Assistance [and two Associate Administrators] *and a Deputy Administrator* of Law Enforcement Assistance, who shall be appointed by the President, by and with the advice and consent of the Senate.

[Beginning after the end of the term of either of the present incumbents, one of the Associate Administrators shall be a member of a political party other than that of the President.]

(b) The Administrator shall be the [executive] head of the agency [and shall exercise all administrative powers, including the appointment and supervision of Administration personnel]. [All of the other functions, powers, and duties created and established by this title shall be exercised by the Administrator with the concurrence of either one or both of the two Associate Administrators.] *The Deputy Administrator shall perform such functions as the Administrator shall delegate to him, and shall perform the functions of the Administrator in the absence or incapacity of the Administrator.*

PART B—PLANNING GRANTS

SEC. 201. It is the purpose of this part to encourage States and units of general local government to [prepare] *develop* and adopt comprehensive law enforcement *and criminal justice* plans based on their evaluation of State and local problems of law enforcement *and criminal justice.*

SEC. 202. The Administration shall make grants to the States for the establishment and operation of State law enforcement *and criminal justice* planning agencies (hereinafter referred to in this title as "State planning agencies") for the preparation, development, and revision of the State plan required under section 303 of this title. Any State may make application to the Administration for such grants within six months of the date of enactment of this Act.

SEC. 203. (a) A grant made under this part to a State shall be utilized by the State to establish and maintain a State planning agency. Such agency shall be created or designated by the chief executive of the State and shall be subject to his jurisdiction. The State planning agency and any regional planning units within the State shall, within their respective jurisdictions, be representative of the law enforcement *and criminal justice* agencies, units of general local government, and public agencies maintaining programs to reduce and control crime *and shall include representatives of citizen, professional, and community organizations.*

(b) The State planning agency shall—

(1) develop, in accordance with part C, a comprehensive statewide plan for the improvement of law enforcement *and criminal justice* throughout the State;

(2) define, develop, and correlate programs and projects for the State and the units of general local government in the State or combinations of States or units for improvement in law enforcement *and criminal justice;* and

(3) establish priorities for the improvement in law enforcement *and criminal justice* throughout the State.

(c) The State planning agency shall make such arrangements as such agency deems necessary to provide that at least 40 per centum of

all Federal funds granted to such agency under this part for any fiscal year will be available to units of general local government or combinations of such units to enable such units and combinations of such units to participate in the formulation of the comprehensive State plan required under this part. The Administration may waive this requirement, in whole or in part, upon a finding that the requirement is inappropriate in view of the respective law enforcement *and criminal justice* planning responsibilities exercised by the State and its units of general local government and that adherence to the requirement would not contribute to the efficient development of the State plan required under this part. In allocating funds under this subsection, the State planning agency shall assure that major cities and counties within the State receive planning funds to develop comprehensive plans and coordinate functions at the local level. Any portion of such 40 per centum in any State for any fiscal year not required for the purpose set forth in this subsection shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development by it of the State plan required under this part.

(*d*) *The State planning agency and any other planning organization for the purposes of the title shall hold each meeting open to the public, giving public notice of the time and place of such meeting, and the nature of the business to be transacted, if final action is taken at that meeting on (A) the State plan, or (B) any application for funds under this title. The State planning agency and any other planning organization for the purposes of the title shall provide for public access to all records relating to its functions under this Act, except such records as are required to be kept confidential by any other provision of local, State, or Federal law.*

SEC. 204. A Federal grant authorized under this part shall not exceed 90 per centum of the expenses [of the establishment and operation of the State planning agency, including the preparation, development, and revision of the plans required by part C] *incurred by the State and units of general local government under this part, and may be up to 100 per centum of the expenses incurred by regional planning units under this part. The non-Federal funding of such expenses, shall be of money appropriated in the aggregate by the State or units of general local government, except that the State shall provide in the aggregate not less than one-half of the non-Federal funding required of units of general local government under this part.*

SEC. 205. Funds appropriated to make grants under this part for a fiscal year shall be allocated by the Administration among the States for use therein by the State planning agency or units of general local government, as the case may be. The Administration shall allocate [$100,000] *$200,000* to each of the States; and it shall then allocate the remainder of such funds available among the States according to their relative populations.

PART C—GRANTS FOR LAW ENFORCEMENT PURPOSES

SEC. 301. (a) It is the purpose of this part to encourage States and units of general local government to carry out programs and projects to improve and strengthen law enforcement *and criminal justice.*

(b) The Administration is authorzed to make grants to States having comprehensive State plans approved by it under this part, for—

(1) Public protection, including the development, demonstration, evaluation, implementation, and purchase of methods, devices, facilities, and equipment designed to improve and strengthen law enforcement *and criminal justice* and reduce crime in public and private places.

(2) The recruiting of law enforcement *and criminal justice* personnel and the training of personnel in law enforcement *and criminal justice.*

(3) Public education relating to crime prevention and encouraging respect for law and order, including education programs in schools and programs to improve public understanding of and cooperation with law enforcement *and criminal justice* agencies.

(4) Constructing buildings or other physical facilities which would fulfill or implement the purpose of this section, including local correctional facilities, centers for the treatment of narcotic addicts, and temporary courtroom facilities in areas of high crime incidence.

(5) The organization, education, and training of special law enforcement *and criminal justice* units to combat organized crime, including the establishment and development of State organized crime prevention councils, the recruiting and training of special investigative and prosecuting personnel, and the development of systems for collecting, storing, and disseminating information relating to the control of organized crime.

(6) The organization, education, and training of regular law enforcement *and criminal justice* officers, special law enforcement *and criminal justice* units, and law enforcement reserve units for the prevention, detection, and control of riots and other violent civil disorders, including the acquisition of riot control equipment.

(7) The recruiting, organization, training and education of community service officers to serve with and assist local and State law enforcement *and criminal justice* agencies in the discharge of their duties through such activities as recruiting; improvement of police-community relations and grievance resolution mechanisms; community patrol activities; encouragement of neighborhood participation in crime prevention and public safety efforts; and other activities designed to improve police capabilities, public safety and the objectives of this section: *Provided*, That in no case shall a grant be made under this subcategory without the approval of the local government or local law enforcement *and criminal justice* agency.

(8) The establishment of a Criminal Justice Coordinating Council for any unit of general local government or any combination of such units within the State, having a population of two hundred and fifty thousand or more, to assure improved planning and coordination of all law enforcement *and criminal justice* activities.

(9) The development and operation of [community based] *community-based* delinquent prevention and correctional programs, emphasizing halfway houses and other [community based] *community-based* rehabilitation centers for initial preconviction [of] *or* postconviction referral of offenders; expanded probationary programs, including paraprofessional and volunteer participation; and community service centers for the guidance and supervision of potential repeat youthful offenders.

(c) [The portion of any Federal grant made under this section for the purposes of paragraph (5) or (6) of subsection (b) of this section may be up to 75 per centum of the cost of the program or project specified in the application for such grant.] The portion of any Federal grant made under this section for the purposes of paragraph (4) of subsection (b) of this section may be up to 50 per centum of the cost of the program or project specified in the application for such grant. The portion of any Federal grant made under this section to be used for any other purpose set forth in this section may be up to [75 per centum] *90 per centum* of the cost of the program or project specified in the application for such grant. No part of any grant made under this section for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under this section to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the cost of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. [Effective July 1, 1972, at least 40 per centum of the] *The* non-Federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate, by State or individual [unit] *units* of government, for the purpose of the shared funding of such programs or projects.

[(d) Not more than one-third of any grant made under this section may be expended for the compensation of police and other regular law enforcement *and criminal justice* personnel. The amount of any such grant expanded for the compensation of such personnel shall not exceed the amount of State or local funds made available to increase such compensation. The limitations contained in this subsection shall not apply to the compensation of personnel for time engaged in conducting or undergoing training programs or to the compensation of personnel engaged in research, development, demonstration or other short-term programs.]

