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HELPING STATE AND LOCAL LAW ENFORCEMENT DURING AN ECONOMIC DOWNTURN

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BEFORE THE

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ONE HUNDRED ELEVENTH CONGRESS

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CONTENTS

STATEMENTS OF COMMITTEE MEMBERS

Page

Feingold, Hon. Russell D., a U.S. Senator from the State of Wisconsin, prepared statement 36
Feinstein, Hon. Dianne, a U.S. Senator from the State of California, prepared statement 37
Leahy, Hon. Patrick J., a U.S. Senator from the state of Vermont 1
prepared statement 63

WITNESSES

Leary, Mary Lou, Executive Director, National Center for Victims of Crime, Washington, D.C. 11
Muhlhausen, David B., Ph.D., Senior Policy Analyst, Heritage Foundation, Washington, D.C. 13
Ramsey, Charles H., Police Commissioner, Philadelphia Police Department, Philadelphia, Pennsylvania 6
Schirling, Michael E., Chief of Police, Burlington Police Department, Burlington, Vermont 3
Schmidt, John R., Esq., Partner, Mayer Brown, former Associate Attorney General, Department of Justice, Chicago, Illinois 8

QUESTIONS AND ANSWERS

Responses of David B. Muhlhausen to questions submitted by Senator Hatch . 22
Responses of Charles H. Ramsey to questions submitted by Senator Feingold . 27
Responses of Michael E. Schirling to questions submitted by Senator Feingold 28
Responses of John R. Schmidt to questions submitted by Senator Feingold 31

SUBMISSIONS FOR THE RECORD

Canterbury, Chuck, National President, Grand Lodge, Fraternal Order of Police, Washington, D.C., statement 33
Fox, James P., District Attorney, San Mateo County, California, and Chairman of the Board, National District Attorneys Association, statement 46
Jordan, Anne H., Commissioner of Public Safety, Maine Department of Public Safety, Augusta, Maine, letter 62
Leary, Mary Lou, Executive Director, National Center for Victims of Crime, Washington, D.C., statement 65
Muhlhausen, David B., Ph.D., Senior Policy Analyst, Heritage Foundation, Washington, D.C., statement 71
National Sheriffs' Association, Sheriff David A. Goad, President, and Aaron D. Kennard, Executive Director, Alexandria, Virginia, letter 85
National Troopers Coalition, Dennis Hallion, Chairman, Washington, D.C., letter 87
Nee, Thomas J., President, National Association of Police Organizations, Alexandria, Virginia, statement 88
Ramsey, Charles H., Police Commissioner, Philadelphia Police Department, Philadelphia, Pennsylvania, statement 91
Schirling, Michael E., Chief of Police, Burlington Police Department, Burlington, Vermont, statement 94
Schmidt, John R., Esq., Partner, Mayer Brown, former Associate Attorney General, Department of Justice, Chicago, Illinois, statement 101

VerDate Nov 24 2008 09:27 Dec 29, 2009 Jkt 053929 PO 00000 Frm 00003 Fmt 5904 Sfmt 5904 S:\GPO\HEARINGS\53929.TXT SJUD1 PsN: CMORC

HELPING STATE AND LOCAL LAW ENFORCEMENT DURING AN ECONOMIC DOWNTURN

THURSDAY, JANUARY 8, 2009

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Committee met, pursuant to notice, at 10:05 a.m., Room 226, Dirksen Senate Office Building, Hon. Patrick J. Leahy, Chairman of the Committee, presiding.

Present: Senator Whitehouse.

OPENING STATEMENT OF HON. PATRICK J. LEAHY, A U.S. SENATOR FROM THE STATE OF VERMONT, CHAIRMAN, COMMITTEE ON THE JUDICIARY

Chairman LEAHY. Good morning. Thank you for being here. I see many people that I know and I've worked with over the years. Of course, I'd note that Michael Schirling, the Chief of Police of Burlington, Vermont, is here. Burlington is where I lived for many years. I was a Prosecutor there, married there 46 years ago, and raised children there.

And Commissioner Ramsey, of course, is an old friend and no stranger to either myself or this Committee. I'm told, Commissioner, that Senator Specter has to be in Pennsylvania with President Bush today, and he regrets being unable to attend the hearing. Usually Senator Specter and I conduct these hearings together, and have for years. Especially having you here, he wanted me to extend his regrets for that.

Later this morning, the President-Elect, President-Elect Obama, is going to be speaking about the economic crisis and the need for an immediate stimulus package. That is something that I think all Republicans and Democrats agree we have to, in probably the most severe—certainly the most severe—economic period of my lifetime.

So it's fitting that in the Judiciary Committee's first hearing of this new Congress we consider the urgent need for more Federal assistance to State and local law enforcement during this economic crisis. Families across America find their economic security increasingly at risk, and the possibility of increased crime during this recession means they may also find their day-to-day safety and security are at risk.

With unemployment on the rise, cities and towns are cutting budgets, including critical funding for police. We have to act quickly and decisively to shore up State and local law enforcement or face reversal of the really great strides we made in the '90s at reducing crime.

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The new Congress has appropriately focused on how best to turn our economy around and help those most in need, and an effective way to protect our citizens and create jobs, that begin rebuilding our economy and our communities, with confidence, would be to restore Federal support for State and local law enforcement, which has been so severely cut during the past eight years.

I know that Congress, in a bipartisan effort, in the Clinton administration supported America's law enforcement like never before. It helped to put 100,000 new officers on the street and we saw an historic decline in crime rates.

But it stalled when the current administration gutted Federal funding for State and local law enforcement, cutting it by billions. Whether one is for or against the war in Iraq, the idea that we took the money from American law enforcement to give the money to law enforcement in Iraq did not make a great deal of sense. Iraq has a huge budget surplus; we have a huge budget deficit. I think that I would like to see us worry more about law enforcement in America than law enforcement in Iraq.

So we have to act now. We have got to do something to reverse the nearly 50 percent reduction in overall funding for State and local law enforcement. In fact, if Congress had not stepped in, these cuts would have been even greater. There has been the gutting of assistance to State and local crime prevention programs, even though we know that they do prevent crime. Local law enforcement depends on local tax revenues. We know those are starting to fall, with the economic downturn. Police departments are going to find even further cuts.

So as crime escalates there are going to be fewer officers and resources to protect us, and I think we have to act now. I think if we can allow State and local forces to fill vacancies and hire new officers and staff, it is going to help to jump-start our economy. These are good middle-class jobs for middle-class people, and they can be filled immediately. They are often jobs where people live in the hardest-hit communities, who spend their money close to home.

So it helps. Supporting State and local law enforcement helps economic development in another important way, too. As many of our neighbors become safer, property values rise, businesses open, they thrive, local economies prosper. If crime returns to these newly prosperous neighborhoods, then business, homeowners, and the economy suffer. I believe we should restore the COPS program and the Byrne Justice Assistance Grant Program to the levels that worked so effectively in the '90s.

Crime is not just a big-city issue. As the Judiciary Committee heard at hearings in St. Alban's in Rutland, Vermont, the drugs and violence long seen in urban areas now plague even our most rural and remote communities, and ironically the rural and remote communities usually have the least ability to respond to it. They don't have the sophisticated task forces. They don't have the specialized squads so common in big cities and metropolitan areas.

On the first day of this Congress, I introduced the Rural Law Enforcement Assistance Act to ensure that rural communities hit hard by crime and by the recession get the help they need. I would like to make sure that crime victims are not doubly penalized, first by being hit with a crime, and then being denied assistance and

compensation. We could prevent that by doing something that doesn't cost a dime in Federal taxes, and that is to raise the cap on the Crime Victims' Fund so that we could send more money to the States for crime victims.

So, we have people who bring important perspectives to this. I have known Chief Schirling of Burlington for many years. I knew him long before he was chief. He used to work on some of the first high-tech capabilities, with the Internet and whatnot, to attack crime in Vermont. One of the reasons he was picked as chief is that he was one of the first to understand the innovative ways that could be used to face challenges today.

He's been a leader in the fight against crimes against children, which is especially important, as a parent and a grandparent. Of course, we have, as I mentioned, Commissioner Ramsey of Philadelphia here; former Associate Attorney General Schmidt, I know very well; Ms. Leary, from the National Center for Crime Victims; Mr. Muhlhousen—it is pronounced "housen", right? Muhlhousen?—from the Heritage Foundation.

I want to thank others in law enforcement who submitted letters and written testimony: the National Association of Police Organizations (NAPO); the Fraternal Order of Police; National Association of Black Law Enforcement Executives; the National Troopers Coalition; the National Sheriffs Association. Their statements will be placed in the record.

[The statements appear as a submission for the record.]

Our first witness, as I said, will be Michael Schirling, Chief of the Burlington Police Department since January of 2008. He previously ran the Burlington Police Department's Administrative Services Bureau, the Emergency Management and Homeland Security Protective Service Bureau in training and recruitment. He joined as a uniformed officer in '93.

In '99, he helped found the Vermont Internet Crime Task Force and has continued as coordinator of the task force ever since. He was a State leader in computer forensics, a co-founder of the Digital Forensic Technology program at Champlain College in Burlington. He received his bachelor's degree in Political Science and a Master's of Education Leadership and Policy Development from the University of Vermont.

Chief Schirling, I'm delighted to have you here. It's good to see you again. Please go ahead.

STATEMENT OF MICHAEL E. SCHIRLING, CHIEF OF POLICE, BURLINGTON POLICE DEPARTMENT BURLINGTON, VT

Chief SCHIRLING. Thank you, Mr. Chairman. It's a pleasure to be here. Thank you for the invitation to appear. I'm pleased to be here this morning to discuss the challenges confronting small cities and rural law enforcement, and how the Federal Government can renew its commitment to the safety and vibrancy of our communities at this crucial time of economic downturn.

My written testimony captures the bulk of my thoughts and thoughts from other law enforcement leaders in Vermont and in the region on these issues. This morning, I'll try to be succinct.

Over the last 10 years, our policing paradigm in Burlington has shifted from a response-based model to one embracing the core te-

nets of community policing partnership and problem solving, with an eye toward preventing crime and mitigating disorder on our streets, in our neighborhoods, and our downtown using a variety of methods and employing the resources of a host of stakeholders. Many of those initiatives have been funded or seeded with Federal support.

We believe, in addition to traditional law enforcement activities, such as enforcement of investigative initiatives, that those things are important. Increasingly, law enforcement must focus on education and prevention, as well as outreach and intervention, in an effort to stem the tide of crime by reaching youth, the disenfranchised, and the service-resistant at a neighborhood level. Policing is no longer one-dimensional.

Over the course of this paradigm shift in the last decade, we have had a variety of successes: successful neighborhood policing, partnerships in parallel justice to support victims, community support programs to mediate and do intervention with citizens in conflict before it reaches the level of crime, partnership in putting mental health workers out on the street to mitigate crime and disorder, and extensive partnerships with Federal, State, and local agencies on a host of issues, from child sexual exploitation to Internet crimes against children and drug operations.

While we've met success using this model, we face a variety of continuing challenges, including: the recruitment and retention of qualified employees, including police officers; shifts in violent crime from larger urban areas to smaller cities in rural jurisdictions; stresses created by the burgeoning drug trade, not only in illicit drugs, the classic drug trade model, but increasing stresses related to the trade and trafficking in prescription medication and the ancillary crime that goes with that, the increases in robberies at convenience stores, pharmacies, car breaks, burglaries, and things that support that drug trade; the continuing challenges posed by computer and Internet crime and the emerging challenges of increasingly mobile devices and the way in which they facilitate criminal activity.

There has been significant progress in our national efforts to stem the tide of crime, however, there is much work remaining to be done. Increases in violent crime, drug sales, and gang activity in some parts of America correspond directly to the substantial decline in funding for State, tribal, and local law enforcement from the Federal Government.

The economic recession will have a significant additional impact on local and State funding streams, as they are stretched to their limit. The economic turmoil has caused concern for public safety resources, because maintaining safe communities is arguably one of the key elements of economic vitality and growth for any community.

Ensuring that the resources exist for America's 18,000 law enforcement agencies and 800,000 police officers to continue to combat crime in a successful manner will require a renewed commitment to historic funding streams, such as Community Oriented Policing, (the COPS program), and awards such as the Edward R. Byrne Memorial Justice Grant Program.

Without that renewed assistance, we'll face cuts in personnel, inability to fund critical equipment needs, such as bullet-proof vests, communications and technology projects, reductions in the ability to pay for special operations, drug initiatives, traffic safety initiatives, computer and Internet crime, an erosion of resources to support victims and survivors of crime, and diminishing resources to deal with challenged populations, such as those suffering mental illness and substance abuse.

We're doing all we can to protect communities at this point. It's essential for law enforcement programs like the ones I mentioned, COPS and Byrne, to be fully funded in 2009 and the years that follow. With your help and our commitment to a safer America, we can continue to make great strides.

I'd just like to thank you once again for the invitation to be here today and for taking testimony on this important set of issues, and most importantly for your continued leadership and assistance on law enforcement matters nationwide.

Chairman LEAHY. Thank you.

