REPORT OF THE SPECIAL STUDY TEAM ON LEAA
SUPPORT OF THE STATE COURTS

An Abstract

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FOREWORD

By and large, most state courts have not received the interest, technical assistance or financial support from LEAA essential for sound growth and progress, and have fallen further behind in their ability to relate to rising crime rates and the more sophisticated operations, police, prosecutors, defenders and corrections personnel who have received generous federal support.

This report recommends immediate steps to enable courts to develop an ability to plan and program for their future. The recommendations proposed envision pervasive change and are directed to all courts in every state as well as the state planning agencies and the regional and main office of LEAA.

The initiative for such change, however, must come from the top, the LEAA administrator, who must demonstrate a total commitment of will along with whatever manpower and planning and action funds that can be brought to bear.

Upgrading law enforcement agencies and functions presents certain dangers to a free society unless the courts keep pace. Concern about their failure to do so under the present federal support program has reached such serious proportions that it is the consensus of the study team that, should the recommendations in this document be ignored, legislation for direct funding of the state courts appears inevitable.
I. INTRODUCTION

For some time, concern has been expressed by various judicial and court-related organizations regarding the present structure by which federal support is provided to the judicial components. Among the specific problems suggested have been the relatively low percentage of federal monies going to the courts in comparison with those allocated to other criminal justice agencies; the role of the executive branch state planning agencies in allocating judicial funds, and the local match requirements which give state and county legislatures major control over judicial planning and operations.

In August 1974, the Conference of Chief Justices and the Conference of the State Court Administrators each issued resolutions specifically focusing upon the problems and possible inequities and deficiencies of the current system of LEAA court funding. Both resolutions suggested that the source of these problems was lodged in certain "structural and procedural" weaknesses inherent in the LEAA Act which could be remedied only by legislative or administrative action.

In response to these concerns, LEAA requested its Criminal Courts Technical Assistance Project at the American University to undertake an immediate review of the present status of federal support to the judicial components of state court systems. This review encompassed the relationships between state planning agencies and state judicial systems and the methods by which the SPA's and the state court systems work -- or do not work -- together.

The objectives of this review were to describe and analyze the planning and allocation processes presently utilized under the authority
of the Crime Control Act of 1973, to determine whether the processes established are effective or ineffective, and, as indicated by the findings, to make recommendations for improvement of those processes.

Under the coordination of the Technical Assistance Project, a three-man study team was appointed, consisting of John F.X. Irving, Dean of Seton Hall University Law School and formerly Executive Director of the Illinois Law Enforcement Commission (SPA); Dr. Peter Haynes, formerly Director of the Judicial Administration Program at the University of Southern California; and Circuit Judge Henry V. Pennington, former Director of the Kentucky Model Courts Project. Selection of the team was based on their diverse perspectives and experiences regarding LEAA courts planning and fundings, and their demonstrated ability to perform an objective and competent technical assistance assignment. An advisory committee was also assembled of representatives of the major organizations concerned with the study: Chief Justice Howell Heflin of Montgomery, Alabama, representing the Conference of State Chief Justices; Judge John Snodgrass of Huntsville, Alabama, representing the State Trial Judges Association; Marian Opala, Oklahoma City, Oklahoma representing the Conference of State Court Administrators; and Richard Wertz of Cockeysville, Maryland and Richard Harris, of Richmond, Virginia, both representing the Conference of State Planning Agency Executive Directors.

On September 26, 1974, an initial planning meeting was held at which time many constitutional and administrative issues were raised for the study team to explore. In determining an appropriate study method-
ology it was decided that several states would be selected for field analysis. These states would be representative of the various mechanisms at work through which planning and federal funding of state court activities are accomplished. The four states chosen were: Arizona, California, Georgia and Wisconsin, and were selected without consideration as to whether their mechanisms for court planning were efficient or inefficient, but, rather, on the basis of the different processes at work in each state. It was also determined that the potential scope of both the field study and subsequent recommendations would be quite broad and might pertain to any or all of the following: structure of the state court administrative office and/or the state planning agency; role of the state judiciary; applicable federal and/or state legislation; and other matters relevant to the study and identified in the course of the field work.