SEC. 302. Any State desiring to participate in the grant program under this part shall establish a State planning agency as described in part B of this title and shall within six months after approval of a planning grant under part B submit to the Administration through such State Planning agency a comprehensive State plan [formulated] *developed* pursuant to part B of this title.

SEC. 303. (*a*) The Administration shall make grants under this title to a State planning agency if such agency has on file with the Administration an approved comprehensive State plan (not more than one year in age) which conforms with the purposes and requirements of this title. No State plan shall be approved as comprehensive unless

the Administration finds that the plan provides for the allocation of adequate assistance to deal with law enforcement *and criminal justice* problems in areas characterized by both high crime incidence and high law enforcement *and criminal justice* activity. Each such plan shall—

(1) provide for the administration of such grants by the State planning agency;

(2) provide that [at least 75 per centum of all Federal funds granted to the State planning agency under this part for any fiscal year will be available to units of general local government or combinations of such units for the development and implementation of programs and projects for the improvement of law enforcement except that each such plan shall provide that beginning July 1, 1972,] at least the per centum of Federal assistance granted to the State planning agency under this part for any fiscal year which corresponds to the per centum of the State and local law enforcement expenditures funded and expended in the immediately preceding fiscal year by units of general local government will be made available to such units or combinations of such units in the immediately following fiscal year for the development and implementation of programs and projects for the improvement of law enforcement *and criminal justice*, and that with respect to such programs or projects the State will provide in the aggregate not less than [one-fourth] *one-half* of the non-Federal funding. Per centum determinations under this paragraph for law enforcement funding and expenditures for such immediately preceding fiscal year shall be based upon the most accurate and complete data available for such fiscal year or for the last fiscal year for which such data are available. The Administration shall have the authority to approve such determinations and to review the accuracy and completeness of such data;

(3) adequately take into account the needs and requests of the units of general local government in the State and encourage local initiative in the development of programs and projects for improvements in law enforcement *and criminal justice*, and provide for an appropriately balanced allocation of funds between the State and the units of general local government in the State and among such units;

(4) incorporate innovations and advanced techniques and contain a comprehensive outline of priorities for the improvement and coordination of all aspects of law enforcement *and criminal justice*, dealt with in the plan, including descriptions of: (A) general needs and problems; (B) existing systems; (C) available resources; (D) organizational systems and administrative machinery for implementing the plan; (E) the direction, scope, and general types of improvements to be made in the future; and (F) to the extent appropriate, the relationship of the plan to other relevant State or local law enforcement *and criminal justice*, plans and systems;

(5) provide for effective utilization of existing facilities and permit and encourage units of general local government to com-

bine or provide for cooperative arrangements with respect to services, facilities, and equipment;

(6) provide for research and development;

(7) provide for appropriate review of procedures of actions taken by the State planning agency disapproving an application for which funds are available or terminating or refusing to continue financial assistance to units of general local government or combinations of such units;

[(8) demonstrate the willingness of the State and units of general local government to assume the costs of improvements funded under this part after a reasonable period of Federal assistance;]

[(9)] *(8)* demonstrate the willingness of the State to contribute technical assistance or services for programs and projects contemplated by the statewide comprehensive plan and the programs and projects contemplated by units of general local government *or combinations of such units;*

[(10)] *(9)* set forth policies and procedures designed to assure that Federal funds made available under this title will be so used as not to supplant State or local funds, but to increase the amounts of such funds that would in the absence of such Federal funds be made available for law enforcement *and criminal justice;*

(10) provide for such fund accounting, audit, monitoring, and evaluation procedures as may be necessary to assure fiscal control, proper management, and disbursement of funds received under this title;

(11) provide for the maintenance of such data and information, and for the submission of such reports in such form, at such times, and containing such data and information as the National Institute for Law Enforcement and Criminal Justice may reasonably require to evaluate pursuant to section 402(c) programs and projects carried out under this title and as the Administration may reasonably require to administer other provisions of this title;

(12) provide funding incentives to those units of general local government that coordinate or combine law enforcement and criminal justice functions or activities with other such units within the State for the purpose of improving law enforcement and criminal justice; and

(13) provide for procedures that will ensure that (A) all applications by units of general local government or combinations thereof to the State planning agency for assistance shall be approved or disapproved, in whole or in part, no later than 60 days after receipt by the State planning agency, (B) if not disapproved (and returned with the reasons for such disapproval, including the reasons for the disapproval of each fairly severable part of such application which is disapproved) within 60 days of such application, any part of such application which is not so disapproved shall be deemed approved for the purposes of this title, and the State planning agency shall disburse the approved funds to the applicant in accordance with procedures established by the Administration, (C) the reasons for disapproval of such application or any part thereof, in order to be effective for the purposes

of this section, shall contain a detailed explanation of the reasons for which such application or any part thereof was disapproved, or an explanation of what supporting material is necessary for the State planning agency to evaluate such application, and (D) disapproval of any application or part thereof shall not preclude the resubmission of such application or part thereof to the State planning agency at a later date.

[(11) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting of funds received under this part; and

[(12) provide for the submission of such reports in such form and containing such information as the Administration may reasonably require.]

Any portion of the [75] per centum to be made available pursuant to paragraph (2) of this section in any State in any fiscal year not required for the purposes set forth in such paragraph (2) shall be available for expenditure by such State agency from time to time on dates during such year as the Administration may fix, for the development and implementation of programs and projects for the improvement of law enforcement and in conformity with the State plan.

(b) No approval shall be given to any State plan unless and until the Administration finds that such plan reflects a determined effort to improve the quality of law enforcement and criminal justice throughout the State. No award of funds which are allocated to the States under this title on the basis of population shall be made with respect to a program or project other than a program or project contained in an approved plan.

(c) No plan shall be approved as comprehensive unless it establishes statewide priorities for the improvement and coordination of all aspects of law enforcement and criminal justice, and considers the relationships of activities carried out under this title to related activities being carried out under other Federal programs, the general types of improvements to be made in the future, the effective utilization of existing facilities, the encouragement of cooperative arrangements between units of general local government, innovations and advanced techniques in the design of institutions and facilities, and advanced practices in the recruitment, organization, training, and education of law enforcement and criminal justice personnel. It shall thoroughly address improved court and correctional programs and practices throughout the State.

SEC. 304. State planning agencies shall receive applications for financial assistance from units of general local government and combinations of such units. When a State planning agency determines that such an application is in accordance with the purposes stated in section 301 and is in conformance with any existing statewide comprehensive law enforcement plan, the State planning agency is authorized to disburse funds to the applicant.

SEC. 305. Where a State has failed to have a comprehensive State plan approved under this title within the period specified by the Administration for such purpose, the funds allocated for such State under paragraph (1) of section 306(a) of this title shall be available for reallocation by the Administration under paragraph (2) of section 306(a).

SEC. 306. (a) The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows:

(1) Eighty-five per centum of such funds shall be allocated among the States according to their respective populations for grants to State planning agencies.

(2) Fifteen per centum of such funds, plus any additional amounts made available by virtue of the application of the provisions of sections 305 and 509 of this title to the grant of any State, may, in the discretion of the Administration, be allocated among the States for grants to State planning agencies, units of general local government, [or] combinations of such units, *or private nonprofit organizations*, according to the criteria and on the terms and conditions the Administration determines consistent with this title.