I'll tell just one story about Chief Schirling. Recently, Bob Mueller, the head of the FBI, was in Burlington. The Chief had worked, with others, on a particularly egregious crime we had in Vermont, and organizing of the State and local and Federal authorities to solve the crime.

So I brought the Director of the FBI over to the Burlington Police Department to meet all the people who worked on the crime, and he had followed the crime personally, called me different times during the investigation, and he wanted to thank everybody for what they did.

What the Chief did, was find an old photograph, something I had totally forgotten about. When I was a Prosecutor, I used to go out on the pistol range with the police at least once a year and qualify. I still have a pistol range behind my home in Vermont. I should tell you, Commissioner, we live way out in the country.

[Laughter.]

I recall the Director commenting, not so much on my prowess with a sidearm, because I did qualify every year with them, but the fact that I had hair at the time.

[Laughter.]

Commissioner Ramsey was appointed Police Commissioner of the Philadelphia Police Department on January 7, 2008. As Commissioner, he leads the fourth largest police force in the country. Prior to his appointment, he served as Chief of Police for Washington, DC's Metropolitan Police Department from '98 through 2006, longer than any other chief since DC's home rule began. He implemented innovative community policing strategies and helped lower the crime rate by almost 40 percent. He began his career with the Chicago Police Department, where he served nearly 30 years in a variety of positions. He holds a Bachelor's and Master's degree in Criminal Justice from Lewis University. He graduated from the FBI National Academy and the National Executive Institute.

Commissioner, we're delighted to have you here. Please go ahead, sir.

STATEMENT OF CHARLES H. RAMSEY, POLICE COMMISSIONER, PHILADELPHIA POLICE DEPARTMENT PHILADELPHIA, PENNSYLVANIA

Commissioner RAMSEY. Thank you, and good morning, Mr. Chairman. Thank you for this opportunity to discuss the future of our Nation's law enforcement agencies at such a critical time in our history.

My testimony here today reflects not just the experience of the City of Philadelphia or the Philadelphia Police Department. Our experience, especially at this time, is not unique. Federal support for municipal police organizations has been declining steadily since the horrific attacks of September 11, 2001 in favor of Homeland Security funding.

From 2001 until now, local police have received 81 percent less financial support, from $2.1 billion to $400 million, for initiatives such as additional personnel hiring and technology grants. I would submit, however, that this is not an either/or proposition, either defend the homeland or fight crime. In looking forward, the Federal Government can, and should, support local police in both grants for crime reduction and Homeland Security.

At its highest, the Philadelphia Police Department received almost $32 million in Federal grants for crime reduction in 1996. Last year, in 2008, we received $3.5 million in Federal funding. Not only do we as local law enforcement agencies share a similar history with decreasing Federal investments, but we all share the present experience of being in an economic recession. No city or State has been spared from this recession. Local governments across the country are facing extraordinary budget shortfalls, necessitating cut-backs in services, programs, and personnel.

The public safety sector is not immune and the consequences for our cities, large and small, are very real. Local police agencies are the primary agency in any municipal government for preventing, responding to, and reducing crime, violence, and terrorism. A strong and economically viable city will have a strong, capable, and well-trained local police agency as its foundation.

With cities and States universally scaling back their police operations infrastructure, reducing or canceling academy classes, cutting back investigation and patrol overtime, slowing their financial investment in technology, and implementing hiring freezes for sworn and civilian positions, all of us—police, local, State, and Federal Government—have a stake in ensuring that public safety for the citizens in this country is not compromised.

Providing Federal support to local and State law enforcement agencies during this economic downturn is an investment in the growth and success of this Nation's future. If we are able to build a sustainable future for our cities and States—and that is one of the core issues here, sustainability—then the Federal Government must partner with local police departments in offering dependable and meaningful support.

Criminologists, social scientists, and statisticians have rigorously studied policing in this country for over 40 years. One area that has received much inquiry is the positive impact of targeted policing initiatives through increased personnel in particularly crime-ridden areas. I have also been in this profession for over 40 years,

and based on my experience, the most influential deterrent to crime is a highly visible and well-trained uniformed patrol division. More personnel not only deters those would-be criminals from breaking the law, but contribute to a sense of safety and well-being to our law-abiding citizens that is intangible and invaluable.

In Philadelphia in particular, Mayor Michael Nutter and I set aggressive goals for the Department in January of 2008 and worked diligently to reduce the level of violent crime in the city. Homicides in 2008, compared to 2007, decreased by 15 percent, or 60 fewer homicides; shooting victims, by 11 percent; and our homicide clearance rate reached 75 percent. Those were accomplished by returning more officers and specialized units to uniformed patrol in order to increase the size of our patrol force.

In light of the current budget constraints, the Philadelphia Police Department will be unable to hire an additional 200 officers originally planned in the beginning of the 2009 fiscal year. More police equal less crime, a formula that, when directed using evidence-based policing principles such as targeting hot-spots where violence is disproportionately high, is a crime-fighting strategy with which I agree.

Additionally, the Philadelphia Police Department must reduce our use of all over-time, while maintaining our progress and our presence on the street. Driving down crime in the years to come, not just for us but for all local police, will present an even greater challenge in this economy.

Four areas common to all law enforcement agencies have emerged as a focal point for Federal support for local police over the past 10 years: hiring law enforcement personnel, both sworn and key civilians; training and technology grants; increasing Homeland Security funds for use locally, such as reinstating the Law Enforcement Terrorism Prevention Program; and increasing flexible grant assistance through the Edward Byrne Memorial Justice grants.

The opportunities afforded to local police agencies via Federal grants for personnel hiring through the COPS program are so vitally important to all of us now. It is not just sworn positions, however, that are in need of effective crime fighting. Increasing the number of civilian positions in the area of forensic sciences, specifically ballistics, DNA analysts and technicians, and intelligence and crime analysts, also provides an essential complement to our local policing agencies. Bringing these civilian positions in to police organizations allows a greater number of officers to be redeployed to the street.

Police hiring grants and law enforcement technology grants, totaling $950 million, comprise the cornerstone of the COPS Improvement Act of 2007, introduced by Senator Biden with 35 co-sponsors, including yourself as the Senate Judiciary Committee Chair, and Ranking Member Specter, in March of 2007.

Both IACP, the International Association of Chiefs of Police, and the Major City Chiefs endorse this important Act. Although the bill did not pass the House of Representatives, the funding priorities still remain the same today and would provide local police with the much-needed assistance required to fight crime successfully.

Lastly, in considering how the Federal Government can partner effectively with local and State police, we should not lose sight of one of the most potent weapons in our arsenal, that of prevention. Long-term and sustainable solutions to crime and violence must include prevention initiatives, spanning from early intervention to reentry, and providing victim services. Groups such as the National Crime Prevention Council, Fight Crime, Invest in Kids, the National Center for Victims of Crime, work with police departments across the country to educate our youth and others to promote healthy and viable communities.

Federal funding that provides inter-governmental cooperation and assistance between local law enforcement agencies, prevention, and service organizations will go a long way toward making us all safer in the future.

Thank you for giving me the opportunity to testify.

[The prepared statement of Commissioner Ramsey appears as a submission for the record.]

Chairman LEAHY. Thank you, Commissioner. As I said before, it's good to see you again.

John Schmidt is currently a partner at the law firm of Mayer Brown in Chicago, Illinois. He specializes in large-scale government transactions and litigation. But where I knew him before that was when he served as Associate Attorney General in the Department of Justice from 1994 to 1997. He oversaw the implementation of the 1994 crime bill and the then-new COPS program. We worked closely together, as many Senators on both sides of the aisle did, during that time.

He received his Bachelor's degree from Harvard College, his J.D. from Harvard Law School, and we're glad to have you here, Mr. Schmidt. Please go ahead.

STATEMENT OF JOHN R. SCHMIDT, PARTNER, MAYER BROWN CHICAGO, IL FORMER ASSOCIATE ATTORNEY GENERAL, U.S. DEPARTMENT OF JUSTICE

Mr. SCHMIDT. Thank you, Mr. Chairman. I'm delighted to be here. I really commend you for holding a hearing on this subject. I believe very strongly that unless Congress provides substantial assistance now to State and local law enforcement in this country, we are going to see a real decline in the size of police forces across this country, and that in turn is going to produce a significant increase in crime and violence, and as you indicated in your opening remarks, I think a roll-back and a regression from the enormous progress we made over the last 15 years in bringing safety to communities across this country.

As you indicated, my own particular involvement with Federal assistance for local law enforcement came about in 1994, when Congress passed the crime bill, as you indicated, with a lot of hard work from a lot of people on this Committee on both sides of the aisle. A key element of that was the COPS program, to put 100,000 additional officers into communities in this country, and the Attorney General and the President asked me to take responsibility for that program.

I think that program is a very useful precedent, as you think about what can and should happen now. It not only showed how

effective Federal assistance can be, it showed how quickly the impact can be felt. To give you an idea of how quickly we moved in 1994, after the bill was passed by Congress, before the President had even signed the bill, I had a meeting with a delegation from the U.S. Conference of Mayors in which we agreed that if they would tell us then how many officers they were prepared to begin hiring and training, we would tell them then the level of funding they could be assured of receiving. That was a minimum level; they could come back later.

We did that, and the result of that was that, within a matter of weeks after the signing of that bill, we had officers across the country into training academies. I think if Congress provides assistance of that kind today, there will be a similar reaction among local law enforcement, because I think in many ways the need is arguably even greater today.

In '94, we had a situation where we had communities all across the country, with absolutely intolerable levels of crime and violence, and we had to increase police forces very substantially to enable police to work with communities and bring that level of violence down. We did that over the '90s. By the end of that decade, we had increased sworn officers in this country by over 100,000 officers, most of them funded initially with Federal money. As you indicated, crime rates had come way down.

From that point on, there has been essentially no Federal funding available for increased hiring. Fortunately, the condition of the economy in this country was such that those communities were overwhelmingly able to keep those higher levels of police force in place and they were able to fund them on an ongoing basis. So since the end of the '90s there's been no significant increase overall, but we've had relative stability in the level of police forces.

We then had one very important thing happen: we had 9/11, which put huge additional burdens on State and local law enforcement. So I think even with those stable levels of force, we came into this current period of economic crisis with law enforcement under real strain.

But what we are now seeing are real declines in the size of police forces. It's taking the form of not filling vacancies, and beyond that it's taking the form of outright lay-offs. I'll give you my home City of Chicago as a good example. Chicago, as Chief Ramsey, as I call him, knows well, is a city that really prides itself on support for its police department. The last thing any mayor wants to do is stand up and say, I'm reducing the size of the Chicago Police Department. That is, in fact, what has happened.

The mayor's budget for 2009, passed very reluctantly by the city council, achieves a balanced budget in the face of severely declining revenues only by slowing down on the filling of vacancies. The total number of vacancies was over 400 at the end of last year. Turnover is going to continue. They're going to fill only 200. Chicago, I don't think, is in the worst shape.

The worst example I've heard about is Pontiac, Michigan, where the economic decline is such that they've actually had to reduce their police force by over 50 percent, and they are experiencing a dramatic increase in crime rates. But it's not geographically limited. I saw a story the other day about Sacramento, California

which had managed—and they were sort of priding themselves—to come up with money to fill 11 vacancies in the police department, but they had 98 vacancies, over 10 percent of the police department.

So I think across this country we are seeing now, on an accelerating basis, a decline in the size of police forces. That, in turn, is going to result in an increase in crime and violence. No one can predict precisely what that increase is going to be. It obviously will vary from place to place, just as in the '90s the impact of increasing the size of police forces was felt at varying levels. But it will be real and I think it does present a real risk that we will see, nationwide, a falling away from the progress that we've made.

To me, the answer is pretty straightforward. I would see a need for Congress to provide funding to enable police departments across the country to fill vacancies, to hire back previously laid off officers. I set out in my statement some ways that I think that probably needs to be done now that differ a little from the way it was done in the '90s, the most significant of which is, I don't think the limits that we put on COPS grants back in the '90s, which were a maximum of $30,000 per officer, per year, and no more than 80 percent of the total cost, would work at this point. Those worked in the '90s, even though they meant we weren't providing anywhere close to the full cost in a lot of places. But that worked because localities had the ability to make up the difference.

I think at this point, to make it work in the current economic crisis, you need to provide full funding for some period of time, although I think you still have to limit it. I think localities will still have to hire on the assumption that, within some period of time, such as three years, they would have to assume the cost of those officers.

But I think that can be done, and I set out some numbers. The numbers are, in one sense, huge. On the other hand, in comparison to the amounts we are spending on other elements, or proposing to spend, of economic stimulus, it seems to me they are more than justified.

I would just conclude by saying one word about economic stimulus. It seems to me that, from the standpoint of economic stimulus, providing money to put additional police officers on payrolls in communities across this country, is about as good as it can get. I mean, construction projects are great, but only 30, 40 percent of that money goes into direct labor. Here, every dollar goes to pay the salaries of officers who live and work across the country.

As I was indicating, I think it can happen very fast and have an impact that would be felt very fast. It seems to me something that you should do, and I urge you to do it and would be eager to provide any further help I could on how you develop the best means to do it and make it happen as quickly as possible.

[The prepared statement of Mr. Schmidt appears as a submission for the record.]