The field work was conducted during September and October and administration personnel, as well as judicial, executive and legislative branch officers at various levels of state and local government. The study also included an extensive search and review of available information relating to federal funding of the state court systems along with various other documents relating to LEAA policies and operations.

Based on this analysis the team evolved ten recommendations focusing upon three areas of concern: (1) locus of responsibility and mechanism for courts planning in the states; (2) role and composition of SPA boards; and (3) the system by which LEAA funds are allocated to the courts community. These recommendations were incorporated into an interim report to the advisory committee and LEAA representatives on December 14-15, 1974 at which time
the committee moved that this report be presented to Mr. Richard Velde, Administrator of LEAA, and that the team prepare a final report, which would include a suggested strategy for implementation.
SUMMARY OF FINDINGS AND RECOMMENDATIONS

The focus of the study was upon the process and flow of federal funds entering the state courts through the state planning agencies. Although a number of questions raised by the advisory committee require additional inquiry, the team's recommendations bear on the key questions of concern and should be implemented as a priority of the first order to strengthen and make more effective the state criminal justice systems.

In articulating resolutions to the key issues in this study, the team rejected two extreme positions: maintenance of the existing strategies for court planning and funding and, conversely, the scuttling of the present legislation in favor of direct or guaranteed funding. The team recommends retaining the values inherent in the state planning agency concept, including its check and balance system of review by one level or by another branch. It recommends a strategy for court planning and funding which places the initiative and authority within the courts themselves, and, simultaneously, creates within the SPA a more neutral and supportive forum for evaluation of court plans.

A. Finding

1. Planning by SPA's for the judicial branch is uneven in commitment and scope and raises constitutional problems.

2. Courts have had the lowest level of participation in the LEAA support program of the three criminal justice system components.

3. In states where the judiciary are involved in the planning process, court programs receive a larger percentage of available funds.

4. Concern about erosion of the independent and equal status of the judiciary as an equal branch of government under the
The present LEAA structure is reaching crisis proportions.

Recommendation: Primary responsibility for court planning should be vested within the judiciary of each state.

B. Finding

(i) Court planning in most jurisdictions is ill developed.

Recommendation: A concentrated effort should be undertaken by the courts, assisted by LEAA nationally and regionally, and by the state planning agencies, to establish and strengthen independent planning capability within each state judicial system. This effort should be undertaken immediately and should be given highest funding priority. This immediate action should be supported by a commitment to develop (or maintain) a national resource to advance court planning capability on a continuing basis.

C. Finding

(i) A primary need for court improvement is at the trial and municipal court levels which significant LEAA money has not reached.

Recommendation: Development of the courts plan should reflect the input of local as well as state courts and the programs articulated should represent a balance of local and state court needs.

D. Finding

(i) The present tendency is for the courts to operate in a vacuum.

Recommendation: Planning by the state judiciary should be conducted in cooperation with the planning for other components of the criminal justice system as well as with other components of the courts community.

E. Finding

(i) The state planning agencies have tended to superimpose their programming concepts on the state court systems.

Recommendation: The courts plan proposed by the state judiciary should be deemed prima facie valid and a presumption should arise that the plan will be approved and funded by
the state planning agency. This presumption does not diminish the responsibility of the state planning agency to scrutinize the court plan for invalidity, imbalance, or other deficiencies.

F. Finding

There is little court representation on the state and regional agency boards. Where judges are appointed to such boards, they are often not deemed to be official representatives of the court system.

**Recommendation:** In order to achieve a neutral forum for the review of court plans, the courts should have a far greater representation on the various criminal justice planning boards. These representatives should be appointed by the courts. Together with the citizen representatives, the court designees should approach one-third of the total policy board membership.

G. Finding

Almost universally, judges and other members of the court community appeared to have deep resentment at so-called "interference" by those outside (whether the SPA or LEAA) dictating what is good for the courts.