Any grant made from funds available under paragraph (2) of this subsection may be up to [75] *90* per centum of the cost of the program or project for which such grant is made. No part of any grant under such paragraph for the purpose of renting, leasing, or constructing buildings or other physical facilities shall be used for land acquisition. In the case of a grant under such paragraph to an Indian tribe or other aboriginal group, if the Administration determines that the tribe or group does not have sufficient funds available to meet the local share of the costs of any program or project to be funded under the grant, the Administration may increase the Federal share of the cost thereof to the extent it deems necessary. The limitations on the expenditure of portions of grants for the compensation of personnel in subsection (d) of section 301 of this title shall apply to a grant under such paragraph. [Effective July 1, 1972, at least 40 per centum of the non-Federal funding of the cost of any program or project to be funded by a grant under such paragraph shall be of money appropriated in the aggregate, by State or individual unit of government, for the purpose of the shared funding of such programs or projects.] *The non-Federal share of the cost of any program or project to be funded under this section shall be of money appropriated in the aggregate by the State or units of general local government, or provided in the aggregate by a private nonprofit organization. The Administration shall make grants in its discretion under paragraph (2) of this subsection in such a manner as to accord funding incentives to those States or units of general local government that coordinate law enforcement and criminal justice functions and activities with other such States or units of general local government thereof for the purpose of improving law enforcement and criminal justice.*

(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State for that fiscal year for grants to the State planning agency of the State will not be required by the State, or that the State will be unable to qualify to receive any portion of the funds under the requirements of this part, that portion shall be available for reallocation to other States under paragraph (1) of subsection (a) of this section.

SEC. 307. [(a)] In making grants under this part, the Administration and each State planning agency, as the case may be, shall give special emphasis, where appropriate or feasible, to programs and projects dealing with the prevention, detection, and control of organized crime and of riots and other violent civil disorders.

[(b) Notwithstanding the provisions of section 303 of this part, until August 31, 1968, the Administration is authorized to make grants for programs and projects dealing with the prevention, detection, and control of riots and other violent civil disorders on the basis of applications describing in detail the programs, projects, and costs of the items for which the grants will be used, and the relationship of the programs and projects to the applicant's general program for the improvement of law enforcement.]

SEC. 308. Each State plan submitted to the Administration for approval under section 302 shall be either approved or disapproved, in whole or in part, by the Administration no later than ninety days after the date of submission. If not disapproved (and returned with the reasons for such disapproval) within such ninety days of such application, such plan shall be deemed approved for the purposes of this title. The reasons for disapproval of such plan, in order to be effective for the purposes of this section, shall contain an explanation of which requirements enumerated in section 302(b) such plan fails to comply with, or an explanation of what supporting material is necessary for the Administration to evaluate such plan. For the purposes of this section, the term "date of submission" means the date on which a State plan which the State has designated as the "final State plan application" for the appropriate fiscal year is delivered to the Administration.

PART D—TRAINING, EDUCATION, RESEARCH, DEMONSTRATION, AND SPECIAL GRANTS

SEC. 401. It is the purpose of this part to provide for and encourage training, education, research, and development for the purpose of improving law enforcement *and criminal justice*, and developing new methods for the prevention and reduction of crime, and the detection and apprehension of criminals.

SEC. 402. (a) There is established within the Department of Justice a National Institute of Law Enforcement and Criminal Justice (hereafter referred to in this part as "Institute"). The Institute shall be under the general authority of the Administration. *The chief administrative officer of the institute shall be a Director appointed by the Administrator.* [It shall be the purpose of the Institute to encourage research and development to improve and strengthen law enforcement.] *It shall be the purpose of the Institute to encourage research and development to improve and strengthen law enforcement and criminal justice, to disseminate the results of such efforts to State and local governments, and to develop and support programs for the training of law enforcement and criminal justice personnel.*

(b) The Institute is authorized—

(1) to make grants to, or enter into contracts with, public agencies, institutions of higher education, or private organizations to conduct research, demonstrations, or special projects pertaining

to the purposes described in this title, including the development of new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement *and criminal justice;*

(2) to make continuing studies and undertake programs of research to develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement *and criminal justice*, including, but not limited to, the effectiveness of projects or programs carried out under this title;

(3) to carry out programs of behavioral research designed to provide more accurate information on the causes of crime and the effectiveness of various means of preventing crime, and to evaluate the success of correctional procedures;

(4) to make recommendations for action which can be taken by Federal, State, and local governments and by private persons and organizations to improve and strengthen law enforcement *and criminal justice;*

(5) to carry out programs of instructional assistance consisting of research fellowships for the programs provided, under this section, and special workshops for the presentation and dissemination of information resulting from research, demonstrations, and special projects authorized by this title;

[(6) to carry out a program of collection and dissemination of information obtained by the Institute or other Federal agencies, public agencies, institutions of higher education, or private organizations engaged in projects under this title, including information relating to new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement; and]

(6) to assist in conducting, at the request of a State or a unit of general local government or a combination thereof, local or regional training programs for the training of State and local law enforcement and criminal justice personnel, including but not limited to those engaged in the investigation of crime and apprehension of criminals, community relations, the prosecution or defense of those charged with crime, corrections, rehabilitation, probation and parole of offenders. Such training activities shall be designed to supplement and improve rather than supplant the training activities of the State and units of general local government. While participating in the training program or traveling in connection with participation in the training program, State and local personnel shall be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703(b) of title 5, United States Code, for persons employed intermittently in the Government service; and

(7) to establish a research center to carry out the programs described in this section.

(c) The Institute shall serve as a national clearinghouse for information with respect to the improvement of law enforcement and criminal justice, including but not limited to police, courts, prosecutors, public defenders, and corrections.

The Institute shall undertake, where possible, to evaluate various programs and projects carried out under this title to determine their

impact upon the quality of law enforcement and criminal justice and the extent to which they have met or failed to meet the purposes and policies of this title, and shall disseminate such information to State planning agencies and, upon request, to units of general local government.

The Institute shall report annually to the President, the Congress, the State planning agencies, and, upon request, to units of general local government, on the research and development activities undertaken pursuant to paragraphs (1), (2), and (3) of subsection (b), and shall describe in such report the potential benefits of such activities to law enforcement and criminal justice and the results of the evaluations made pursuant to the second paragraph of this subsection. Such report shall also describe the programs of instructional assistance, the special workships, and the training programs undertaken pursuant to paragraphs (5) and (6) of subsection (b).

SEC. 403. A grant authorized under this part may be up to 100 per centum of the total cost of each project for which such grant is made. The Administration shall require, whenever feasible, as a condition of approval of a grant under this part, that the recipient contribute money, facilities, or services to carry out the purposes for which the grant is sought.

SEC. 404. (a) The Director of the Federal Bureau of Investigation is authorized to—

(1) establish and conduct training programs at the Federal Bureau of Investigation National Academy at Quantico, Virginia, to provide, at the request of a State or unit of local government, training for State and local law enforcement *and criminal justice* personnel; *and*

(2) develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement *and criminal justice* [; and].

[(3) assist in conducting, at the request of a State or unit of local government, local and regional training programs for the training of State and local law enforcement personnel. Such training shall be provided only for persons actually employed as State police or highway patrol, police of a unit of local government, sheriffs and their deputies, and such other persons as the State or unit may nominate for police training while such persons are actually employed as officers of such State or unit.]

(b) In the exercise of the functions, powers, and duties established under this section the Director of the Federal Bureau of Investigation shall be under the general authority of the Attorney General.

SEC. 405. (a) Subject to the provisions of this section, the law Enforcement Assistance Act of 1965 (79 Stat. 828) is repealed: *Provided*, That—

(1) The Administration, or the Attorney General until such time as the members of the Administration are appointed, is authorized to obligate funds for the continuation of projects approved under the Law Enforcement Assistance Act of 1965 prior to the date of enactment of this Act to the extent that such approval provided for continuation.

(2) Any funds obligated under subsection (1) of this section and all activities necessary or appropriate for the review under

subsection (3) of this section may be carried out with funds previously appropriated and funds appropriated pursuant to this title.