Chairman LEAHY. Well, as you know, I followed this very closely during the time when the program began, not only because of my own interest as a member of this Committee, but my past experience in law enforcement. I watched it not only in my own State,—we're a border State. We have a lot of problems because of trans-

shipping, through Vermont from metropolitan areas, drugs and other things.

But I have also seen it around the country. We've held hearings in other parts of the country, where I've dealt with police agencies throughout the Nation. It's one of those government programs that actually works. I agree with you that we may make some adjustments for today's economy and today's economic restrictions, but the basic concept still works.

Mary Lou Leary is currently the executive director of the National Center for Victims of Crime, where she's served since 2004; again, no stranger to this Committee. She's worked with us on a lot of legislation and been extraordinarily helpful in doing that.

She previously served as the U.S. Attorney for the District of Columbia, as Acting Assistant Attorney General for the Office of Justice Programs. As a leader of the Office of Justice Programs, she oversaw the Department of Justice's Office for Victims of Crime and the Office of Violence Against Women. She previously served as the Acting Director of Community Oriented Policing Services at the Department. She earned her Bachelor's degree in English literature in Syracuse, her Master's in Education at Ohio State University, her law degree at Northeastern University School of Law.

Ms. Leary, it's good to see you again. Thank you for being here.

STATEMENT OF MARY LOU LEARY, EXECUTIVE DIRECTOR, THE NATIONAL CENTER FOR VICTIMS OF CRIME WASHINGTON, DC

Ms. LEARY. Thank you so much. Good morning, Chairman Leahy and Senator Whitehouse. I am the executive director of the National Center for Victims of Crime. For over 20 years, the National Center for Victims of Crime has worked in a variety of ways to make sure that victims have the rights, the resources, and the respect that they need to recover from crime and rebuild their lives.

We want to thank this Committee for giving us the opportunity to speak this morning to the important issue of the need to fully fund victim services and local law enforcement response to crime in our communities. For the past eight years, the issue of crime in our communities has been sorely neglected at the Federal level. As important as homeland security is, the safety of our neighborhoods is just as critical to domestic tranquillity. We hope that this hearing will encourage the incoming administration, and Congress as a whole, to refocus attention on this issue.

I'd like to take a couple of minutes to talk about the increase in victimization that we are seeing across this country. Is there a relationship between the economic downturn and rates of victimization? Well, there's always a time lag before the official statistics, like the UCR, would reflect any such relationship. But we do know that, according to the U.S. Conference of Mayors in a 2008 study, we are seeing an increase in crime as a result of worsening economic conditions. That report was issued in May of 2008. Things have only gotten a lot worse since that time.

But regardless of how direct the correlation may be between economic downturn and increase in crime, during the past year, victim service professionals across this country have seen a very clear in-

crease in victimization and victim need, coupled with significantly reduced funding to respond to this crisis.

At the National Center alone, we've seen a 25 percent increase in calls to our National Crime Victim Help Line. Hot-lines and crisis lines across the country are seeing similar increases, as job losses and economic stress factor into increased violence in our homes and in our communities.

You know, we recently polled the members of the National Center to find out what was happening in their communities. What they told us can only be described as a crisis in the Nation's ability to respond to crime. I'd like to share a couple of their responses with you.

First of all, 92 percent reported an increase in victimization in the last year—robberies, property crimes, domestic violence—and many of them also mention that there's an increase in violence accompanying this crime, so it's not just a robbery, it's a robbery with a dreadful beating.

Some of the comments we received are listed in my testimony, things like, "I've seen my victim base double in the past year." "We've had a 143 percent increase from 2005 to 2007," "a 34 percent increase in victim services" in a domestic violence shelter. But many of them also told us that victims are requiring more services and many different kinds of services, things they haven't seen before.

For instance, because of the increased cost of living and rising unemployment, victims are requiring much longer stays in emergency shelters. Nearly 90 percent of the respondents to our survey told us that they believe that this increased demand for victim services was linked to economic conditions, based on what they heard from the victims.

The link between financial stress, alcohol use and violence, increased requests for victim compensation because victims—many of them no longer have insurance to cover crime-related losses, or they're folks who used to be treated at, say, senior centers, mental health centers, and other programs that have been down-sized or closed.

At the same time, victim service providers across this country are totally strapped for funding. Especially, we heard from service providers in rural areas, where victims face really unique challenges with access to services, compromised privacy in a small community, and services that are actually having to close their doors because of funding.

In the rural area, one prosecutor told us, "if our victim services program goes away, there will be no one in this county to help victims of crime." How can we address this crisis?

I'll just say, briefly, that we understand budgets are tight, but we believe that smart investments by this Congress can help save millions of dollars that would otherwise be lost as a result of harm suffered by victims of crime, and at the same time could significantly improve services to victims.

Very briefly, I would say, number one, in our view, the very best way for Congress to support a more effective response to victims is through releasing additional VOCA funds. You all know what the VOCA fund is and how critically important it is, but please

note that for the past several years there's been a cap on these funds, hovering around $625 million. But last year it was decreased. At the same time, the balance of the fund has grown to $1.9 billion. About $896 million was collected in FY '08 alone. That's the third largest amount deposited in one year in the entire history of the VOCA fund. There are indications that FY '09 will be another record year.

Therefore, Congress can easily, we submit, release additional VOCA funds with no impact on the overall budget figures and no fear of draining the fund. Another important source of funding is VAWA. We urge Congress to fully fund those programs that were authorized in 2005 and have yet to receive their authorized funding: Advocates for Youth, Access to Justice for Youth, Sexual Assault Services Program, and the Expanded Services for Rural Victims Program. They are authorized but not appropriated at the levels that they desperately need.

The Byrne Justice Assistance Grants. We urge Congress to look seriously at that. It's the most flexible and innovative grant program out there to help communities address the needs not just of law enforcement, but prosecution, defense, specialized courts, and, in our view, very importantly, victim services.

My testimony lists several examples of very innovative uses of Byrne grant funding that has directly improved services to victims or improved access for victims to justice.

In sum, demand for victim services is up. Critical services are being cut and Congress can, and should, make a difference. You have the tools already in VAWA, in VOCA, the COPS office, the Byrne grants, and funding for at-risk youth. We urge you to use those tools and use them swiftly. Victims of crime across this country are counting on you.

Thank you.

[The prepared statement of Ms. Leary appears as a submission for the record.]

Chairman LEAHY. Thank you.

David Muhlhousen is a Senior Policy Analyst at the Heritage Foundation at the Center for Data Analysis. Dr. Muhlhousen has testified before Congress on several occasions about law enforcement grant programs, particularly the COPS program. He obviously has a different view than some of the witnesses we've heard today.

He received a Ph.D. in Public Policy from the University of Maryland, Baltimore County, and his Bachelor's degree in Political Science and Justice Studies from Frostburg State University. He is currently an Adjunct Professor of Public Policy at George Mason University.

Please go ahead, Dr. Muhlhousen.

STATEMENT OF DAVID B. MUHLHAUSEN, Ph.D. SENIOR POLICY ANALYST, THE HERITAGE FOUNDATION, WASHINGTON, DC

Dr. MUHLHOUSEN. Thank you. My name is David Muhlhousen. I am a Senior Policy Analyst in the Center for Data Analysis at the Heritage Foundation. I thank Chairman Leahy, Ranking Member Specter, and the rest of the Committee for the opportunity to testify today.

The views I express in this testimony are my own and should not be construed as representing any official position of the Heritage Foundation.

While Congress is developing legislation intended to stimulate the economy, interest groups are lining up for their share of what is rapidly becoming a political Christmas tree. In keeping with this theme, Congress may add funding for the Office of Community Oriented Policing Services to the economic stimulus package.

My testimony will focus on six points. First, COPS encourages local officials to shift accountability for funding local police departments toward the Federal Government. A prime example is the City of Boston. Boston accepted millions of dollars to hire additional police officers. As part of the condition to receive the grants, Boston was supposed to retain these officers after the grants expired. Once the grants expired, Boston's mayor downsized the city's police force, and then the mayor blamed the Federal Government for not providing additional funds to maintain staffing levels.

Second, adding COPS funding to the economic stimulus package will do virtually nothing to stimulate the economy. A study by Professor Steven Miller of the University of Nevada, Las Vegas found that increased funding for intergovernmental transfers and total expenditures for transportation and public safety to be negatively associated with economic growth on the State level.

Third, increased government reduces economic growth. Government spending crowds out private spending, especially private sector investment spending that would have elevated productivity. Government spending infused into the economy must first be taxed or borrowed out of the private sector. This transfer can only be efficient if the government spends the money more effectively than the private sector, an unlikely scenario. Numerous studies demonstrate that the increased size of government reduces economic growth.

Fourth, claims of a forthcoming violent crime epidemic are overstated. Overall, America is a much safer place compared to 15 years ago. The most recent National Crime Victimization Survey found that rates for every major violent crime and property crime were at, or near, the lowest levels recorded since 1973.

Fifth, COPS has an extensive record of poor performance. A Heritage Foundation evaluation of COPS grants, using data from 1990 to 1999 for 58 large cities, found that the grants had little to no effect on crime. The hiring grants failed to have a statistically measurable impact on murder, rape, assault, burglary, larceny, and auto theft rates. Although the hiring grants were associated with a slight decrease in robberies, the meager effect suggests that additional funding will do little to reduce crime.

In addition, the evaluation found that COPS grants were used to supplant local police spending. This finding is supported by multiple audits by the Justice Department's Inspector General. The Inspector General found that cities failed to hire the number of officers required and did not comply with other grant conditions.

In Washington, DC, the police department was awarded almost $11 million in Moore grants to redeploy 521 officers from administrative duties to community policing. When the Inspector General asked for a list of redeployed officers, the list included only 53 offi-

cers. Of the 53, one was deceased, 10 were retired, and 13 no longer worked for the department.

Sixth, combatting ordinary street crime is the principal responsibility of State and local governments. If Congress wants to aid in the fight against crime, it should limit itself to unique rolls that only the Federal Government can play. The Federal Government should not become a crutch on which local law enforcement becomes dependent.

The inclusion of COPS funding in the economic stimulus package will not assist in an economic recovery, nor will it make a substantial contribution to the reduction in crime.

Thank you.

[The prepared statement of Dr. Muhlhousen appears as a submission for the record.]

Chairman LEAHY. Thank you very much, Doctor. Incidentally, Senator Feinstein asked that her statement be placed in the record, and will be.

[The prepared statement of Senator Feinstein appears as a submission for the record.]

Chairman LEAHY. Senator Kohl regrets he can't be here today. He's introducing the COPS Improvements Act this morning. I'm happy to be an original co-sponsor of that Act.

Incidentally, Dr. Muhlhousen, could I just ask you—and you've been very consistent in your feelings on this matter. Have you ever taken a position on the hundreds of millions—even billions—that we spend on police departments in Iraq? Are you in favor or opposed to that?

Dr. MUHLHOUSEN. It's not really an issue that I've studied. While I wish we have tremendous success in Iraq and I hope that we can turn that country around, that's an issue that I would defer to other Heritage experts.

Chairman LEAHY. I would just note parenthetically that, of the huge amounts of money that have gone there, we found, in many instances, the police departments end up shooting each other. We've had thousands upon thousands of firearms sent over there and we can't even find where they are, until they're used against Americans. Yet, that's been an unlimited amount of money that we spent on those law enforcement. My point being only that I wish we'd spend as much time worrying about law enforcement in the United States as we do law enforcement in Iraq.

Chief Schirling, one of the reasons I wanted you here, aside from our own personal and professional association, is that I worry not only about large cities, as we all do, but about small cities and towns like Burlington. That's why I held the two hearings I've had in the past year in Vermont—Senator Specter was there for one of those—and why I introduced the Rural Law Enforcement Assistance Act of 2009, directly aimed at staffing for rural—staffing and training for rural law enforcement officers.

You describe the cuts you expect to make in the coming year, given the economic downturn. You mentioned cutting officer staff, delaying the purchase of new communications equipment, bulletproof vests, and so on. If we were to increase Federal COPS and Byrne grant funding, including a rural law enforcement assistance

grant funding, first, would that help you avoid these painful cuts? Would you be able to use the money, virtually immediately?

Chief SCHIRLING. Thank you, Mr. Chairman. The short answer is yes. Not only at our department, but in other rural agencies throughout Vermont and the region, I think that money could be used almost immediately to stem the tide of cuts in officers and key support personnel and technology programs, and a host of other possible initiatives, to include training.

I think it's important to note that, as we look at creative crime prevention and crime-fighting strategies, that some agencies may be looking to fund critical support positions, as Commissioner Ramsey indicated. There are key civilian positions that can help get officers back on the street out of administrative assignments, or bolster what officers do, or bolster the support that officers have and essentially act as a force multiplier.

So, for example, if you deploy social service practitioners, substance abuse clinicians, or mental health practitioners in certain areas, you may be able to manage problems without using the resources of a police officer and allow that police officer to focus on standard investigations and crime prevention types of activities. So there are a variety of things that would be helpful, and I think many of them could be implemented fairly quickly.