**Recommendation:** The courts in the various states should be funded through a process which is consistent with the administrative structure of the courts of that state, whether that structure be a unified system, a decentralized system or some intermediate arrangement.

H. Finding

Universally, courts have received considerably less financial support than LEAA has claimed because LEAA counts grants to prosecution, defense, information systems, and other programs as grants to the courts.

**Recommendation:** In view of the low percentage of LEAA monies allocated to courts in the past, court funding should be raised to at least the levels of support supplied by present state funds and guidelines should be developed to identify those levels more precisely. A fixed general courts percentage is not recommended. Until the Congress, LEAA, or some other authoritative
source produces a standard definition of "courts", a completely valid national analysis of funding of the courts will not be possible.

I. Finding

There is evidence that SPA funding of court systems has been in concert with court modernization efforts without going as far as to impose unification (or uniformity) as a condition of receiving grants. This was in contradistinction to the effects feared by the supporters of unification.

Recommendation: The federal support program should be encouraged to continue to support modernization efforts without imposing any particular organizational requirement as a condition precedent to obtaining funds. In addition, no state should be penalized for the adoption of any particular mode of organization (especially unification).

J. Finding

From the national office of LEAA down to the lowest local planning board, there is a disturbing shortage of full-time court specialists and the courts also lack essential planning staff capability.

Recommendation: LEAA should see that full-time court specialists with appropriate support staff and administrative independence and authority exist at the national office of LEAA, at its regional offices, at the SPA's and within the court systems. LEAA should consider designating a competent liaison person to serve as an ombudsman to facilitate implementation of these recommendations, to strengthen the role of LEAA and the SPA's in upgrading the state courts, and in aiding their healthy growth.
THE LEAA LEGISLATION: A COURT'S PERSPECTIVE

The 1968 LEAA legislation represented an unprecedented and experimental approach by the federal government to support state and local efforts to reduce crime and upgrade criminal justice systems. Although crime has not declined significantly, the criminal justice systems in every state have been upgraded. However, the Conferences of Chief Justices and State Court Administrators contend that the state courts have not kept pace and the mechanism for planning and funding in the legislation put the judicial branch at a disadvantage.

Several factors contribute to the failure to reach these two program goals as well as the state and local tensions evident.

First, the goals of the legislation were unrealistic and blurred. Funds were not sufficient to make the "streets safe" and the upgrading of the system was an illusory goal since no "system" existed.

Second, the legislation imposed new theories of federal-state relationships upon a program which was to be action-oriented.

Third, three duties are imposed on the SPAs which are incompatible: comprehensive planning, funding action programs, and pulling fragments of criminal justice operations into a cohesive system. Courts were cautious about using federal funds coming through the state's executive branch.

Fourth, the legislation encouraged competition at state and local levels for the limited federal funds, and SPA's allocation of funds was sometimes political.

Fifth, since its inception both the planning requirements imposed on the states and the structure of LEAA have been in flux, LEAA guidelines
and structure have frequently changed, and SPA policies and personnel have undergone considerable shifts.

Sixth, the federal legislation urged reform and innovation upon the states when many basic needs had not yet been met and when the local philosophy often opposed change.

Seventh, the several levels of review produce a check and balance which, though desirable, is fraught with pitfalls, and is often demeaning, sometimes hostile, and decisions can be made by persons uninformed of the needs of the applicant.

**CONCLUSION:** The inconvenience, time delays, and political intrigue that has been reported to the study team are alleged by the Conference of Chief Justices and others to cause a special dislocation to the courts and bears not only on the administrative provisions of the LEAA legislation but also upon the constitutional argument that the courts, as a separate and equal branch of government, should do their own planning and programming.
ANALYSIS OF COURTS FUNDING AND PLANNING MECHANISMS

California has the largest judicial system in the United States. Agencies dealing with judicial administration are provided constitutionally and include a Judicial Council and administrative office of the Courts. The courts are mainly locally based and financed. The SPA has been governed by statute and its regional components have considerable local autonomy.