(3) Immediately upon establishment of the Administration, it shall be its duty to study, review, and evaluate projects and programs funded under the Law Enforcement Assistance Act of 1965. Continuation of projects and programs under subsections (1) and (2) of this section shall be in the discretion of the Administration.

SEC. 406. (a) Pursuant to the provisions of subsections (b) and (c) of this section, the Administration is authorized, after appropriate consultation with the Commissioner of Education, to carry out programs of academic educational assistance to improve and strengthen law enforcement *and criminal justice.*

(b) The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for loans, not exceeding [$1,800] *$2,200* per academic year to any person, to persons enrolled on a full-time basis in undergraduate or graduate programs approved by the Administration and leading to degrees or certificates in areas related to law enforcement *and criminal justice* or suitable for persons employed in law enforcement *and criminal justice*, with special consideration to police or correctional personnel of States or units of general local government on academic leave to earn such degrees or certificates. Loans to persons assisted under this subsection shall be made on such terms and conditions as the Administration and the institution offering such programs may determine, except that the total amount of any such loan, plus interest, shall be canceled for service as a full-time officer or employee of a law enforcement *and criminal justice* agency at the rate of 25 per centum of the total amount of such loans plus interest for each complete year of such service or its equivalent of such service, as determined under regulations of the Administration.

(c) The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for tuition, books and fees, not exceeding [$200] *$250* per academic quarter or [$300] *$400* per semester for any person, for officers of any publicly funded law enforcement agency enrolled on a full-time or part-time basis in courses included in an undergraduate or graduate program which is approved by the Administration and which leads to a degree or certificate in an area related to law enforcement *and criminal justice* or an area suitable for persons employed in law enforcement *and criminal justice.* Assistance under this subsection may be granted only on behalf of an applicant who enters into an agreement to remain in the service of the law enforcement *and criminal justice* agency employing such applicant for a period of 2 years following completion of any course for which payments are provided under this subsection, and in the event such service is not completed, to repay the full amount of such payments on such terms and in such manner as the Administration may prescribe.

(d) Full-time teachers or persons preparing for careers as full-time teachers of courses related to law enforcement *and criminal justice* or suitable for persons employed in law enforcement *and criminal justice*, in institutions of higher education which are eligible to receive funds

under this section, shall be eligible to receive assistance under subsections, (b) and (c) of this section as determined under regulations of the Administration.

(e) The Administration is authorized to make grants to or enter into contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the development or demonstration of improved methods of law enforcement *and criminal justice* education, including—

(1) planning for the development or expansion of undergraduate or graduate programs in law enforcement *and criminal justice;*

(2) education and training of faculty members;

(3) strengthening the law enforcement *and criminal justice* aspects of courses leading to an undergraduate, graduate, or professional degree; and

(4) research into, and development of, methods of educating students or faculty, including the preparation of teaching materials and the planning of curriculums.

The amount of a grant or contract may be up to 75 per centum of the total cost of programs and projects for which a grant or contract is made.

(f) The Administration is authorized to enter into contracts to make, and make payments to institutions of higher education for grants not exceeding [$50] *$65* per week to persons enrolled on a full-time basis in undergraduate or graduate degree programs who are accepted for and serve in full-time internships in law enforcement *and criminal justice* agencies for not less than eight weeks during any summer recess or for any entire quarter or semester on leave from the degree program.

[SEC. 407. The Administration is authorized to develop and support regional and national training programs, workshops, and seminars to instruct State and local law enforcement personnel in improved methods of crime prevention and reduction and enforcement of the criminal law. Such training activities shall be designed to supplement and improve, rather than supplant, the training activities of the State and units of general local government, and shall not duplicate the activities of the Federal Bureau of Investigation under section 404 of this title.]

[SEC. 408.] *SEC. 407.* (a) The Administration is authorized to establish and support a training program for prosecuting attorneys from State and local offices engaged in the prosecution of organized crime. The program shall be designed to develop new or improved approaches, techniques, systems, manuals, and devices to strengthen prosecutive capabilities against organized crime.

(b) While participating in the training program or traveling in connection with participation in the training program, State and local personnel shall be allowed travel expenses and per diem allowance in the same manner as prescribed under section 5703(b) of title 5, United States Code, for persons employed intermittently in the Government service.

(c) The cost of training State and local personnel under this section shall be provided out of funds appropriated to the Administration for the purpose of such training.

PART E—GRANTS FOR CORRECTIONAL INSTITUTIONS AND FACILITIES

SEC. 451. It is the purpose of this part to encourage States and units of general local government to develop and implement programs and projects for the construction, acquisition, and renovation of correctional institutions and facilities, and for the improvement of correctional programs and practices.

SEC. 452. A State desiring to receive a grant under this part for any fiscal year shall, consistent with the basic criteria which the Administration establishes under section 454 of this title, incorporate its application for such grant in the comprehensive State plan submitted to the Administration for that fiscal year in accordance with section 302 of this title.

SEC. 453. The Administration is authorized to make a grant under this part to a State planning agency if the application incorporated in the comprehensive State plan—

(1) sets forth a comprehensive statewide program for the construction, acquisition, or renovation of correctional institutions and facilities in the State and the improvement of correctional programs and practices throughout the State;

(2) provides satisfactory assurances that the control of the funds and title to property derived therefrom shall be in a public agency for the uses and purposes provided in this part and that a public agency will administer those funds and that property;

(3) provides satisfactory assurances that the availability of funds under this part shall not reduce the amount of funds under part C of this title which a State would, in the absence of funds under this part, allocate for purposes of this part;

(4) provides satisfactory emphasis on the development and operation of community-based correctional facilities and programs, including diagnostic services, halfway houses, probation, and other supervisory release programs for preadjudication and postadjudication referral of delinquents, youthful offenders, and first offenders, and community-oriented programs for the supervision of parolees;

(5) provides for advanced techniques in the design of institutions and facilities;

(6) provides, where feasible and desirable, for the sharing of correctional institutions and facilities on a regional basis;

(7) provides satisfactory assurances that the personnel standards and programs of the institutions and facilities will reflect advanced practices;

(8) provides satisfactory assurances that the State is engaging in projects and programs to improve the recruiting, organization. training, and education of personnel employed in correctional activities, including those of probation, parole, and rehabilitation; [and]

(9) provides necessary arrangements for the development and operation of narcotic treatment programs in correctional institutions and facilities and in connection with probation or other supervisory release programs for all persons, incarcerated or on parole, who are drug addicts or drug abusers; and

[9] *(10)* complies with the same requirements established for comprehensive State plans under paragraphs (1), (3), (4), (5), (7), (8), (9), (10), (11), and (12) of section 303 of this title.

SEC. 454. The Administration shall, after consultation with the Federal Bureau of Prisons, by regulation prescribe basic criteria for applicants and grantees under this part.

In addition, the Administration shall issue guidelines for drug treatment programs in State and local prisons and for those to which persons on parole are assigned.

SEC. 455. (a) The funds appropriated each fiscal year to make grants under this part shall be allocated by the Administration as follows:

(1) Fifty per centum of the funds shall be available for grants to State planning agencies.

(2) The remaining fifty per centum of the funds may be made available, as the Administration may determine, to State planning agencies, units of general local government, or combinations of such units, according to the criteria and on the terms and conditions the Administration determines consistent with this part.

Any grant made from funds available under this part may be up to [75] *90* per centum of the cost of the program or project for which such grant is made. *The non-federal funding of the cost of any program or project to be funded by a grant under this section shall be of money appropriated in the aggregate by the State or units of general local government.* No funds awarded under this part may be used for land acquisition.

(b) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds granted to an applicant for that fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 509 of this title, that portion shall be available for reallocation under paragraph (2) of subsection (a) of this section.