Chairman LEAHY. Well, it's interesting. Marcelle and I are in Burlington several times a month, as you know, and have been talking to different police officers and those who work in your department and surrounding departments. They live in the area. They have an effect in the area, homes in the area. Is it over-simplistic to say, if you cut these positions, it has an economic adverse effect, but if you add these positions it has an economic positive effect?

Chief SCHIRLING. I don't think that's an over-simplification. I think that makes perfect sense. Any job that you add—the economists, at least in the Vermont area, indicate a single job created actually supports upwards of 10 ancillary jobs in service industries, grocery stores, convenience stores, gas stations, and things like that.

So every job has an impact. As important as that direct impact, is the need, I think, to make sure that the climate for economic growth is a good one. So a safe community, someplace that people want to come and vacation, spend their dollars, visit relatives, or even move to, is critical in the overall goal of growing our economy, not only locally, but regionally and nationally.

Chairman LEAHY. Well, in fact, in that regard, to pull it into a much larger area, in Philadelphia—what is the population of Philadelphia, Commissioner, approximately?

Commissioner RAMSEY. It's about 1.6 million.

Chairman LEAHY. So it's about two and a half times the size of the population of our whole State. You described in your testimony how the City of Philadelphia, back in the mid-1990s, received more than $30 million a year in Federal funding. Last year, you received about a tenth of that amount. If the money was restored, would you be able to hire more police officers, and would that have a direct effect on crime and the safety of your community?

Commissioner RAMSEY. Yes, sir. Last year, we were very successful in fighting crime in Philadelphia, but we are nowhere near where we ought to be in terms of levels of crime in the city. Even after redeploying numerous officers back to street duty, really tracking activity using every tool we had available to us, we were able to have a decrease in crime.

But additional personnel would certainly be beneficial and allow us to push the rates down even further. Just like Chief Schirling mentioned, the safer the community, the more likely you're going to have businesses invest, the more likely you're going to have increased tourism, and the like.

But I'd also like to mention that one of the problems we have is being able to hire qualified civilians in certain key areas, like in our forensic sciences, intelligence analysts, crime analysts, and the like. It would be good if this would include that, not just sworn hiring, because a lot of times we find ourselves having to either backfill those positions with sworn or outsource the work, which is an added expense, and so forth.

So we even—in my testimony, which I shortened for the sake of time, one of the suggestions we made is to provide an educational subsidy for people interested in pursuing college-level or advanced degrees in the study of forensic sciences and criminology, intelligence, crime analysis, and the like. We can encourage young people to get involved in a career in law enforcement not just on the sworn side, but there are other areas that we equally are in need of help.

Chairman LEAHY. And I think you find those non-sworn officers, the technicians and all, that's a significant change from when you were first a police officer, and a significant difference.

Commissioner RAMSEY. It is.

Chairman LEAHY. One of the advantages in this Committee, is we've had so many people, so many members of the Committee who've had past experience in law enforcement before they came here to the Senate. One of those, of course, is Senator Whitehouse of Rhode Island, former U.S. Attorney, former Attorney General of his State. I have gone over my time, and I yield to Senator Whitehouse.

Senator WHITEHOUSE. Thank you, Mr. Chairman.

I welcome the witnesses here. I'd love to ask a question of Chief Schirling and Commissioner Ramsey, based on your on-the-ground public safety experience in your communities.

We have seen an enormous amount of money spent in this country in recent years on a whole variety of programs catalogued under the sort of political heading "homeland security". I think that we've done that at great expense to, what I would call, "hometown security". I'd love to have you give me your kind of from-the-ground evaluation of how you feel the availability is of terror-related funding to the public safety threat from terror that you see in your communities and compare that equation to the availability of funding and support for hometown security and protection from crime, compared to the public safety problems of crime in your communities.

I mean, there were, what, 17,000 people murdered the last year we have numbers for, 2007, murdered or died by manslaughter in

this country, and yet we seem to be robbing that public—nothing against protecting this country from terrorism, but when you do so by robbing hometown security at the expense of homeland security—in Rhode Island we see sort of, you know, these remarkable grants for—I mean, I'm exaggerating and making this up a little bit, but basically, you know, underwater vehicles—armored underwater vehicles with sonar cannons that you can get through homeland security for a land-bound municipality, but the COPS program, the Byrne grant program, proven programs, slashed 90 percent, endeavor to be eliminated by the Bush administration.

And I'll let you answer that question, but before I do, I just want to—one of the reasons that I ask it, is that there seems to me to be a very strong—what an economist would call externality involved here, and that is that by emphasizing homeland security, an administration can emphasize the terror threat, and by emphasizing the terror threat can emphasize the wartime nature of a presidency, and by emphasizing the wartime nature of a presidency, can build in the inherent public support for a wartime president.

That is a political fact going back decades and generations. If that's your goal, you're really doing something political, not something from a public safety perspective. But it could be an important political goal if your agenda, as a president, is to do things that are deeply unpopular with the American public, harm the American public, supports special interests, and need cover in order to be done. So that's my sort of political overview.

I'm not going to make you comment on that. I might get you in trouble if I asked you to comment on that. But the underlying part, in terms of the balance between terror support versus the terror public safety threat in your communities and how that's working out compared to the crime and public safety hometown security support, versus that public safety threat to the people you are responsible for protecting.

Chief SCHIRLING. Thank you, Senator Whitehouse. I appreciate the pass on the comment on the political side of things. From our perspective, I think to contrast homeland security versus hometown security, there's been an absence of funding—an almost complete absence of funding—in our area for local law enforcement and hometown security in a steadily declining line since 9/11, and simultaneously a steadily increasing line in funding related to homeland security initiatives. And certainly not to diminish the importance of homeland security initiatives, but they do appear to be out of balance, from our perspective.

To suggest that you pour resources into homeland security without hitting the 18,000 law enforcement agencies and increasing their ability to detect crime, apprehend offenders, and provide services to their communities, you're missing a piece of that puzzle. Early on in the homeland security funding, I think there was more—a little more of an eye toward providing those types of resources to local law enforcement, but that quickly waned.

The other, almost intangible factor, is—there's actually two. One, that as government, around homeland security, has grown, there have been requirements placed on local law enforcement, especially those that have transportation infrastructure to secure, like an

international airport that we have, that drain resources without providing enough support. There's some support, but not enough support to provide those services.

And the other thing that's happening, is in various locations around the country we're actually having difficulty recruiting qualified officers, in some instances because we're in competition with Federal agencies who are in significant pushes to hire agents and security folks. TSA, Air Marshals, has expanded by thousands of a percent. The FBI started a hiring push earlier this week. I'll take a moment to mention for Director Mueller that I mean to send him a no-poaching sign in the mail.

[Laughter.]

I'll get to that. Thank you. So I think that's our perspective.

Senator WHITEHOUSE. Commissioner Ramsey.

Commissioner RAMSEY. Well, I agree with Chief Schirling. I think that when the homeland security issue developed in 2002, the funding was siphoned off of the COPS funding into homeland security. In my opinion, it's not an either/or proposition: you have to do both, and you have to do both equally well. We did pick up additional responsibilities. I happened to be the chief here in Washington at the time. Obviously, this was a city that was of great concern when it comes to homeland security, and a lot of our resources went into that.

But on a daily basis, people and communities are concerned with daily crime: burglaries, robberies, thefts. In Philadelphia last year, we had 330 homicides. Not a single homicide was committed by Bin Laden or anyone associated with Al Qaeda. So when you think about what really is driving crime in our cities right now, what is scaring people right now, it is crime, regular crime.

I also need to mention, however, that we've been very fortunate that we've not had anything happen over the past few years. If terrorism is going to take hold in this country, they're going to use existing criminal networks in order to support themselves. There will be drug trafficking rings, the smuggling of cigarettes, all kinds of things that are illegal, to subsidize their activities here in the United States.

So it's very important that we pay attention to both and that we identify the potential nexus between what looks like a burglary ring and what potentially could be something that has implications that go far beyond just your typical auto theft or burglary ring. So I think that one of the problems that I saw early on with homeland security funding, there were no controls over the spending and there was not any real accountability for the States or the local municipalities. A lot of money, in my opinion, was wasted. People were going out, buying stuff that they did not need. There was no accountability in the sense of understanding what the return on the investment would be.

Now, that continues to be a problem, to an extent. So any new funding, there needs to really be some careful consideration and thought as to how that money is going to be used and what's expected of the municipality that receives that funding. I think that's only right, otherwise we're just throwing money at a problem and not necessarily getting any benefit as a result of it.

We've got to learn to work more in terms of regional cooperation. Now, that's taken huge leaps since 9/11, I know, certainly here in the Washington area, around Philadelphia, and other areas where police departments are working together like they've never worked before, and I think we've got to continue to push and drive that, to make sure that information systems are compatible, we can actually share information.

The gap that exists between Federal, State, and local law enforcement in terms of information sharing is better than it was, but it's not where it really needs to be. You've still got a lot of issues with classification of materials and who has access to what, who needs to know what, and that sort of thing. So it's pretty complicated. Part of this, we need to sit down and really think of ways in which we can improve those, and at the same time provide funding that's going to really give you the maximum return on your investment.

Senator WHITEHOUSE. Thank you.

Thank you, Chairman Leahy.

Chairman LEAHY. The coordination. Commissioner, the need for better coordination. Your colleague, as Commissioner in New York City, has raised—somebody I've known also for years—the same issue. It is sometimes hard to break down those barriers, but we're going to have to do it. It's probably easier on a small scale in rural and small cities and towns.

Chief Schirling has been very involved, but this involved everybody. We've had the chief of police at the University of Vermont, the chief of police at the various departments throughout Chittenden County, where he is, the sheriffs' departments, and the Federal authorities have worked together. But there, you know everybody on a very personal basis. You see them every day at the grocery store, church, wherever else. But we've got to start doing a better job of breaking that down. I was concerned about some of the problems over the years in New York City, similar problems in some other big cities; I know Mr. Schmidt, when he was at Department of Justice, one of the things he talked about a lot.

Ms. Leary, when you talk about the Crime Victims Fund, which, as you know, is something I've worked—the former Chairman of this Committee, Joe Biden, who is soon to leave the Senate for another job, worked so hard on, as did, again, members on both sides of the aisle. For those who don't understand it, the Victims of Crime Act Fund, that's funded through penalties and fines from Federal offenders. It doesn't come out of taxpayer money. But it's been capped annually, so in recent years, hundreds of millions of dollars have been collected, but not allowed to be used to help victims. Do you think we should be raising those caps? I realize that's kind of a leading, easy question. But tell me about what happens.

Ms. LEARY. No. Absolutely. I would urge Congress to raise that cap. Another way to describe it, is release more of the funds that are available. These are not taxpayer dollars. This money comes directly from fines and assessments on offenders and it is designated for the purpose of serving the needs of victims throughout the country. Because there have been very robust collections, and my goodness, when you read the newspaper every day, you can only

anticipate that '09 will be a real bonus year for the VOCA fund because of all these negotiated settlements.

It seems rather foolish to have all that money available, it's supposed to be serving victims, and it's being held back. I strongly urge Congress to release more of those funds, to raise that cap and really—the problems that are faced by victims and victim service providers are at a crisis proportion. Victims of crime are really kind of the hidden citizens in this country.

What people don't really understand is that a vast majority of them never make it into the criminal justice system, so you can't say, oh, let the prosecutors take care of them, let the police take care of them. Most of them never get there, and they are relying on that little victim service provider in the church basement in rural Vermont to help them recover and rebuild.

Chairman LEAHY. Thank you.

As you can tell, we have a dozen hearings going on today, including confirmation hearings. Everybody is around in different areas. I'm going to put into the record a statement by Senator Feingold regarding this hearing.

[The prepared statement of Senator Feingold appears as a submission for the record.]

Chairman LEAHY. We'll leave the record open to all of you if there are things you want to add, either to your own answers or to the answers of others. The record will be kept open so you can do that. If you review your testimony—this is not a "gotcha" kind of hearing. If you review your testimony and say, I should have added this, there will be provision to do that.

With that, unless somebody has anything they wish to add, we'll stand in recess.

[No response].

[Whereupon, at ********** the Committee was adjourned.]

QUESTIONS AND ANSWERS

The Honorable Orrin G. Hatch
U.S. Senate Judiciary Committee
"Helping State and Local Law Enforcement During and Economic Downturn"
January 8, 2008

Question for David B. Muhlhausen, Ph.D., The Heritage Foundation

Dr. Muhlhausen, Senator Whitehouse posed a question to the panel describing the prioritizing of "Homeland Security over Hometown Security" with the increase of Homeland Security grant funding for state and local law enforcement in comparison to the available funding for COPS and Byrne JAG programs. In his response to the Senator's question, Commissioner Ramsey mentioned that in his opinion there was a lack of accountability on the part of state and local enforcement officials for the spending of these funds on big ticket items with negligent impact on local Homeland Security issues.

Question
What is the track record of accountability for the spending of COPS funding?