Arizona's court system, constitutionally, is defined as unified. However, trial courts are still funded mainly at the local level. There is no judicial council or standing committees and power is centralized in the state supreme court. The SPA was established by executive order and is predominantly centralized despite regional components. Arizona is unique in that the legislature provides all required matching monies, both at the state and local levels.

In Georgia a constitutional amendment was passed substantially unifying the court system. Shortly after the study team left the state in 1971, the spa was created by executive order and in 1973 a Judicial Council and administrative office of the courts were created. Although courts are locally financed, court planning is essentially the responsibility of one individual.

Wisconsin has over 300 general and special jurisdiction courts under the superintensive control of the Supreme Court which also appoints the public defender, state bar commissioners, judicial commission, judicial education committee and constitutes, along with the attorney general, the board of trustees for the state law library. In addition to the Supreme
Court, the judicial branch is composed of other agencies and officials involved in various levels of court activities in the state. The Supreme Court operates under a unique system, a sum sufficient budget, not subject to modification by the Governor or, in theory, by the Legislature. Local trial courts do not share this independence and, however, are funded by local units of government. The SPA, created by executive order, is composed of regional planning councils which assist in distributing local monies.
COURT PARTICIPATION IN THE LEAA PROGRAM

Without exception, court officials in the states examined acknowledged the contributions made by the LEAA program to the judicial branch, particularly the innovative developments made possible by federal financial support. In Georgia and Arizona, court representatives indicated they received all the money they could use at the time and their positive views were shared by the SPA. In California and Wisconsin, however, such good relations between the courts and the SPA were not noted.

Georgia

Analysis of money allocated to court projects in Georgia reviewed many of the problems generating this study.

First, only recently have courts had any significant percentage of funds, and a considerable proportion of "courts" funds has been allocated to prosecution and defense projects. Total funds allocated to courts never exceeded 14% and, those funds allocated to courts, as narrowly defined to include only judges, administration and facilities, never exceeded 6%. Of this allocation, the amount of money actually expended was far lower. Improvement of this record raises several problems: need for the courts to adequately plan to use these funds; current fiscal contraints on the SPA board due to commitment to multi-year projects, and whether political realities would allow the courts to increase their participation at the expense of law enforcement (given Part E fixed percentages).

Arizona

Although fiscal data was not as complete as in Georgia, analysis indicates that percentage allocated to "courts" in the narrow sense was
significantly lower than the 13-14% claimed for courts, defined broadly.

**Wisconsin**

Courts in the broad sense have traditionally received a relatively high percentages of funds, but analysis indicated that court-specific projects were supported at considerably lower levels, i.e. 5-6%. Interestingly, California "courts" projects are funded at a similar level but, while Wisconsin views its courts well supported, California has the opposite view.

**California**

Based on already available statistics, the total amount going to courts was approximately 4.5% over the years studied. Courts have historically participated to a greater extent at the state agency level than at the regional, although this situation may be changing. Court funds actually expended were not available.

In assessing the experience of the four states examined, all courts apparently started slowly compared with other components of the criminal justice system, but are now overcoming their original reluctance to be involved, and have only recently developed capability to compete for and utilize the monies at a stage when the appropriations have levelled off.

The question is whether fiscal and political realities will allow increased court participation at the present time. All the states examined were constrained fiscally and it is indicated that others are also locked in to present funding patterns. If this is true, adequate funding to the courts must be provided if possible, through use of LEAA's discretionary funds. This would be only a temporary expedient associated with a definite plan for improved court allocations by the spa according to priorities.
identified by the courts.

It has been suggested that the LEAA regional review provides a mechanism for ensuring that courts receive adequate funding. The GAO recently reported a significant deficiencies in the way this process has been handled and additional problems were raised regarding the feasibility of a regional office compelling a state planning agency to amend its plan. In spite of these apparent realities, however, this plan review mechanism can be extremely useful if the courts have developed a defensible plan.