PART F—ADMINISTRATIVE PROVISIONS

SEC. 501. The Administration is authorized, after appropriate consultation with respresentatives of States and units of general local government, to establish such rules, regulations, and procedures as are necessary to the exercise of its functions, and are consistent with the stated purpose of this title.

SEC. 502. The Administration may delegate to any officer or official of the Administration, or, with the approval of the Attorney General, to any officer of the Department of Justice such functions as it deems appropriate.

SEC. 503. The functions, powers, and duties specified in this title to be carried out by the Administration shall not be transferred elsewhere in the Department of Justice unless specifically hereafter authorized by the Congress.

SEC. 504. In carrying out its functions, the Administration, or upon authorization of the Administration, any member thereof or any hearing examiner assigned to or employed by the Administration, shall have the power to hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate.

SEC. 505. Section 5314 of title 5, United States Code, is amended by adding at the end thereof—

"(55) Administrator of Law Enforcement Assistance."

SEC. 506. Section 5315 of title 5, United States Code, is amended by adding at the end thereof—

"(90) Associate Administrator of Law Enforcement Assistance."

SEC. 507. Subject to the civil service and classification laws, the Administration is authorized to select, appoint, employ, and fix compensation of such officers and employees, including hearing examiners, as shall be necessary to carry out its powers and duties under this title.

SEC. 508. The Administration is authorized, on a reimbursable basis when appropriate, to use the available services, equipment personnel, and facilities of the Department of Justice and of other civilian or military agencies and instrumentalities of the Federal Government, and to cooperate with the Department of Justice and such other agencies and instrumentalities in the establishment and use of services, equipment, personnel, and facilities of the Administration. The Administration is further authorized to confer with and avail itself of the cooperation, services, records, and facilities of State, municipal, or other local agencies, and to receive and utilize, for the purposes of this title, property donated or transferred for the purposes of testing by any other Federal agencies, States, units of general local government, public or private agencies or organizations, institutions of higher education, or individuals.

SEC. 509. Whenever the Administration, after reasonable notice and opportunity for hearing to an applicant or a grantee under this title, finds that, with respect to any payments made or to be made under this title, there is a substantial failure to comply with—

(a) the provisions of this title;

(b) regulations promulgated by the Administration under this title; or

(c) a plan or application submitted in accordance with the provisions of this title;

the Administration shall notify such applicant or grantee that further payments shall not be made (or in its discretion that further payments shall not be made for activities in which there is such failure), until there is no longer such failure.

SEC. 510. (a) In carrying out the functions vested by this title in the Administration, the determination, findings, and conclusions of the Administration shall be final and conclusive upon all applicants, except as hereinafter provided.

(b) If the application has been rejected or an applicant has been denied a grant or has had a grant, or any portion of a grant, discontinued, or has been given a grant in a lesser amount than such applicant

believes appropriate under the provisions of this title, the Administration shall notify the applicant or grantee of its action and set forth the reason for the action taken. Whenever an applicant or grantee requests a hearing on action taken by the Administration on an application or a grant the Administration, or any authorized officer thereof, is authorized and directed to hold such hearings or investigations at such times and places as the Administration deems necessary, following appropriate and adequate notice to such applicant; and the findings of fact and determinations made by the Administration with respect thereto shall be final and conclusive, except as otherwise provided herein.

(c) If such applicant is still dissatisfied with the findings and determinations of the Administration, following the notice and hearing provided for in subsection (b) of this section, a request may be made for rehearing, under such regulations and procedures as the Administration may establish, and such applicant shall be afforded an opportunity to present such additional information as may be deemed appropriate and pertinent to the matter involved. The findings and determinations of the Administration, following such rehearing, shall be final and conclusive upon all parties concerned, except as hereafter provided.

SEC. 511. (a) If any applicant or grantee is dissatisfied with the Administration's final action with respect to the approval of its application or plan submitted under this title, or any applicant or grantee is dissatisfied with the Administration's final action under section 509 or section 510, such applicant or grantee may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such applicant or grantee is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administration. The Administration shall thereupon file in the court the record of the proceedings on which the action of the Administration was based, as provided in section 2112 of title 28, United States Code.

(b) The determinations and the findings of fact by the Administration, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Administration to take further evidence. The Administration may thereupon make new or modified findings of fact and may modify its previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact or determinations shall likewise be conclusive if supported by substantial evidence.

(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Administration or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

SEC. 512. Unless otherwise specified in this title, the Administration shall carry out the programs provided for in this title during the fiscal year ending June 30, [1968]. *1974*, and the [five succeeding fiscal years] *fiscal year ending June 30, 1975*.

SEC. 513. To insure that all Federal assistance to State and local programs under this title is carried out in a coordinated manner, the Administration is authorized to request any Federal department or

agency to supply such statistics, data, program reports, and other material as the Administration deems necessary to carry out its functions under this title. Each such department or agency is authorized to cooperate with the Administration and, to the extent permitted by law, to furnish such materials to the Administration. Any Federal department or agency engaged in administering programs related to this title shall, to the maximum extent practicable, consult with and seek advice from the Administration to insure fully coordinated efforts, and the Administration shall undertake to coordinate such efforts.

SEC. 514. The Administration may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of its functions under this title.

SEC. 515. The Administration is authorized—

(a) to conduct evaluation studies of the programs and activities assisted under this title;

(b) to collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of law enforcement in the several States; and

(c) to cooperate with and render technical assistance to States, units of general local government, combinations of such States or units, or other public or private agencies, organizations, or institutions in matters relating to law enforcement *and criminal justice.*

Funds appropriated for the purposes of this section may be expended by grant or contract, as the Administration may determine to be appropriate.

SEC. 516. (a) Payments under this title may be made in installments, and in advance or by way of reimbursement, as may be determined by the Administration, and may be used to pay the transportation and subsistence expenses of persons attending conferences or other assemblages notwithstanding the provisions of the Joint Resolution entitled "Joint Resolution to prohibit expenditure of any moneys for housing, feeding, or transporting conventions or meetings", approved February 2, 1935 (31 U.S.C. sec. 551).

(b) Not more than 12 percentum of the sums appropriated for any fiscal year to carry out the provisions of this title may be used within any one State except that this limitation shall not apply to grants made pursuant to part D.

SEC. 517. (a) The Administration may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates of compensation for individuals not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of title 5, United States Code.

(b) The Administration is authorized to appoint, without regard to the civil service laws, technical or other advisory committees to advise the Administration with respect to the administration of this title as it deems necessary. Members of those committees not otherwise in the employ of the United States, while engaged in advising the Administration or attending meetings of the committees, shall be compensated at rates to be fixed by the Administration but not to exceed the daily equivalent of the rate authorized for GS–18 by section 5332 of title 5 of the United States Code and while away from home or

regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

SEC. 518. (a) Nothing contained in this title or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other law enforcement *and criminal justice* agency of any State or any political subdivision thereof.

[(b) Notwithstanding any other provision of law nothing contained in this title shall be construed to authorize the Administration (1) to require, or condition the availability or amount of a grant upon, the adoption by an applicant or grantee under this title of a percentage ratio, quota system, or other program to achieve racial balance or to eliminate racial imbalance in any law enforcement agency, or (2) to deny or discontinue a grant because of the refusal of an applicant or grantee under this title to adopt such a ratio, system, or other program.]

(b) (1) No person in any State shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

(2) Whenever the Administration determines that a State government or any unit of general local government has failed to comply with subsection (b) (1) or an applicable regulation, it shall notify the chief executive of the State of the noncompliance and shall request the chief executive to secure compliance. If within sixty days after such notification the chief executive fails or refuses to secure compliance, the Administration shall exercise the powers and functions provided in section 509 of this title, and is authorized—

(A) to institute an appropriate civil action;

(B) to exercise the powers and functions pursuant to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); or

(C) to take such other action as may be provided by law.