Answer
The COPS program has a documented history of waste, fraud, and abuse. The program did little to hold grantees accountable for supplanting federal funds for local funds. Supplanting occurs when federal funds are used to replace local funds—for example, when federal funds intended to hire additional police officers are used instead to pay the salaries of currently employed officers. To receive the grants, grant applicants must sign the following stipulation:

> The applicant hereby certifies that Federal funds will not be used to replace or supplant state or local funds, or funds supplied by the Bureau of Indian Affairs, that would, in the absence of Federal aid, be made available to or for law enforcement purposes.[1]

Audits of COPS-funded police departments by the U.S. Department of Justice Office of Inspector General (OIG) indicate that the grantees frequently failed to hire or redeploy officers as required and in many cases used federal funds to supplant local funds.[2]

In addition, COPS did not adequately monitor the use of grant funds, thereby encouraging waste and inefficiency. An OIG audit of COPS grant management, for example, found that the use of funds by grantees was not monitored properly. Specifically, the OIG audited the COPS program's grant closeout process. Closeouts involve reviewing the grantee's use of federal funding to determine whether or not the grant conditions were followed properly. According to the OIG, "Timely grant closeout is an essential program and financial management practice to identify grantees that have failed to comply with all grant requirements, as well as any excess and unallowable costs charged to the grant, and unused funds that should be deobligated." Without a timely closeout process, "non-compliant grantees may not be identified until years after the grant end date."[3] Thus, timely closeouts are crucial to effective monitoring of how

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federal taxpayer dollars are used.

The OIG determined that, of the 12,840 closed COPS grants totaling almost $3 billion, only 135 grants (1 percent) were closed within six months after the grant end date. Eighty-three percent of the grants were not closed until more than two years after the grant end dates. On average, COPS took more than three years to close these grants properly.[4]

Of the 10,643 grants that expired but were not closed by COPS, 72 percent had been expired for more than two years. Twenty-four percent were expired for more than five years after the grant end date. On average, these grants had been expired without proper closure for more than 3.5 years.[5]

Review of a small sample of 30 expired but unclosed COPS grants found that 20 (67 percent) of the grantees did not comply with grant requirements. However, these noncompliant grantees were subsequently awarded 39 additional grants totaling $18.7 million.[6] If COPS had implemented a proper closeout process, these noncompliant grantees would not have been awarded additional grants without first meeting the conditions of their original grants.

COPS appears to have done little to resolve the misuse of the grants. According to Inspector General Glen A. Fine, "in many cases, the response to our findings was a paper exercise and...the COPS program did not take sufficient action to either bring the grantee in compliance, to offset the funds, to recoup the funds or to waive the funds."[7] Inspector General Fine testified before Congress that COPS did not pay enough attention to ensuring adherence to the grant requirements, including the hiring of officers, retaining officers, and tracking the redeployment of officers.[8] The lack of oversight by COPS created inadequate incentives for local-level compliance with grant conditions.

Question
What is the track record of Byrne-JAG program?

Answer
Unlike the COPS program, the Byrne-JAG program is a block grant program. By their very nature, block grant programs are more difficult to monitor for accountability purposes. After being distributed to the states, Byrne-JAG grants are allocated to state and local projects. Because the funding is passed through state capitols before their ultimate destination, the federal government has traditionally not monitored these grants to a high degree. For example, the OIG has placed little emphasis on auditing Byrne-JAG grants. Given the low level of monitoring of the Byrne-JAG grants, determining if these grants have been spend wisely is very difficult to ascertain.

Question
What measures do you feel should be considered by Congress to ensure accountability and compliance with program expectations?

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Answer

Federal programs based on seemingly sensible ideas often stumble during local implementation.[9] Constituent politics hampered the ability of COPS to monitor grants and created a powerful incentive for COPS officials to neglect their oversight responsibilities of grantees. Constituent politics can impede the proper administration of policies, even policies that are more sound and better-crafted than the COPS program.[10] Constituent politics are particularly prevalent in intergovernmental grant programs. Grant-making bureaus and grant-seekers have a mutually dependent relationship. Grant-seekers want funds, while grant-making bureaus need the political support of the grantees during the appropriation and reauthorization processes.

Professor R. Douglas Arnold of Princeton University states that that while legislators and bureaucrats are independent decision makers, "each has authority to make certain decisions without consulting the other, [and] each generally finds it in his own self-interest to consider the other's preferences."[11] Budget security and growth, as pursued by bureaucrats, depends on congressional decisions. Thus, a bureaucracy will generally allocate benefits, especially grants, in a manner that will maintain and expand coalitions that support the bureaucracy.

Likewise, legislators seeking to spend the largest possible shares of federal grants on their constituents depend on bureaucrats to implement this spending.[12] Congress, in turn, can exert some influence over program administrators' decisions through annual appropriations. As a result of this two-way interaction, "[b]oth congressmen and bureaucrats tend to adjust their decisions to accommodate each others' preferences whenever they believe it might help them achieve their own goals."[13] Thus, the strategies that grant-making bureaus use to administer grants respond to the desires of elected officials and their constituents.

Pressure from Congress, the Executive Branch, and grant-seekers to craft an expedited application process for COPS grants and to disseminate funds quickly conflicted with ensuring that the program met its goals, including those goals reflected by the conditions imposed on grant recipients. The mutually dependent relationship between grant-makers and grant-seekers, facilitated by congressional overseers, produces incentives that interfere with the implementation and oversight of grants. Providing constituents with easy access to federal funding was more important than actually adding additional officers, advancing community policing, and reducing crime.

Three changes are needed to factors are required to ensure accountability and compliance within grant-making bureaus, such as COPS and OJP. First, Members of Congress need to place less emphasis on distributing grant dollars to their constituents and more emphasis on the successful implementation of intergovernmental grant programs.

COPS grants are categorical project grants that offer particularized benefits to congresspersons. Particularized benefits are distributed to specific individuals or groups in a manner that allows congresspersons to claim credit for the awarding of the benefits.[14] Claiming credit for the provision of federal grants to constituents is an important task for

53929.003

congresspersons. Through credit claiming, congresspersons attempt to convince grantees that they are in some way responsible for the awarding of the funding.[15] Once the grant funding has flowed to constituents and congresspersons have claimed credit for the awarding of the grants, congresspersons tend to pay little attention to how the grants are implemented.

Second, the president needs to appoint and the Senate to confirm officials within the Department of Justice and, especially with in grant-making bureaus, who have high ethical standards and the determination to hold grantees accountable when caught abusing grants. In order to maintain the support of their constituents, (i.e., grant-seekers), grant-making bureaus have a strong disincentive to implement rigorous accountability measures that undercut constituent support.

Third, the disincentives resulting from constituent politics means that any institutional apparatus designed to ensure accountability must be insulated from and independent of the constituent pressures placed on grant-making bureaus. Congress can encourage accountability in how DOJ grants are used by grantees by giving the OIG or some other independent agency the sole authority to freeze new funding to grantees that misuse grants until they repay the previously misallocated funds. Because of constituent politics, the authority to hold grantees accountable for the abuse of grants must be independent of the grant-making bureaus.

While the OIG should be commended for identifying blatant abuses, senior executive officials in COPS and DOJ from both the Clinton and Bush administrations failed to hold errant grantees accountable. The OIG did its job, but others failed to act. Giving the OIG the power to block further grant awards to grantees caught abusing previous grants may be a potential solution. Another potential agency is the Office of Audit, Assessment, and Management (OAAM). In 2006, OAAM was created to ensure that Department of Justice grantees comply with financial grant conditions. However, OAAM resides within OJP, a grant-making bureau. This means that OAAM cannot be truly independent of pressures constituent politics places on grant-making bureaus. For OAAM to be effective, the agency would have to be moved outside of OJP and be truly independent of OJP and COPS.

Even without making OAAM an independent agency, OAAM faces hostility from Congress. The COPS Improvements Act of 2009 (S. 167) removes COPS from the jurisdiction of OAAM. Removing COPS from OAAM's jurisdiction would send a clear signal to COPS grantees that Congress does not expect COPS grantees to comply with grant conditions.

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[1]U.S. Department of Justice, Office of Community Oriented Policing Services, *Universal Hiring Program Grant Owner's Manual*, April 1998, p. 46.

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[2]For audits of COPS-funded police departments, see U.S. Department of Justice, Office of the Inspector General, "Office of Community Oriented Policing Services Grant Reports," Web page, at *www.usdoj.gov/oig/grants/_cops.htm* (January 28, 2009).
[3]U.S. Department of Justice, Office of Inspector General, Audit Division, "The Department of Justice's Grant Closeout Process," *Audit Report* No. 07–05, December 2006, pp. 2 and 8.
[4]*Ibid.*, pp. 10–11.
[5]*Ibid.*, p. 17.
[6]*Ibid.*, p. 18.
[7]Glen A. Fine, in hearing, *Office of Justice Programs*, Subcommittee on Crime, Committee on the Judiciary, U.S. House of Representatives, 107th Cong., 2nd Sess., March 5, 7, and 14, 2002, p. 109.
[8]*Ibid.*
[9]Jeffrey Pressman and Aaron Wildavsky, *Implementation*, 3rd ed. (Berkley, C.A.: University of California Press, 1984).
[10]Helen Ingram, "Implementation: A Review and Suggested Framework," in Naomi B. Lynn and Aaron Wildavsky, eds., *Public Administration: The State of the Discipline* (Chatham, N.J.: Chatham House, 1990), pp. 462–480.
[11]R. Douglas Arnold, *Congress and the Bureaucracy: A Theory of Influence* (New Haven, C.T.: Yale University Press, 1979), p. 35.
[12]*Ibid.*
[13]*Ibid.*
[14] David R. Mayhew, *Congress: The Electoral Connection* (New Haven: Yale University Press. 1974).
[15] *Ibid* and Arnold, *Congress and the Bureaucracy.*

53929.005

Senate Committee on the Judiciary: "Helping State and Local Law Enforcement During an Economic Downturn"
Response to Questions for the Record from U.S. Senator Russell D. Feingold
Charles H. Ramsey, Philadelphia Police Commissioner
February 4, 2009

Question:

The economic downturn now upon us is obvious and impossible to ignore, and it is clear from your testimony at the hearing that people in Philadelphia are struggling as a result. How specifically will your city use increased law enforcement funds to ensure that they provide a benefit to the economy as well as helping to fight crime?

Response:

The reinstitution of police hiring and law enforcement technology grants, coupled with the removal of previously required local matching funds, would lead to the hiring of 200 police officers and numerous civilian positions in forensics and intelligence in Philadelphia. During a time when layoffs are pervasive throughout state and local governments across the country, the creation of more than 200 jobs in the public sector would contribute greatly toward repairing an ailing economy besieged by rising unemployment rates.

Additionally, the stimulus package would forward funds for a number of infrastructure projects. Philadelphia Mayor Michael A. Nutter, in conjunction with the US Conference of Mayors in December 2008, submitted a "Ready-to-Go" list of capital projects to the federal government that included $860,500,000 in public safety projects, with a minimum of 2,200 jobs. Critical upgrades in law enforcement infrastructure initiatives not only create jobs with their implementation, but allow public safety agencies to more effectively use technology in their crime fighting mission, thereby increasing department-wide efficiencies and performance.

On a foundational level, the relationship between macroeconomic conditions, unemployment, falling educational rates, and crime rates is an area that has been extensively studied for over 50 years. We cannot ignore that all of these variables influence each other in myriad ways. A strong federal investment into local police agencies is an investment in to the lifeblood of our nation's metropolitan areas, which comprise 90% of our Gross Domestic Product. With increasing crime rates, companies, both private and public, suffer the consequences with fewer capital investments and job opportunities to attract a talented workforce. Funds earmarked for increasing the number of police, advancing technology and improving forensics capacity will collectively benefit the economy by keeping our population bases and revenues generated by the business sector stable.

53929.006

BURLINGTON POLICE DEPARTMENT
1 North Avenue
Burlington, Vermont 05401

Michael E. Schirling
Chief of Police

Phone (802) 658-2704
Fax (802) 865-7579
TTY/TDD (802) 658-2700

January 22, 2009

Senator Patrick Leahy, Chairman
Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC

Mr. Chairman,

Thank you for the continued opportunity to provide feedback on the issues surrounding Federal support for local law enforcement at this critical time. I am pleased to provide the Committee the following answers to questions posed by the Honorable Senator Russell D. Feingold.

Question #1
In your testimony you talk about law enforcement's fight against drugs, especially in the context of rural communities. Obviously the sale and use of illegal drugs imposes costs on the entire community.

A. How does the rising drug problem impose costs on the larger community?
For example, are areas and neighborhoods in your state that fall victim to a drug culture less likely to attract businesses and other beneficial economic activity?

Senator Feingold's question is a critical one. Beyond the direct costs of rising drug problems in small cities and rural areas, which include policing operations, emergency medical services, healthcare, prosecution and Courts, there are a variety of additional costs borne by the community. They include, but are not limited to, security costs at schools, homes, and businesses; feelings of insecurity in our neighborhoods and in our downtowns; and deteriorating conditions to support shopping, dining, retail commerce, recreation, and tourism. These

reductions in activity cause reductions in the revenues and growth associated with these key components of local economies. In turn, municipalities have fewer resources to tackle public safety issues and the cycle continues.