In view of the difficulty of establishing the adequacy of court funding, the team explored the possibility of using the percentage of appropriated monies spent on courts as a guideline.
THE STATE OF COURT PLANNING

In three of the states there have been active court specialists working for the court. All of the states examined demonstrated increasing capability to plan for themselves over the past few years. This responsibility was either handed over voluntarily by the SPA - as in Georgia and Arizona - and Wisconsin in the early years -- or reluctantly, as in California and, perhaps Wisconsin, at present. The movement may have been accelerated by strong executive desire for court improvement, desire for an objective, balanced planning process or strong court influence on the SPA.

This increased planning capability can be correlated with increased court participation in the use of LEAA money, especially at the state level.

If the planning process is objective, comprehensive court inputs must be received. A planning capability in the court system is of central importance in ensuring coherent and logical inputs although it cannot overcome a hostile political environment.

As planning capability develops at the state court level, a number of issues are raised.

First, should courts be given a percentage of funds or should they develop plans and compete for a share of the total resources? The states studied utilized the latter method of planning.

Second, how should state level planning units deal with court projects emanating from local trial courts? Each of the state planning agencies examined uses local planning regions to develop local inputs into state plans and to approve local projects before forwarding them to the
state level for ultimate action.

The issue is basically whether state court administration can control local court projects. In all the states examined, the state court administration strongly influences projects submitted, or has the potential for so doing. However, no state court system has an absolute veto within the SPA. The amount of influence exerted appears to parallel the power relationships in the state.

It is possible that courts could be more active in planning comprehensively at a state level for all courts within the state. None of the states examined had developed a significant capability to do this and all had fragmented court systems, even where unification was theoretically possible. If a responsive planning capability is to be developed to fit these types of systems, it will require a mechanism for getting inputs from local courts, even where judicial councils exist, and assistance must be available for guiding projects through administrative channels.

Each of the states can continue to develop the capability for local court planning. This approach would enable court systems to coordinate their total activities while maintaining local autonomy and, should unification take place at a later date, to have established the necessary administrative arrangement could be adopted.
EFFECTS OF LEAA FUNDING ON COURT UNIFICATION

In each state, court leadership was asked whether SPA funding processes encouraged or discouraged the modernization of the state court system, with specific emphasis on unification. These responses indicated the following.

In Georgia, the SPA was instrumental in establishing the Administrative office of the courts as well as other central court institutions. In Wisconsin, despite the present conflict, past funding patterns supported unification. While, in California, funding patterns were not deliberately designed to support unification, this has been the result because a number of projects were funded at the state level, and the AOC established a planning group.

The team did not examine a court system financed completely at the state level or one funded essentially locally. In both instances, the funding patterns imposed by the LEAA legislation might be out of concert with the pattern of expenditures in the state concerned. One problem has been raised, i.e. whether the variable pass-through formula accommodates the needs of a state financed court system, and this area deserves further study.

In response to the team’s inquiry as to whether court monies should be given to state court leadership for distribution, the judiciary in each state indicated that such a procedure would be an unnecessary interference in the internal affairs of the states.

In summary, the present funding patterns, have apparently encour-
aged unification by developing improved administrative capabilities at the state level. These patterns have not gone as far as to compel states to adopt a highly centralized system in order to get the money and it is doubtful that using the monies in that way would be appropriate. This situation with fiscally unified systems is much less clear. There is still considerable suspicion that a unified system might be penalized and if further examination confirms these fears, legislative change will probably required. In the interim, guidelines for accommodating the unified system through waivers, etc., might be considered.
AREAS OF CONFLICT BETWEEN SPAs AND COURTS

The team was particularly interested in whether court claims of undue executive interference in internal court affairs had validity.

In Georgia, no problems were noted. In Arizona conflict was limited to the local level. In Wisconsin, a number of conflict areas were apparent dealing with personnel issues, the degree to which planning responsibility is delegated to the court, funding of projects within the AOC, and general policy determinations which affect the operations of the court (i.e., information system development and provision of defense services). In California, conflict focussed on the degree to which the judicial branch should influence the distribution of money by the SPA; the type of projects approved for funding and several philosophical areas. Other areas of conflict noted involved the relationship between a trial court and county government and the processes and procedures being followed by the states in establishing standards and goals for the courts.