(3) Whenever the Attorney General has reason to believe that a State government or unit of local government is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

SEC. 519. [(a)] On or before December 31 of each year, the Administration shall report to the President and to the Congress on activities pursuant to the provisions of this title during the preceding fiscal year.

[(b) Not later than May 1, 1971, the Administration shall submit to the President and to the Congress recommendations for legislation to assist in the purposes of this title with respect to promoting the integrity and accuracy of criminal justice data collection, processing, and dissemination systems funded in whole or in part by the Federal Government, and protecting the constitutional rights of all persons covered or affected by such systems.]

SEC. 520. [There is authorized to be appropriated $650,000,000 for the fiscal year ending June 30, 1971, of which $120,000,000 shall be

for the purposes of part E; $1,150,000,000 for the fiscal year ending June 30, 1972, and $1,750,000,000 for the fiscal year ending June 30, 1973.] *There are authorized to be appropriated such sums as are necessary for the purposes of each part of this title, but such sums in the aggregate shall not exceed $1,000,000,000 for the fiscal year ending June 30, 1974, and $1,000,000,000 for the fiscal year ending June 30, 1975.* Funds appropriated for any fiscal year may remain available for obligation until expended. Beginning in the fiscal year ending June 30, 1972, and in each fiscal year thereafter there shall be allocated for the purposes of part E an amount equal to not less than 20 per centum of the amount allocated for the purposes of part C.

SEC. 521. (a) Each recipient of assistance under this Act shall keep such records as the Administration shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Administration and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for purpose of audit and examinations to any books, documents, papers, and records of the recipients that are pertinent to the grants received under this title.

(c) The provisions of this section shall apply to all recipients of assistance under this Act, whether by direct grant or contract from the Administration or by subgrant or subcontract from primary grantees or contractors of the Administration.

SEC. 522. Section 204(a) of the Demonstration Cities and Metropolitan Development Act of 1966 is amended by inserting "law enforcement facilities," immediately after "transportation facilities,".

SEC. 523. Any funds made available under parts B, C, and E prior to July 1, 1973, which are not obligated by a State or unit of general local government may be used to provide up to 90 percent of the cost of any program or project. The non-Federal share of the cost of any such program or project shall be of money appropriated in the aggregate by the State or units of general local government.

SEC. 524. (a) Except as provided by Federal law other than this title, no officer or employee of the Federal Government, nor any recipient of assistance under the provisions of this title shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title. Copies of such information shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.

(b) Any person violating the provisions of this section, or of any rule, regulation, or order issued thereunder, shall be fined not to exceed $10,000, in addition to any other penalty imposed by law.

PART G—DEFINITIONS

SEC. 601. As used in this title—

(a) "Law enforcement *and criminal justice*" means any activity pertaining to crime prevention, control or reduction or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies (*including prosecutorial and defender services*), activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction.

(b) "Organized crime" means the unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labor racketeering, and other unlawful activities of members of such organizations.

(c) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(d) "Unit of general local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia and funds appropriated by the Congress for the activities of such agencies may be used to provide the non-Federal share of the cost of programs or projects funded under this title; provided, however, that such assistance eligibility of any agency of the United States Government shall be for the sole purpose of facilitating the transfer of criminal jurisdiction from the United States District Court for the District of Columbia to the Superior Court of the District of Columbia pursuant to the District of Columbia Court Reform and Criminal Procedure Act of 1970.

(e) "Combination" as applied to States or units of general local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a law enforcement plan.

(f) "Construction" means the erection, acquisition, expansion, or repair (but not including minor remodeling or minor repairs) of new or existing buildings or other physical facilities, and the acquisition or installation of initial equipment therefor.

(g) "State organized crime prevention council" means a council composed of not more than seven persons established pursuant to State law or established by the chief executive of the State for the purpose of this title, or an existing agency so designated, which council shall be broadly representative of law enforcement officials within such State and whose members by virtue of their training or experience shall be knowledgeable in the prevention and control of organized crime.

(h) "Metropolitan area" means a standard metropolitan statistical area as established by the Bureau of the Budget, subject, however, to

such modifications and extensions as the Administration may determine to be appropriate.

(i) "Public agency" means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing.

(j) "Institution of higher education" means any such institution as defined by section [801(a)] *1201(a)* of the Higher Education Act of 1965 ([79 Stat. 1269;] 20 U.S.C. 1141(a)), subject, however, to such modifications and extensions as the Administration may determine to be appropriate.

(k) "Community service officer" means any citizen with the capacity, motivation, integrity, and stability to assist in or perform police work but who may not meet ordinary standards for employment as a regular policer officer selected from the immediate locality of the police department of which he is to be a part, and meeting such other qualifications promulgated in regulations pursuant to section 501 as the administration may determine to be appropriate to further the purposes of section 301(b)(7) and this Act.

(l) The term "correctional institution or facility" means any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses.

(m) The term "comprehensive" means that the plan must be a total and integrated analysis of the problems regarding the law enforcement and criminal justice system within the State; goals, priorities, and standards must be established in the plan and the plan must address methods, organization, and operation performance, physical and human resources necessary to accomplish crime prevention, identification, detection, and apprehension of suspects; adjudication; custodial treatment of suspects and offenders; and institutional and noninstitutional rehabilitative measures.

PART H—CRIMINAL PENALTIES

SEC. 651. Whoever embezzles, willfully misapplies, steals, or obtains by fraud *or attempts to embezzle, willfully misapply, steal, or obtain by fraud* any funds, assets, or property which are the subject of a grant or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Administration, *or whoever receives, conceals, or retains such funds, assets, or property with intent to convert such funds, assets, or property to his use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud,* shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

SEC. 652. Whoever knowingly and willfully falsifies, conceals, or covers up by trick, scheme, or device, any material fact in any application for assistance submitted pursuant to this title or in any records required to be maintained pursuant to this title shall be subject to prosecution under the provisions of section 1001 of title 18, United States Code.

SEC. 653. Any law enforcement *and criminal justice* program or project underwritten, in whole or in part, by any grant, or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Administration, shall be subject to the provisions of section 371 of title 18, United States Code.

PART I—ATTORNEY GENERAL'S ANNUAL REPORT ON FEDERAL LAW ENFORCEMENT AND CRIMINAL JUSTICE ACTIVITIES

SEC. 670. The Attorney General, in consultation with the appropriate officials in the agencies involved, within 90 days of the end of each fiscal year shall submit to the President and to the Congress an Annual Report on Federal Law Enforcement and Criminal Justice Assistance Activities setting forth the programs conducted, expenditures made, results achieved, plans developed, and problems discovered in the operations and coordination of the various Federal assistance programs relating to crime prevention and control, including, but not limited to, the Juvenile Delinquency Prevention and Control Act of 1968, the Narcotics Addict Rehabilitation Act 1968, the Gun Control Act 1968, the Criminal Justice Act of 1964, title XI of the Organized Crime Control Act of 1970 (relating to the regulation of explosives), and title III of the Omnibus Crime Control and Safe Streets Act of 1968 (relating to wiretapping and electronic surveillance).

SECTION 5315 OF TITLE 5, UNITED STATES CODE

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is $38,000:

(1) * * *

* * * * * * *

[(90) Associate Administrator of Law Enforcement Assistance (2).]

* * * * * * *

SECTION 5316 OF TITLE 5, UNITED STATES CODE

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is $36,000:

(1) * * *

* * * * * * *

(133) Deputy Administrator of Law Enforcement Assistance.