B. Do you believe that increased funding for personnel would have a positive effect on drug crime in your city?

I do. As I indicated in my prepared remarks and in response to a question posed by Chairman Leahy, I believe that a re-infusion of funding similar to historical sources such as COPS and Byrne programs would allow local law enforcement agencies to combat drug crime and, as importantly, some of the lower level crimes that lead to and/or are caused by drug markets by adding critical personnel. It is important to note that the types of personnel required to combat these issues will inevitably differ from community to community. Some may need additional police officers while others may need support personnel such as substance abuse practitioners, crime scene technicians, or other specialized positions.

Question #2
You indicated in your testimony and at the hearing that you are a supporter of community-based law enforcement, due to its efficiency and effectiveness. The District Attorney in Milwaukee in my home state uses a similar philosophy to that used in community policing in a community prosecutor program, but has said that it is difficult to implement this approach with reduced funding. Do you have the same concern and how specifically would additional funding in the stimulus allow you to better operate and implement community-based policing practices?

I agree with Mr. Chisholm, the Milwaukee County District Attorney. Community Policing and Community Prosecution (a program that we have previously tested in one area of our City in cooperation with the Chittenden County State's Attorney in Vermont) are initiatives that are difficult to create and sustain with limited resources. At the core of each are efforts to partner with the community and a host of stakeholders to solve problems in a proactive way before they emerge into large, pervasive challenges or to tackle large, pervasive challenges using a grassroots approach, handling low level issues that contribute to crime and violence.

These types of efforts are labor and resource intensive, often yielding exceptional results as evidenced by recent successes in larger cities such as Providence, RI and Philadelphia, PA. They require additional personnel to handle a variety of crime, disorder, and quality of life issues to change the tone of a street, neighborhood, or downtown. Simultaneously, day-to-day emergency responses, criminal investigation, and service provision must continue. Without funding for personnel, including police officers and other key support positions, law enforcement and prosecutors can easily be relegated to old, reactive and response driven paradigms in lieu of forward-thinking, proactive problem solving.

Additional funding would allow our department, and many others around the nation, to better implement community-based policing practices by:

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- Allowing more police officers to be directly assigned to neighborhoods and schools
- Enabling more robust traditional and digital crime scene processing by expanding the number of forensic specialists
- Creating a more effective response network for persons suffering from mental health and substance abuse issues by hiring specialized practitioners in those areas to enhance first response services
- Provide better response to youth issues by hiring police officers and social work specialists in an effort to direct services and intervention with at-risk youth

Once again, thank you for your time and interest in local law enforcement matters.

Sincerely,

Michael E. Schirling
Chief of Police

53929.009

"Helping State and Local Law Enforcement During an Economic Downturn"
Senate Committee on the Judiciary
Thursday, January 8, 2009
Questions for the record from
U.S. Senator Russell D. Feingold
Answers from John R. Schmidt

For John Schmidt:

Your written testimony touches on how safe communities are necessary in order to facilitate business. You also discuss how this money can be a more direct stimulus to the economy.

1. What are the various ways that this money would help get our economy back on track?
2. How would increased federal funding for state and local law enforcement directly stimulate the economy in the form of job creation and/or preservation?

ANSWER:

Federal funding to hire police officers to fill vacancies or eliminate layoffs creates jobs in the most direct sense—and it does it immediately and probably in more communities nationwide than can be reached by any other single program. Every dollar goes directly into jobs that would otherwise not exist. Further, the officers live in the communities they serve and they spend those salaries there. So there is a multiplier effect as the dollars are passed on to local retailers, developers, sellers of all kinds of goods and services.

The other critical economic effect is on the confidence and character of the communities where renewed economic activity must take place. Cities or towns with increasing crime rates, or even with concerns that crime rates will rise, do not experience economic revival and growth. In many places in this countries memories of crime and violence at levels that made economic revival impossible are still very strong. A regression from the progress toward public safety, and public confidence in that safety, will severely and immediately undermine prospects for renewed economic activity. A significant decline in the size of police forces—which will happen in the absence of immediate federal funding—will produce that result.

During the hear you spoke about measures that you and others took in the 90's, such as talking to city mayors to see what their capacity for hiring was and getting police officers into the training pipeline to make sure that once you had the federal money in hand you could immediately put those dollars to use.

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3. If additional funding is ultimately included in the stimulus package, what actions do you think Congress and the Administration should take to ensure that the money is quickly put to use in local communities?

ANSWER:

It will be critical for the Justice Department to make the funding process as fast and simple as possible. As I indicated in my testimony, in 1994 we asked major cities to tell us immediately, even before the President had signed the 1994 Act, how many officers they were prepared to hire and begin training and they did so; we then gave them an initial assured allocation of funding so the hiring process could begin immediately. I believe communities across the country will respond similarly to the passage of legislation authorizing funding today. We have the added advantage now of universal familiarity with the COPS funding mechanism.

The House Bill has eliminated the requirement of a 20% local match and the cap of 80% of the cost of an officer's salaries—for the reasons explained in my testimony, those steps are critical if funding is going to be effective in the current environment where local communities have no additional funds of their own to contribute. That change also simplifies the funding process since there is no need to make determinations as to compliance with those requirements. The result is that the process can be as simple as finding out from communities what level of officers they are prepared to hire and then allocating the available funding among those communities.

It may make sense to begin by allocating funds to fill vacancies or re-hire previously laid off officers with a formula based on the size of the police force; then if additional funding is still available, make further allocations to those requesting funds for hiring beyond that level. Trying to make more refined judgments of who is most in "need" of the funding is not likely to be productive and will slow down the process. Any community that has unfilled vacancies or has laid off officers clearly needs the money; and any community that is prepared to go beyond that and hire additional officers in the current environment is unquestionably responding to a real need.

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CHUCK CANTERBURY
NATIONAL PRESIDENT

JAMES O. PASCO, JR.
EXECUTIVE DIRECTOR

TESTIMONY

of

Chuck Canterbury

National President,

Grand Lodge, Fraternal Order of Police

on

"Helping State and Local Law Enforcement During an Economic Downturn"

before the

Senate Committee on the Judiciary

8 January 2009

—BUILDING ON A PROUD TRADITION—

Good morning, Mr. Chairman, Ranking Member Specter, and distinguished Members of the Committee on the Judiciary. My name is Chuck Canterbury, National President of the Fraternal Order of Police. I am the elected spokesperson of more than 327,000 rank-and-file police officers—the largest law enforcement labor organization in the United States.

I am very pleased to have this opportunity to share with you the views of the members of the FOP on the importance of the Edward Byrne Memorial Justice Assistance Grant Program (Byrne-JAG) and urge this Committee and the Senate to restore funding for this program in the economic recovery bill that the Congress will address this month. The Byrne-JAG program is important to State and local law enforcement at all times, but these funds are vital during periods of economic recession.

The Byrne-JAG program provides funding for a diverse range of law enforcement, prosecutorial and other criminal justice initiatives in communities across the country. The program is used by State and local governments to support multijurisdictional drug and gang task forces, cold case units, identify theft investigations, school violence prevention programs, services for threatened jurors, witness protection programs, victim's rights and hate crime programs.

The support provided by the Byrne-JAG program is absolutely critical in the fight against violent crime, drug and gang activity in thousands of jurisdictions. Without the funding for task forces to combat crime, many local and State law enforcement agencies would be left severely and dangerously shorthanded in fighting the growth of gangs and violent crime in our cities. Sadly, the real victims of these drastic cuts are not officers or departments–they are the law-abiding citizens who are left to the mercy of gangs and drug-ridden neighborhoods.

The Byrne-JAG program was cut by two-thirds in the FY2008 Omnibus Appropriations Bill, from $520 million in FY2007 to $170 million in FY2008. Here I must pause and thank all of you in the Senate who sought to restore these funds several times in the FY08 emergency supplemental spending bill. You, in particular, Mr. Chairman should be commended for your long-standing efforts to provide meaningful support for State and local law enforcement. You and your colleague Vice President-elect Biden have been true champions of the cop on the beat and we are very grateful for your leadership on this and so many other issues important to law enforcement. Despite your efforts and those of your Senate colleagues, restoring $490 million to the Byrne-JAG program was ultimately stripped from the Economic Recovery Act.

The Byrne-JAG program doled out nearly $900 million in 2003; five years later the 2008 amount was just about $170 million. Simply stated, these cuts have made it extraordinarily difficult for the rank and file men and women of law enforcement to keep our nation safe. These cuts over the years have created real world negative consequences for many State and local law enforcement agencies. As just one example, the chairman of the Pennsylvania Commission on Crime and Delinquency (PCCD), Walter M. Phillips Jr., warned in a press release that due to the cuts in Federal support, law enforcement in Pennsylvania would be hampered in its efforts to combat crime. The loss of funds to vital law enforcement programs, such as task forces, will continue all over the nation if the funding for Byrne-JAG program is not restored.

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Experts will tell you that crime tends to rise in times of economic recession. As an officer, I can tell you the experts have this one right. In the first week of January, several State governments have reported that crime rose in 2008, with many expecting this to continue or get worse in 2009 as our economic woes persist. In order to appropriately address this rise in crime, Congress must work to not only restore funding for the Byrne- JAG program to higher levels that it had in previous years, but also move quickly in passing it so that the law enforcement agencies that need the funding may receive it.

This is why I have taken this opportunity at this hearing to urge you to restore and to fully fund the Byrne-JAG program as a part of the economic recovery package that Congress will be working on in the next several weeks. To our members in the FOP, the economic recovery package will not be complete unless it addresses the fact that crime rises during economic recessions and therefore State and local law enforcement agencies need Byrne-JAG funds as soon as possible. If an economic package is to be passed by the House and the Senate, funding for the Byrne-JAG program must be included for it to be a real recovery effort. We as a nation must address all of the consequences of the economic recession we face, and this includes support for State and local law enforcement agencies to keep our streets safe, as well as economic stimulus programs.

I understand the difficult decisions that lawmakers face in addressing fiscal shortfalls, but we in the law enforcement community must make them as well. My first concern in this regard is what the cost will be for those law abiding citizens who wish to live in safe communities free of gang violence and drug dealers if the Byrne-JAG program is not funded fully and soon. This is not the time to further cut law enforcement funding, rather just the opposite is true. The men and women that have sworn to serve and protect our communities need and deserve a Byrne-JAG program that is fully funded so that they can meet the challenges that they will face in the years ahead.

Thank you.

53929.014

"Helping State and Local Law Enforcement During an Economic Downturn"
Senate Committee on the Judiciary
Thursday, January 8, 2009
Statement of U.S. Senator Russell D. Feingold

Mr. Chairman, thank you for chairing this important hearing.

I, too, am deeply concerned about the current state of federal funding for grants that aid state and local law enforcement agencies, in particular the Byrne Justice Assistance Grants and the COPS grants. The fiscal year 2008 funding levels were dangerously inadequate, and my state has suffered greatly as a result.

In my town hall meetings across Wisconsin last year, funding for these programs was the number one issue that I heard about from police officers, prosecutors and other law enforcement officials in the state. I have been a long time supporter of this funding, and fought hard against the particularly draconian cuts last fiscal year. A partnership between the federal government and state and local governments to provide adequate funding is especially important now when state and local agencies are being tasked with homeland security responsibilities in addition to their law enforcement responsibilities.

My initial reaction to including state and local law enforcement funds in the stimulus package is positive, particularly if it is done in a fiscally responsible way. It seems to me that this kind of spending is an effective way to both preserve jobs and protect communities from the damaging impact of the economic downturn. Failing to provide stimulus funds to the COPS and Byrne programs would make the difficult job of fighting crime even harder, which may well result in increases in crime, further harming the economy. Further, these grants create jobs, or at the very least ensure that more jobs are not cut. In these times of increasing unemployment and financial hardship, that aspect of these programs is especially important.

I want to thank the witnesses for being here today, and thank you again, Mr. Chairman, for holding the hearing.

53929.015

Statement of Senator Dianne Feinstein at the Judiciary Committee Hearing "Helping State and Local Law Enforcement During and Economic Downturn"

January 8, 2009

I thank Chairman Leahy for holding this hearing on an extremely important issue – keeping Americans safe from crime and ensuring adequate cooperation and funding for state and local law enforcement in the current economic downturn.

The need for additional funding for state and local law enforcement to protect our communities is clear. Over the last five years, our country has experienced an alarming increase in violent crime. In 2007, the Police Executive Research Forum reported that from 2004 to 2006, homicides increased overall by 10%, aggravated assaults with guns rose 10%, and robberies rose 12%.

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This survey mirrors the FBI's own statistics, which showed that violent crime rose by 1.8 percent between 2003 to 2007. And this surge in the violent crime rate isn't just limited to big cities.

Cities with populations of 25,000 to 50,000 experienced the largest increase in violent crime, at 3.8%. In February 2008, in testimony before the House Judiciary Committee, Attorney General Mukasey acknowledged that violent crime was increasing in our communities.

Let me put these numbers in human terms. The International Association of Chiefs of Police equates the rise of 2.5% to 31,479 more victims of violent crimes in 2005. And the 3.7 increase for all of 2006 means about 47,000 more Americans were victims of murder, robbery, assault, rape, or other violent crimes.