No evidence was detected that attempts were made to utilize the monies in the state planning agency to influence decisions in individual court cases.
COURT REPRESENTATION ON CRIMINAL JUSTICE PLANNING BOARDS

Wherever possible, the team determined the degree to which the judiciary is represented on state and local boards. In Wisconsin, only one justice sits on the planning council and, on the regional level there are 14 judicial representatives of a total of 142 (9.9%). In Arizona the courts are well represented with three judges on the board, including the chief justice, who attends regularly, the attorney general and a county attorney, with membership of courts and prosecution comprising one third of the total -- more than that of police. In California, court representation is relatively low. However, the formation of the Judicial Criminal Justice Planning Committee which reviews all grant requests before submission to the SPA, is composed exclusively of superior and municipal court judges and chaired by a justice of the court of appeals. In Georgia, membership is defined in an executive order and includes no official state court leadership.

In summary, the judiciary is underrepresented on the governing boards in every state visited except Arizona, and this underrepresentation is apparently evident in a majority of other states. This area deserves improvement, for strong judicial representation on the supervisory boards should result in a higher degree of satisfaction and commitment among state court leadership and, although not a guarantee, will encourage a comprehensive judicial component of a state plan.
COMMENTS ON RECOMMENDATIONS

Recommendation One: Primary responsibility or Court Planning should be vested with the judiciary of each state.

The constitutional independence and equality of judicial branch requires state courts to exercise leadership and primary responsibility for planning and utilizing federal funds. Whether through apathy or lack of capability, courts have not taken the initiative to plan for federal funds and, by default, the executive branch SPA has exercised this function. This situation is inconsistent with the integrity and independence of the judicial branch, and has the potential for long term deleterious effects. Courts in each state must assume the initiative for planning, obtain planning funds from the SPAs, hire the necessary planning staff, and develop the blueprint for their future structure, personnel and programs.

The courts in many jurisdictions have fallen behind other criminal justice system components in their participation in the federal support program due to lack of planning capability and, consequently, this recommendation should become an immediate priority at all levels of government. A special responsibility falls on LEAA to show leadership and firm commitment to this goal.

Recommendation Two: A concentrated effort should be undertaken by the courts, assisted by LEAA nationally and regionally, and by the state planning agencies, to establish and strengthen independent planning capability within each state judicial system. This effort should be undertaken immediately and should be given highest funding priority. This immediate action should be supported by a commitment to develop (or maintain) a national resource to advance court planning capability on a continuing basis.
Courts planning capability was developing to various degrees in every state visited and the degree to which a planning capability had developed bore a direct relationship to the quality and value of court projects resulting and, the level of court participation in the use of LEAA funds. Development of a strong internal judicial planning capability is essential regardless of the political environment or specific structure or future of the federal support program. A specific action plan is needed, and might require that:

(1) The LEAA administrator require each SPA to solicit from the state judicial leadership a detailed proposal for establishing a permanent judicial planning capability for that state which would be submitted to the SPA within sixty days of notification and by the SPA to the LEAA regional office within thirty days after receipt and comment in order to qualify for FY 76 funds.

(2) The SPA and LEAA regional and national offices make available technical assistance to state judicial systems.

(3) The judicial plans be consistent with Recommendations three and four of this report and not inconsistent with the present court structure of the state involved.

(4) The request by the SPA be accompanied by guidelines.

(5) After LEAA review, these plans be given highest funding priority by LEAA for FY 76.

(6) The LEAA administrator should immediately reserve sufficient discretionary and other available funds for FY 76 to implement this recommendation.

(7) LEAA should call upon the study advisory committee to achieve this action plan.
Recommendation Three: Development of the Courts plan should reflect the input of local as well as state courts and the programs articulated should represent a balance of local and state court needs.

Court planning must be responsive to every level of court and judicial component. The central role of a state supreme court should not mean that local courts projects are not supported. Local court involvement should be reflected in the planning process as well as the composition of the SPA boards. On developing this planning mechanism, local courts must have access to the professional planning capability serving the state judicial system as a whole.