ADDITIONAL VIEWS OF MR. SEIBERLING JOINED BY MR. KASTENMEIER, MR. CONYERS, MR. DRINAN, MR. RANGEL, MS. HOLTZMAN, AND MR. OWENS

The law enforcement assistance bill H.R. 8152 as reported by the Judiciary Committee represents a substantial improvement over the present law. The provisions for speeding up the approval of State plans and grants applications at both the Federal and State levels, if followed in practice, could eliminate one of the most serious problems that has existed in the administration of the law up to the present time, namely the excessive delays in getting LEAA funds down to local law enforcement and criminal justice personnel, where most of the efforts against crime necessarily must be made. Former Attorney General Kleindienst, in testifying during the hearings, conceded that the program had been bogged down in "a morass of redtape."

The bill's provisions for expediting the flow of funds, and for strengthening the oversight role of the Judiciary Committee, have made it possible for the bill also to eliminate some of the rigidities in the present law. This will permit greater flexibility in administration both at the Federal and State levels. The bill also provides for a better balanced program by making explicit the intent of the Congress to improve not only the effectiveness of the Nation's police forces but the entire criminal justice system. In addition, the bill makes provision for open meetings, and for citizen and community participation and strengthens protections for civil rights and the right of privacy.

Unfortunately, the bill has failed to take any fundamental step toward correcting one of the most serious weaknesses in the program. The weakness is so serious that, even after 5 years and the appropriation of billions of Law Enforcement Assistance dollars, the rate of violent crime continues to increase for the Nation as a whole. Most of this increase has taken place in the cities and the major metropolitan areas.

Despite this fact, neither the present law nor the committee's bill contain any specific requirement that the bulk of Law Enforcement Assistance funds be directed to the urban areas having a high incidence of crime. The bill, like the present law, contains only the general requirement that each State's plan must provide for the allocation of "adequate assistance" to deal with law enforcement and criminal justice problems "in areas characterized by both high crime incidence and high law enforcement activity."

Commenting on this provision in the present law, the representatives of the National League of Cities and U.S. Conference of Mayors, appearing before the subcommittee on March 23, 1973, stated: "Local officials believing that this provision in the act guaranteed a certain level of funding to localities with high crime incidence are in some cases upset with the way these funds have been allocated, even where

the absolute amounts allocated have been substantial. Many feel that their States have not lived up to the intention of the act."

The National League of Cities and U.S. Conference of Mayors' statement went on to urge the Congress to make three major changes in the safe streets program:

"First, there must be stronger support in planning and coordinating efforts at the local level * * *

"Second, * * * removing the State planning agency from much of the grant award process and strengthening its capabilities to plan, give assistance, advice, and support to State and local criminal justice agencies.

"Third, * * * the new act must provide that local governments receive passthrough funds based on a formula incorporating population and crime rate bases, which applies, not statewide, but to individual jurisdictions with serious crime problems where normal city and county criminal justice functions are brought together to work jointly on local crime problems."

Except for the provisions in the committee's bill which reduce the amount of local funds required to match LEAA grants, the committee's bill does not accomplish any of the three major changes recommended by the National League of Cities and U.S. Conference of Mayors. This is not to say that no effort was made in committee and subcommittee to introduce such changes. During the committee's deliberations, two sets of amendments were offered either of which, if adopted, would have substantially incorporated all three of the recommended changes, at least insofar as the major high crime areas of the country are concerned.

There are 155 cities in the Nation having populations exceeding 100,000. A list of these cities is attached hereto. These cities, in the aggregate, have 28 percent of the Nation's population. They have 46.7 percent of the Nation's crime and 60.8 percent of the violent crime, according to the FBI Uniform Crime Report of 1972. Under the heading of violent crime, these areas saw 54.6 percent of the murders, 51.4 percent of the rapes, 73.2 percent of the robberies and 49.8 percent of the aggravated assaults. In short, these cities have a crime rate that nearly doubles their population figures and a violent crime rate that more than doubles their population figures. If to these 155 cities is added the population of the counties that surround them, they contain over 46.2 percent of the Nation's population.

Obviously, it is to these metropolitan areas, or at least to those having a crime rate above the average for the State in which they are located, that the major thrust of the Law Enforcement Assistance program should be directed.

To the extent that the bulk of Law Enforcement Assistance funds going to local governments are not directed to the areas with the highest crime rates, it is at least questionable whether the money appropriated to help fight crime is going where it will do the most good. To the extent that there is no system for coordinating the use of the funds by all units of local government in a metropolitan area, it is likewise questionable whether the funds will achieve the effectiveness that they ought to.

The record shows that some States, of which Ohio in the last 2 years is an outstanding example, have adopted programs which meet both

the above criteria. Unfortunately, many States have not. This can only mean that substantial portions of the taxpayers' dollars in Law Enforcement Assistnce funds going to those States are not doing the job they were meant to do.

The amendments, which failed in committee by a vote of 13 to 22, would have had the effect of requiring that the law enforcement action funds earmarked for local governments would be divided in such a way that 136 cities having above average crime rates, and their surrounding counties, together with 10 other counties having above average crime rates and a population in excess of 350,000 (named in the attached list), would receive, as a minimum, an allocation of such funds based on a formula in which their percentage of the State's population would be given a weight of one and their percentage of the total incidence of crime in the State would be given a weight of two. Under these amendments, high crime urban areas would also be automatically entitled to these funds as a bloc grant, provided they met two conditions:

First, the principal city or cities, the county, and at least a majority of the other units of local government in the county, would jointly establish a regional planning unit. (Many metropolitan areas have already done this, including the six largest ones in Ohio.)

Second, the unit would submit a plan to the State Planning Agency for the use of the funds.

In order to provide even further flexibility, the amendments would have allowed the Governor of each State to vary the formula with respect to any specific high crime urban area if he declared that such formula would create an imbalance of law enforcement and criminal justice funds distribution in the State.

Despite the action of a majority of the committee in voting down all of the variations of the above program offered to the committee, I support the committee's bill as a distinct improvement over the present law. Moreover, the bill would require the Law Enforcement Assistance Administration to return for additional authorizations for fiscal years 1976 and thereafter, thereby insuring to the committee an automatic opportunity to make a thorough review of the progress made under the revised law in the next 2 years. Nevertheless, it is my belief that, unless the administration, in reviewing State plans, insists that by far the greater part of the funds are channeled into the high crime metropolitan areas, and unless the local administration of such funds is carried out under at least a countywide area planning and coordinating agency, we will find, 2 years hence, that the program has still failed to make a major dent in the violent crime rate in most of our major metropolitan areas. I am hopeful that the changes which the bill would make in the existing law, plus the oversight already accomplished, will, in fact, bring about the necessary shifts in the program's emphasis. However, as written, the bill gives no positive assurance that this will be the case.

JOHN SEIBERLING,
JOHN CONYERS,
ROBERT DRINAN, M.C.,
WAYNE OWENS,
ROBERT W. KASTENMEIER,
ELIZABETH HOLTZMAN,
CHARLES RANGEL.

ADDITIONAL VIEWS OF MESSRS. HUTCHINSON, McCLORY, SMITH OF NEW YORK, SANDMAN, RAILSBACK, DENNIS, FISH, MAYNE, HOGAN, KEATING, BUTLER, COHEN, LOTT, FROEHLICH, MOORHEAD OF CALIFORNIA, AND MARAZITI

We, the undersigned minority members of the committee, are pleased that the committee by voice vote without dissent reported H.R. 8152, a bill which preserves the basic structure and fundamental purpose of the Law Enforcement Assistance Administration. This approval did not come about through inadvertence. Rather it was the product of careful and thorough deliberation both in subcommittee and in committee. Several amendments were offered which would have radically changed the current program, and they were each in turn rejected.