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Unfortunately, despite these disturbing numbers and the Justice Department's own acknowledgement that violent crime is increasing, over the last eight years the Bush Administration continually proposed drastic cuts in the federal assistance traditionally available to state and local law enforcement.

In FY2008, the Bush Administration proposed eliminating all 17 of State and Local Law Enforcement Assistance grant programs. In their place, the Administration proposed two consolidated block-grants. Unfortunately, its total budget for FY2008 was only $582 million – 75% less than the FY2007 budget and over $3 billion less than the total funding level for state and local law enforcement assistance in 2002.

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Unbelievably, the President Bush's proposed FY2009 budget slashed funding for State and Local law enforcement even more. After repeatedly proposing to eliminate COPS hiring grants, President Bush zeroed out the entire COPS program for FY2009, replacing that important program with a mere $4 million for a new community policing grant. In other words, President Bush's budgeted $404 million for state and local law enforcement in FY2009 – this represents a 105% cut in these funds in just six years.

During the 1990s and earlier years in this decade, the federal government vigorously funded grant programs for state and local law enforcement. And we saw real results – violent crime went down year after year. It is no surprise that with the recent cuts, violent crime rates have ticked back up.

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This trend has to stop, and I hope the incoming Obama Administration works quickly with Congress to provide appropriate funding and fix the huge damage that has been inflicted on state and local law enforcement in the last eight years.

We know what works and we can see the results of ignoring and underfunding proven programs. We also know that crime often rises in times of economic trouble. Now is not the time to continue the roll backs in state and law enforcement funding initiated by the Bush Administration.

Thankfully, Congress has already begun taking steps to correct the drastic and dangerous cuts to law enforcement funding made over the last eight years. Last year, Congress passed the Byrne/JAG Reauthorization Act, introduced by Senator Chambliss and me. This bill authorized funding for Byrne/JAG law enforcement grants at $1.1 billion through 2013.

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Additionally, today Senator Kohl and I introduced, along with Chairman Leahy and others, the COPS Improvement Act of 2009. This bill will serve the dual purpose of creating jobs in an economic downturn and fighting crime.

Specifically, the bill would authorize $1.15 billion per year for the next six years to fund the following:

- Police Hiring Grants: The bill authorizes $600 million per year to hire up to 50,000 officers to work in community policing efforts, and school resource officers to fight school violence. These funds will create jobs in a worsening economy, and can be used to retain officers, pay overtime costs, and reimburse officers for training costs.

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- Law Enforcement Technology Grants: The bill authorizes $350 million per year for police departments to obtain new technology and equipment to analyze real-time crime-data and incident reports to anticipate crime trends, map crime "hot-spots", examine DNA evidence, and purchasing badly needed technology upgrades for police on the street.

- Community Prosecutor Grants: The bill authorizes $200 million per year to help local district attorneys hire and train more prosecutors.

- Troops-to-Cops Program: The bill authorizes a troops-to-cops program to encourage local police agencies to hire former military personnel who are honorably discharged from military service or who are displaced by base closings to allow them to continue working and engaging in public service.

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The Byrne/JAG and COPS programs are time-tested programs that have proven their effectiveness over the course of more than 20 years. They are cornerstones in the state and local law enforcement efforts that have removed thousands of pounds of drugs and millions of dollars worth of drug proceeds from communities across the country.

Money from these programs provides law enforcement with the technology, weapons, and investigative tools they need to keep our communities safe. All we have to do is look at the rising rates of violent crime that correspond to the staggering funding cuts to understand how important these programs are for our country.

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We must provide the necessary tools and funds to State and Local law enforcement and act decisively to combat the nation's growing gang problem and violent crime. Fully funding the Byrne/JAG and COPS programs and are steps in the right direction. Congress must act in these areas before our citizens are overrun with the onslaught of violent crime and gangs.

I thank Chairman Leahy for holding this hearing, and I hope it will assist Congress in moving forward with legislation to address these issues.

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WRITTEN STATEMENT

OF

THE HONORABLE JAMES P. FOX
DISTRICT ATTORNEY
SAN MATEO COUNTY, CALIFORNIA

AND

CHAIRMAN OF THE BOARD
NATIONAL DISTRICT ATTORNEYS ASSOCIATION

SUBMITTED TO THE

SENATE COMMITTEE ON THE JUDICIARY

REGARDING

INCREASED FUNDING FOR THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANTS PROGRAM

JANUARY 15, 2009

WRITTEN STATEMENT OF THE HONORABLE JAMES P. FOX DISTRICT ATTORNEY, SAN MATEO COUNTY, CALIFORNIA CHAIRMAN OF THE BOARD, NATIONAL DISTRICT ATTORNEYS ASSOCIATION SUBMITTED TO THE COMMITTEE ON THE JUDICIARY REGARDING INCREASED FUNDING FOR THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANTS PROGRAM

SUBMITTED ON JANUARY 15, 2009

INTRODUCTION

Chairman Leahy, Ranking Member Specter and Members of the Committee: My name is James P. Fox and I am the elected district attorney in San Mateo County, California and have served in this capacity for approximately twenty-six years. I have been involved in the criminal justice system for approximately forty-two years in a variety of positions including juvenile probation, deputy district attorney, criminal defense attorney and elected district attorney in 1982. I am a past President of the California District Attorneys Association and have been a chairman of the Legislative Committee of the California District Attorneys Association since 1990.

I would like to extend my sincere thanks to the Committee for the invitation to submit a written statement. I appreciate the opportunity to share my thoughts and concerns as well as those of my colleagues regarding the successes of the Byrne-JAG program and the probable consequences of continued reductions in program funding.

Currently I serve as the Chairman of the Board of the National District Attorneys Association (NDAA). NDAA is the largest and primary professional association of prosecuting attorneys in the United States. Formed in 1950 as the "National Association of County and Prosecuting Attorneys" and given its present name in 1959, NDAA has approximately 7,000

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members, including most of the nation's local prosecutors, in addition to, assistant prosecutors, investigators, victim witness advocates and paralegals. The National District Attorneys Association provides professional guidance and support to its members, serves as a resource and education center, follows public policy issues involving criminal justice and law enforcement, and produces a number of publications.

As a representative of the nation's prosecutors and other criminal justice professionals, I am here today to discuss the detrimental impact of reductions to Byrne-JAG funding and to urge this Committee to do what is necessary to make certain that the program is authorized and appropriated at the FY 2006 level ($1.095 billion) through Fiscal Year 2012. The FY08 omnibus appropriations bill cut the Byrne Justice Assistance Grant (Byrne/JAG) program by 67%, from $520 million in FY07 to $170 million in FY08.

The Byrne-JAG program is the only comprehensive federal program to combat criminal activity with an intergovernmental and interstate approach, allowing for increased effectiveness in the responsiveness of the criminal justice system to the development of proactive approaches to interstate and multi-jurisdictional crime. It allows for a true system-wide approach, enabling communities to target resources to their most pressing local needs. It has been particularly critical for the prosecutorial community. Prosecutors across the nation rely on this funding for the training of prosecutors and law enforcement personnel; the dedication of prosecutors to task forces and investigation teams; the development and implementation of crime prevention programs and the creation of innovative programs to reduce recidivism rates. In fact, the Byrne-JAG program is in many instances the *only* source of funding to support critical multi-jurisdictional task forces and multidisciplinary teams.

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If funding for the Byrne-JAG program remains at the reduced FY08 level, prosecutors across the country will lose vital training, investigative tools, personnel and physical resources, the ability to effectively collaborate with other jurisdictions, states and levels of government, and the ability to engage in successful crime prevention efforts.

IMPACT OF CONTINUED FUNDING REDUCTIONS IN THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANTS[1]

CALIFORNIA

In my home state of California continued reductions to the Byrne Justice Assistance Grants program will have a devastating impact on the investigation and prosecution of drug trafficking and various other crimes. A survey of county-specific programs illustrates the importance of this federal funding.

Stanislaus County

The Stanislaus County Drug Enforcement Agency has been an active, successful anti-drug abuse (ADA) task force in existence for more than 34 years. They operate under a supportive Governing Board comprised of all the law enforcement leaders in the community and have participation from every city agency in the county, along with the Sheriff's Department, District Attorney's Office, and Probation Department. As a result of this support and commitment to a safer community through drug suppression efforts, the Stanislaus task force has remained operational despite numerous reductions in grant funding over the past several years.

During the past approximate five years the county has experienced fluctuations in OES Byrne Grant (JAG funding) with decreases in excess of 50%. These reductions resulted in the loss of critical investigator positions on the task force. Further loss of personnel will have a negative impact on operations and could limit the task force's ability to conduct some large-scale

[1] Please note that information contained herein is current as of May 2008.

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investigations. These investigations are a critical component in successfully investigating and identifying DTO's (Drug Trafficking Organizations). This will jeopardize the Stanislaus ADA's success in controlling and eliminating the major drug trafficking organizations responsible for the methamphetamine epidemic throughout Stanislaus County and across the nation.

This essential funding has contributed to recent successes of the anti drug abuse task forces. In May 2008 after a comprehensive investigation and weeks of surveillance, a methamphetamine super lab was located. Approximately 200 gallons of methamphetamine in solution with an estimated street value of over four million dollars were seized, in addition to firearms.

In order for the Stanislaus ADA Enforcement Program to continue operating at the same level of sophistication and success, it is essential that the Byrne Grant program be funded at adequate levels. It is a constant challenge to conduct investigations, which maintain a higher level of sophistication/intelligence than that of the drug trafficking organizations. With a decrease in funding, resulting in a reduction of personnel, the county's investigative abilities will be diminished.

Santa Barbara County

Santa Barbara County has for many years used these funds as the primary funding source for a county-wide narcotics task force. This unit is staffed by officers from law enforcement agencies in the various jurisdictions. Their mission is to target the major offenders, and work in a united effort to benefit the county as a whole. It has been quite successful in the past, but with the decreases in funding the entire program may be in jeopardy. This task force along with other agencies was responsible for implementing the DEC, or drug endangered children, program that has served to focus on the children victims of drug trafficking and abuse. If the funds are further

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decreased Santa Barbara County may have to eliminate the work of the entire task force. Historically, disbanded task forces are found to be extremely difficult to reassemble in the future when funding is increased.

Santa Clara County

Santa Clara County has two multi-jurisdictional investigative task forces funded with Byrne-JAG grants: the Unified Narcotic Enforcement Team (**UNET**) and the Santa Clara County Specialized Enforcement Team (**SCCSET**). Nearly every law enforcement agency in Santa Clara and San Benito Counties has law enforcement agents assigned to one of these units. A major crimes regional task force, the South Bay METRO, also operates in both these counties and others, including San Mateo County. The work of these tasks forces and teams significantly reduces the amount of illegal drugs on the county's streets and aids in the capture of regional and local drug traffickers.

These task forces have been doing an excellent job and for smaller local agencies it is the only way they can receive the quality assistance they need in order to make major drug busts. They facilitate the transfer of information across and between local, state and federal jurisdictions and the sharing of best practices among the participating agencies. Between January 2007 and February 2008, the task forces seized 15 ½ pounds of methamphetamine with a street value of over $750,000.00, 5 ½ pounds of cocaine ($199,000.00), ½ pound of tar heroin ($20,000.00) and 318 dosage units of MDMA (Ecstasy at 10 to 15 dollars per tablet). At least six of these investigations had direct ties to organized crime groups, such as Nuestra Familia, South Vietnamese Gangsters and MS-13. SCCSET also initiated a murder for hire investigation, which resulted in an arrest and conviction of the perpetrator and prevented a homicide.

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If Byrne-JAG funds are reduced, it is estimated that these task forces will be cut by a minimum of 67% severely crippling their ability to effectively operate. Law enforcement cannot conduct investigations without funding. The local agencies do not have the manpower or the resources to tackle these problems on their own. The collaborative work must continue and this will in turn reduce the amount of drugs on our streets.

San Bernardino County

In San Bernardino County the Byrne/JAG funds are used to offset designated Street Enforcement and Marijuana Suppression deputy district attorneys. Continued reductions in the Byrne-JAG funding will require that the department's budget de-fund other positions.

Ventura County

Ventura County is fast becoming a supply and distribution point of narcotics for much of the state, as well as the western region (i.e., Oregon, Washington, and Nevada).

From May 2007 until May 2008 the Ventura County Combined Agency Team (VCAT) noticed an increase in outside agencies conducting narcotic investigations that have led them directly to Ventura County. There have been several occasions where agencies from Los Angeles (LA Impact), Orange County (RSNP), San Bernardino (IRNET), San Diego (Southwest Border HIDTA), and even San Jose (DEA) have contacted investigators in order to advise them that their investigations have ties to Ventura County. Many of these investigations have resulted in the arrests of members belonging to Drug Trafficking Organizations (DTOs), the seizures of narcotics, and the forfeiture of proceeds from these DTOs. Many of the Ventura County investigations have led investigators out of Ventura County and back to these same jurisdictions, i.e., Los Angeles, Orange and San Bernardino counties. In addition, investigations originating in Ventura County have led investigators directly to the source of supply in Baja California

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(Tijuana) and as far north as the state of Washington.