Recommendation Four: Planning by the state judiciary should be conducted in cooperation with the planning for other components of the criminal justice system as well as with other components of the courts community.

Although planning for the courts must be vested with the judiciary, it must be done in concert with the planning of those executive agencies which operate in the courts community, i.e., prosecution, defense, etc. This is not to suggest that the judiciary plan for the components of the court community which interface with court operations but, rather, to highlight the necessity for court planning to be done in cooperation and conjunction with those other planning efforts.

Recommendation Five: The Courts plan proposed by the state judiciary should be deemed prima facie valid and a presumption should arise that the plan will be approved and funded by the SPA. This presumption does not diminish the responsibility of the state planning agency to scrutinize the court plan for invalidity, imbalance, or other deficiencies.

Decisions regarding the substantive validity and value of programs
and plans proposed by the courts should be made during the internal court planning process, and the validity of this decision should be presumed by the SPA. The primary role of the SPA should be to serve as an interdisciplinary board which can pull together the criminal justice components, assure compatibility and correlation of these plans, and serve as executive branch arbiter of public policy. This review process is a check and balance which should be conducive to the courts receiving a fair share of available federal monies.

Recommendation Six: To achieve a neutral forum for the review of court plans, the courts should have a far greater representation on the various criminal justice planning boards. Together with the citizen representatives, the court designees should approach onethird of the total policy board membership.

Without the creation of a more neutral forum, courts plans will probably never be given equal consideration and the neglect of the judicial branch will continue, making fixed percentage of block funds for courts necessary.

Recommendation Seven: The Courts in the various states should be funded through a process which is consistent with the administrative structure of the courts of that state, whether that structure be a unified system, a decentralized system or some intermediate arrangement.

While the dual review of court projects at local and state levels can be cumbersome, and sometimes frustrating, local units of government should be involved in the funding decision as long as local courts are funded through these local governmental units which will have financial responsibility once the project is completed. There are claims that a financially unified state is penalized for its structure under
the present Act and the merits of these claims should be explored, and, if necessary, the Act should be amended in this regard.

Recommendation Eight: In view of the low percentage of LEAA monies allocated to courts in the past, court funding should be raised to at least the levels of support supplied by present funds within the state and guidelines should be developed to identify those levels more precisely. A fixed general courts percentage is not recommended.

Federal funds allocated to judicial activities have been minimal and lower than generally articulated figures for "Courts" when defense and prosecution are excluded from this broad category. "Court," broadly defined, does not take into consideration the necessary balance required in upgrading all criminal justice system components and the possible dislocation in one as a result of finding in another.

The study team is reluctant to recommend that the courts receive a fixed percentage of each state's FY block grants. A guarantee of funding, either in amount or in percentage, is a guarantee of mediocrity and can discourage meaningful planning and is also undesirable in view of the wide variety of activities falling within the judicial branch in the various states.

However, courts have received a pittance of funds in the past and LEAA should develop guidelines for use in each state. Where a state has genuinely curtailed its ability to fund, LEAA should use Discretionary Fund monies to supplement these deficiencies as a stop-gap measure.
It has been said that Discretionary Funds are in short supply and, if this situation precludes courts from improving their participation, they will have no recourse in the present structure and the team would reluctantly recommend that separate court funding be supplied.

Hopefully, a sense of professional responsibility will develop within those SPAs and courts that may still see SPA funds primarily for patronage or other political appeal. However, if an SPA inexpertly or deliberately discourages the courts from participating in this national upgrading effort, a formula fixing the amount of funding for the courts might have to be articulated. In the meantime, LEAA should serve a "watchdog" function to ascertain that the courts are, in fact, being treated fairly.

Recommendation Nine: The federal support program should be encouraged to continue to support modernization efforts without imposing any particular organizational requirements as a condition precedent to obtaining funds. In addition, no state should be penalized for the adoption of any particular mode of organization (especially unification).