When in 1967 and 1968 Congress considered the fundamental issues in launching a program to fight crime, it concluded that the States had to bear the primary responsibility in the effort, for Federal control was undesirable and too much local control of many law enforcement functions was already part of the problem. It was then that a Presidential Commission had decried the "nonsystem" of criminal justice composed of all too independent elements—State, county, municipal, and police, courts, and corrections. It was clear that funding the parts was not the answer; that would only inflate the problem. Rather the answer had to lie in assisting the entity capable of fashioning a system; and that had to be the States.

From the very beginning there were proposals that were less effective in fashioning a system of criminal justice than in subsidizing the fragments. The temptation in such proposals is evident, for most governmental entities do not find their revenues adequate. But the program was conceived not to aid poor governmental units to fight crime but to fight crime by giving incentives to those who could best fight crime. Thus Congress concluded that the States should organize and set priorities because they were best positioned to do so. Clearly, it would have been retrogressive to fund local governments that did not have law enforcement or criminal justice responsibilities simply because they were the locus of much violent crime and to ignore the States that did bear those responsibilities. And even in those cases where local governments did bear some of those responsibilities, it was thought desirable that such local governments combine or at least coordinate law enforcement and criminal justice functions. Again, the States were in the best position to achieve that purpose. Thus Congress concluded that State control of the anticrime effort was the key to improving the quality of law enforcement and criminal justice. The Federal funds were to be a catalyst for change, extra capital that would be earmarked for trying new ideas, for innovations, for research, for trial and error.

It was clear from the beginning that the Federal capital available would be small compared to the everyday costs of all jurisdictions in the Nation. Though Federal involvement has increased, the funds made available nationally for planning and action grants are still insufficient to pay the bills of the New York City Police Department. Congress quickly perceived that if Federal funds could be used to pay the largest of the bills—salaries and wages of regular personnel, the money possible would be absorbed merely in perpetuating a nonsystem and a failure.

Thus present law precludes that more than one-third of any grant be used to pay the salaries of regular law enforcement and criminal justice personnel. However, consistent with the purposes of the LEAA program, these salary limitations do not apply to personnel engaged in innovation or research or the like. Unfortunately, the bill as reported by the Committee does not do equally well to protect the limited purpose of limited Federal funds. The protection is shrunk only to cover regular police salaries. Thus regular personnel engaged in any other aspect of law enforcement and criminal justice may be subsidized without limitation. This is particularly troublesome in view of the *Argersinger* decision which imposes constitutional strictures upon States to provide any indigent accused of even a misdemeanor with counsel. The financial cost to the States of this newly declared duty will alone far outstrip the funds we authorize for the entire program. The bill as reported would strip Federal funds of protection with regard to the payment of lawyer fees. We do not question the wisdom of Argersinger or the desirability that lawyers be paid for professional services rendered. Rather, we suggest that in meeting that need with LEAA dollars, the program may be substantially undercut. Moreover, we do not believe it to be a wise practice for the Federal Government to fulfill constitutional obligations of the States.

However, on the brighter side, the subcommittee and the full committee rejected several attacks on the philosophical premise of the program of improvement in law enforcement and criminal justice through State leadership. These attacks were variations of H.R. 5476 introduced by Mr. J. V. Stanton and cosponsored by Mr. Seiberling, a member of the committee.

Central to these proposals was a provision that would guarantee to large urban areas a portion of the local share of the block grant according to a formula based two parts on crime statistics and one part on population. Moreover, the determination as to how the guaranteed funds would be spent would no longer be the State's but would pass to the urban area—in contradiction to provisions of current law that foster and even mandate State leadership. For example, the States are asked to determine priorities, to establish comprehensive statewide plans, to provide funding incentives for local cooperation, and to "buy into" local programs because they are responsible for approving, disapproving, and even formulating them.

Beyond this, such proposals raise serious questions of federalism insofar as they would lend Federal permission to local governments to exercise "responsibility" for determining the manner and method in which the funds are to be used within the geographic parameters of the urban area—even apparently with regard to functions for which

the State alone is responsible. And so it would occur that a unified court or corrections systems would become fragmented. It is respectfully suggested that these proposals are a giant step backward.

Perhaps such risks to the program could reasonably be taken if somehow a clear need for a shift in funding were demonstrated. No such case has been made. The only statistics brought to our attention during subcommittee hearings (appendix G, p. 890, et seq.) stood ready to refute any case in its incipient stages. They indicated that the high crime urban areas of this Nation in fiscal year 1972 had 49 percent of the population and 70 percent of the crime in their respective States, and received 71.3 percent of the local share of the block grants. The crime-statistics formula would guarantee only 63 percent, and doubtlessly in such a situation what was designed as a floor would also serve as a ceiling. Thus we see little benefit and much mischief in such proposals.

Two additional amendments to present law contained in H.R. 8152 deserve comment. Section 306 governs the making of discretionary grants. At present, only States and units of general local government are eligible to receive such grants. However, the committee learned that LEAA has been making grants to private nonprofit organizations through eligible recipients. Although current law does not expressly prohibit this practice, it should be noted that Congress in 1970 rejected requests for such authority and that under the doctrine of expressio unius est exclusio alterius it would be reasonable to conclude that only governmental entities are eligible to receive discretionary grants.

This is as it should be. We are not pleased with the present practice of permitting some private nonprofit organizations to receive funds intended only for governmental entities. The size of the discretionary fund is not so great and the needs of State and local government are not so slight that funds would otherwise go unwanted. If so, LEAA should make that fact known to us.

We well understand that the present practice requires complex bookkeeping and that this burden could be erased by the amendment to present law authorizing the practice. However, we remain unconvinced that the practice is a good one. If the law cannot restrain the practice, perhaps the administrative burdens will keep such deviations to a minimum.

A motion to strike the provision authorizing the practice failed 23–14 on a rollcall vote. We hope that the House reverses this result.

Our concluding comments likewise concern a provision on which Congress expressed itself in 1970 in contradiction to H.R. 8152.

In House-Senate conference it was decided that it would be unwise to require that State planning agencies be composed of citizen, professional, or community groups. It was argued that such groups may be represented under the then current law on such agencies but to require representation would lead to litigation over the composition of such agencies with the effect that injunctions, preliminary or remedial, would slow the flow of funds to State and local governments. We agree. An amendment to strike the requirement and substitute permissive language (declaratory of present law) failed on an 18–18 rollcall vote. We hope that the House reverses that decision.

We the undersigned Members ascribe to the foregoing additional views.

EDWARD HUTCHINSON,
ROBERT MCCLORY,
HENRY P. SMITH III,
CHARLES W. SANDMAN, JR.
TOM RAILSBACK,
DAVID W. DENNIS,
HAMILTON FISH, JR.,
WILEY MAYNE,
LAWRENCE J. HOGAN,
WILLIAM J. KEATING,
M. CALDWELL BUTLER,
WILLIAM S. COHEN,
TRENT LOTT,
HAROLD V. FROEHLICH,
CARLOS J. MOORHEAD,
JOSEPH J. MARAZITI.

INDIVIDUAL VIEWS OF MR. WIGGINS

I concur in the foregoing (additional views), except insofar as they may be understood to express unequivocal disapproval of the making of discretionary grants to nongovernmental agencies. On this point, I am not ready to take an inflexible position.

One of the important purposes of this discretionary fund is to encourage innovation. That purpose may not be served if a nongovernmental agency is denied an opportunity to contribute its unique competence to the solution of a law enforcement problem and to receive financial support for its efforts.

It must be remembered that the discretionary funds are controlled. The possibility of wasteful expenditures on programs having only limited law enforcement benefits is thus minimized—if the managers of the fund use prudence and commonsense in the exercise of their discretion. Their track record thus far is good. To restrict their discretion, as some have urged, would not be supportive of the general purposes of the legislation nor justified on the basis of their overall performance to date.

CHARLES E. WIGGINS.

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