In each state, court leadership indicated that the funding patterns had not been destructive of efforts to develop unified structures.
A STRATEGY FOR IMPLEMENTATION

The four nerve centers which must be stimulated to activate sustained planning in the state courts are:

A. The administrator of LEAA
B. The regional offices of LEAA
C. Each state's criminal justice planning agency
D. The court system in each state.

The stimulus is the recognition that state courts develop their own planning and programming capabilities and requires a combination of federal funds, manpower and technical assistance and, to be sustained, responsible personnel.

In order to assist those who are responsible for implementing the recommendations of this study, the following strategy is outlined:

A. The LEAA Administrator
   1. Announce and disseminate a specific policy for upgrading state courts and the extent of funds and manpower committed to support this new policy. The Conference of Chief Justices should participate in the policy announcement.

   2. Release to the states planning or discretionary funds to enable to mount a planning and programming capability.

   3. Determine the present extent of court planning capability and experience in the 55 jurisdictions.

   4. Assure that the LEAA regional offices have full time court specialists who can provide the necessary technical assistance.

   5. Determine whether other steps should be taken at the national or regional levels to achieve the goals of this program.

   6. Identify an existing or potential organization which can serve as a resource center for the state courts.

   7. Study and resolve specific problems confronting courts in the LEAA program.

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B. Regional Offices of LEAA

The ten regional offices must become a watchdog for the state courts, a negotiator of disputes between the SPA and court personnel, and an objective analyst of each state's comprehensive plan. Those plans that fail to incorporate the plans developed by the courts should be rejected. The LEAA regional office should, therefore:

8. Hire at least one full time court specialist with necessary administrative authority and support.

9. See to the disbursement of planning and discretionary funds to the state courts for developing planning capability.


11. Articulate a policy of support for upgrading the state courts.

12. Gather information on existing capability and structure of each state court system for use internally and by LEAA.

13. Require strict compliance of SPA and courts in meeting responsibilities recommended in this report.

C. The State Criminal Justice Planning Agency (SPA)

Primary responsibility and authority for court planning must be delegated to the courts. The SPA must:

14. Notify the chief justice and others about availability of planning funds to courts for employing court planners and the need to establish a Judicial Council and submit a written plan to the SPA for inclusion in the State comprehensive plan.

15. Provide technical assistance in forming a Judicial Planning Council and recruiting staff.

16. Assure adequate orientation and coordination of court planning staff.

17. Invite court to designate members for SPA policy board.

18. Indoctrinate policy board in accepting prima facie validity and
priorities of court plan submitted.

19. Help upgrade court systems.

D. The Court System in Each State

20. In integrated court systems, the Supreme Court should create a Judicial Planning Council representative of all levels; where courts are not integrated, the chief justice should invite judges from each level of court to designate nominees to serve on a Judicial Planning Council.

21. The Judicial Planning Council should apply for staff capability through the SPA.

22. The court planner should be familiar with courts and the law and have credibility with the judges.

23. Staff search should begin while the SPA application is being processed.

24. Funds allocated by the SPA should provide for frequent meetings of the Judicial Planning Council or its authorized steering committee.

25. Various technical assistance resources should be available to the Council which can identify its needs based on national standards for court organization and reform.

26. The Council should meet with the SPA and others to assess future sources of funding once federal monies are expended.
ISSUES AS YET UNRESOLVED

Specific areas requiring immediate further examination are:

1. Effect of the present SPA court funding pattern upon fiscally unified systems.

2. Effect of the present SPA funding pattern upon highly decentralized court systems and whether such systems can plan as a unit.

3. Whether the variable pass-through formula accommodates the fiscal needs of unified and decentralized systems.

4. Extent to which SPA commitments preclude increased court funding and options open to LEAA to improve court funding.

5. Possibility of developing rough percentages regarding appropriate levels of court funding.

6. How judicial planning councils might plan harmoniously with the various functions falling within the judicial branch.

7. What LEAA resources might be allocated and what authority and responsibility is needed to implement these recommendations.

8. Possibility of establishing criteria for planning and projects which should be conducted by the courts and that which is appropriate for joint, executive and legislative concern.

9. Review of separate national training programs and possible need for uniform awards of training grants to states.