VCATs primary goal has always been to reduce the impact of illicit drugs within Ventura County. Using a multi-jurisdictional collaborative approach (i.e., VCAT Task Force) has resulted in a great deal of success. For example, during early 2008 VCAT seized over 50 pounds of methamphetamine, 20 kilos of cocaine, 130 pounds of tar heroin, and hundreds of thousands of dollars in narcotic proceeds.

Continued reductions in Byrne JAG funding, coupled with previous years' reductions, would significantly impact the county's ability to carry out the types of investigations that are currently being conducting. The expectant result of a reduction in funding would not only impact the narcotic task force and local law enforcement agencies, but more importantly, would no doubt create a concomitant effect resulting in an increase of drugs and crime in communities, counties, states and nation.

Cuts to the funding such as that which occurred in FY 2008 could potentially shut down the task force in Ventura County. At the very least, in order to save any investigative positions all ancillary expenses would need to be eliminated. This would include such things as training, equipment purchases, investigative costs, administrative costs, e.g., office space, copy machines, telephones, etc. In addition, severe cuts would need to be made to overtime, which would impact the quality and outcome of investigations.

With respect to the elimination of training and equipment, the loss of funding in each of these areas would have a catastrophic effect on the task force. Training is used to enhance investigators' knowledge, skills, and abilities. Training provides a source of networking where investigators often meet and discuss the latest DTO trends, case law, threats, and the newest types of surveillance equipment necessary to stay current in the field. Many of the investigations

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involve the use of cutting edge technology in order to keep pace with the drug trafficking organizations. Without adequate funding and training the task force could not initiate the types of investigations currently being conducted, but instead would be relegated to working street drugs, which has a minimal, if any impact at all on drug trafficking organizations.

Alameda County

In Alameda County the funds from the Byrne JAG program pay for all expenses (with the exception of police salaries) for the Alameda County Narcotics Task Force. In addition, the funding covers the costs associated with dedicating a prosecutor to the task force. Without this funding the District Attorney, due to staffing concerns, would be unable to assign a prosecutor to the task force. If the reductions continue the task force may have to be disbanded. This is the only unit in Alameda County that focuses on midlevel and upper level narcotics traffickers. In *Yuba County* a prosecutor is also dedicated to the narcotics task force and is in a similar situation as Byrne JAG funds are reduced.

II. ALABAMA

4th Judicial Circuit

Alabama's 4th Judicial Circuit Drug Task Force is funded by the Byrne-JAG program. The 4th Judicial Circuit covers the largest geographical area of any other circuit in the State of Alabama. The total project cost for FY 2008 is currently set at $306,113.45. The state requested $153,056.72 in Byrne-JAG funds to support this task force.

The Drug Task Force has made a tremendous impact on the drug trade in Alabama's 4th Circuit. The number of violent crimes related to drug activity is down substantially. This is attributed to the focus by law enforcement on the leaders of the narcotics community, the increased quality of investigative skills and improved case preparation. Prosecutors in the state

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have learned through various reliable and confidential informants that individuals in the narcotics trade fear the abilities of the Task Force to operate and make quality cases that send drug dealers to the state and federal penitentiaries for long periods of time.

The 4th Circuit of Alabama would be adversely affected if the Drug Task Force is eliminated, and without Byrne-JAG assistance, this program would go without sufficient funding, ultimately requiring dissolution of the task force. Drug dealers will return to operating openly, without the fear of being apprehended.

III. ARIZONA

In Arizona, the Arizona Criminal Justice Commission allocates Byrne-JAG funding according to a statewide strategy that also incorporates state and local dollars to maximize the use of public dollars to combat drugs, gangs and violent crime. Together these funds financed 16 narcotics task forces; 15 tandem prosecution programs; funding to courts to correspond with the increased caseload; funding to the state and municipal crime labs to assist with lab work for drug analysis and other related costs; and funding for criminal history records improvement projects. These programs resulted in the seizure of more than 350,000 pounds of illicit drugs; the discovery and dismantling of 16 methamphetamine labs; and the arrest of 5,220 drug offenders.

Due to cuts in Byrne-JAG funding, Arizona's state-funded programs expect to see a decrease from $5.6 million in FY07 to an estimated $1.7 million in FY08. In *Pima County, AZ*, budget cuts to the Byrne-JAG Grants directly translate to personnel cuts representing one full time attorney position and one team in the narcotics unit comprised of two attorney positions, one paralegal position and one legal secretary position. The current level of staffing is inadequate with attorneys carrying unacceptably high case loads. Further reductions in staffing levels will

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result in increases in attorney caseloads and a negative impact on the time required to dispose of felony cases.

The U.S. DEA has recognized Arizona as one of the most active drug trafficking corridors in the United States. Given the reduction of the Byrne and JAG funding over the past approximately four years, the Byrne and JAG programs will be reduced to the point of no longer offering effective support. The loss of Byrne funding would result in dismantling of several rural task forces, leaving tens of thousands of miles without coordinated narcotics intervention efforts. Given Arizona's unwanted role as a major trafficking corridor for narcotics smuggled from international origins, the loss of these task forces have implications nationally, not just for Arizona.

IV. HAWAII

Honolulu City & County

The Office of the Prosecuting Attorney (City and County of Honolulu) utilizes Justice Assistance Grants for the Community Prosecution Program and the Drug Court Initiative, programs that assist with both the prevention of crime and the reduction of recidivism rates in this community. Both of these programs have been recognized by the Bureau of Justice Assistance as programs that are effective in addressing the quality of life issues associated with communities and in giving first time drug offenders an alternative to incarceration. The JAG grant funds a prosecutor in each of these areas to spearhead the programs.

The Honolulu Community Prosecution's contributions to the advancement of justice in the community has been nationally recognized with a ***2005 Coordination Honor Award*** (Truancy Sweeps), ***2004 Coordination Honor Award*** (Weed and Seed Court), ***2003 Honorable Mention Award*** (Waipahu Juvenile Task Force), and ***2000 Judge C. Nils Tavares Award*** (for

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departmental systemic improvements, including community prosecution). In 2007, Honolulu joined forces with other jurisdictions on the ***NCJFCJ Methamphetamine Project*** in battling the spread of methamphetamine houses across rural America.

The Community Prosecution program remains a key partner in the Methamphetamine Abatement Project sponsored by (NCJFCJ), addressing concerns of the Oahu Neighborhood Boards, participating in the Youth Violence Prevention Initiative of the D.O.E., in accomplishing the mission of the federal Weed and Seed Program, in being a presence around the table to discuss Drug Endangered Children, ensuring the media receives accurate information about Community Prosecution campaigns, presenting the Community Prosecution program to community groups and providing interagency training sessions for other community prosecution partners.

The Justice Assistance Grant funds used in support of the Drug Court assist in the reduction of recidivism rates in the community. Since the inception of Drug Court in 1996, 738 defendants have been served. Of that number, 453 clients have graduated and only 57 have been convicted of new criminal offenses (26 misdemeanors/31 felony convictions). The rate of recidivism in May 2008 was 12.6%.

The loss of Justice Assistance Grant monies would seriously imperil the Office of the Prosecuting Attorney's ability to sustain the successful Community Prosecution program and Drug Court Initiatives.

V. MASSACHUSETTS

In the last approximately four and a half years, the Massachusetts District Attorneys and the Massachusetts District Attorneys Association have received more than $2,500,000 in Byrne-JAG funding for initiatives to promote Internet safety, address drug crimes (heroin, oxycontin,

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methamphetamine), fund apprehension teams for violent fugitives, address underage drinking, and purchase technology hardware and software to link police and district attorney case management systems.

VI. NEW YORK

King County

As of May 2008 the King County District Attorney's Office (KCDA) in New York was receiving five separate Byrne grants totaling approximately $1.5 million. These funds are used in not only the investigation and prosecution of narcotics and gang-related criminal enterprises, but in the prosecution of domestic violence cases. Additionally, these funds are used for innovative offender reentry programs like the Drug Treatment Alternatives-to-Prison program, the nation's first prosecution-ruin program to divert prison-bound felony offenders to residential drug treatment.

In 2008 an investigation funded, in part by a Byrne grant, made national headlines. These funds were instrumental in KCDA's Operation Final Voyage, an investigation that uncovered an international cocaine smuggling operation between Panama and the port of New York using container ships. This operation resulted in the seizure of cocaine with a street value of $10 million, the indictment of seven Panamanian nationals, and the dismantling of an operation that hoped to supply cocaine to drug dealers throughout the east coast of the United States.

VII. PENNSYLVANIA

The Pennsylvania District Attorneys Institute (PDAI) received $469,035 in Byrne-JAG funding in FY 2007. Most of this funding is used by the Institute to conduct statewide training of prosecutors and law enforcement personnel. In fact, the PDAI is the only source of accredited in-

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state training for Pennsylvania's 67 district attorneys. This training is critical to most Pennsylvania counties which are predominantly rural jurisdictions with small prosecutor offices lacking in the necessary resources to provide their own training. While prosecutors could participate in training sponsored by the Pennsylvania Bar Institute, the cost of this training is typically triple that of the PDAI; often geared toward defense counsel; and lacks the prosecutor networking and interactive component that is found in PDAI trainings.

The loss of this funding would devastate PDAI – the Byrne-JAG funding received in FY 2007 covered 50% of payroll, benefits, and overhead for both the PDAI and the Pennsylvania District Attorneys Association. Personnel who work primarily on training courses for the Institute are compensated almost entirely by the Byrne-JAG program. If Byrne-JAG funding is lost or continues to languish, lay-offs and sale of realty would become a necessity. The development of well trained prosecutors and law enforcement personnel will become impossible not only in Pennsylvania but across the nation if these funds continue to be reduced or cut entirely.

VIII. TENNESSEE

Shelby County

A good example of the use of Byrne-JAG funding for prevention purposes is a community outreach program being used in Shelby Count (Memphis). The District Attorney in this county dedicates one staff member (special assistant) to this program which educates the county school students and citizens about the severe consequences of violent crimes committed with guns and the dangers of both gangs and drugs.

The "Do The Right Thing Challenge" implemented in Memphis City and Shelby County schools is an initiative of the National Campaign to Stop Violence, a non-profit organization,

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composed of business, community and governmental leaders who have come together to reduce youth violence in communities across America. A reduction in homicides with firearms is in part attributable to the community outreach work done by this special assistant. Additionally, the special assistant is responsible for managing the Mentoring Based Truancy Reduction Program for the District Attorney's Office. Five Memphis City schools participate in the Mentoring Program. In lieu of prosecuting truant students, the District Attorney's Office matches qualified mentors with the truant students. The mentoring program has shown success with the mentored students by their increased school attendance and participation in various community activities with their mentors. The lack of funding for this special assistant position would have a drastic effect on the community. Without JAG funding, the truancy program will not have a manager, causing the program to slow or even cease. The strong message from the District Attorney's Office about the consequences of violent crimes committed with guns, and the dangers of gangs and drugs will unfortunately no longer be communicated to the community.

IX. VIRGINIA

The state of Virginia has received $58,278 of Byrne-JAG funding annually, which has allowed the implementation of critical training programs for prosecutors, which, otherwise, the state would not have had the resources to fund. This funding has and will support drug prosecution training for 20 prosecutors and 20 law enforcement officers each year from 2006-2009. The Drug Prosecution program trains prosecutors and law enforcement to work as teams to more efficiently and effectively prosecute narcotics violations. Additionally, Byrne-JAG funding provides the state with the ability to annually train 40 prosecutor and law enforcement officer teams in the latest techniques to prosecute homicide cases. These programs have been met with significant praise by attendees and have been found to provide much needed guidance

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for prosecutors and law enforcement officers as they work together to ensure Virginia's communities are crime-free.

The loss of Byrne-JAG funding would put a halt to these trainings in Virginia, which have proven so valuable to prosecutors and law enforcement throughout the state, ultimately stifling their ability to ensure public safety in Virginia's communities.

X. MINNESOTA

Anoka County

With Byrne-JAG funding, Anoka County has dedicated a prosecutor to the county drug task force. The county has found that direct interaction between prosecutors and drug task force members, results in successful drug prosecutions which constitute about one third of the county's caseload. The county has received $49,400 annually in Byrne-JAG funding to finance this task force.

If Byrne-JAG funding is eliminated, there will be less of an emphasis on drug prosecutions and a loss of direct contact with prosecutors during the investigation of drug cases.

CONCLUSION

On behalf of the nation's prosecutors, I would like to thank the Committee for the opportunity to submit in writing my views on funding for the Byrne-JAG program and I would urge the Committee to take the necessary steps to ensure the authorization and appropriations of Edward Byrne Memorial Justice Assistance Grants at the FY 2006 levels ($1.095 billion) through Fiscal Year 2012.

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Dear Senator Leahy,

My name is Anne Jordan and I am the Commissioner of Public Safety for the State of Maine. As Commissioner of Public Safety I am responsible for 9 different law enforcement bureaus within the State of Maine including the Maine State Police, the Maine Drug Enforcement Agency, the State Fire Marshal's Office, the Bureau of Highway Safety, the Bureau of Capital Security, the Emergency Communications Bureau, the Emergency Medical Services Bureau, the State Bureau of Identification, the Maine Criminal Justice Academy and the Gambling Control Bureau. Our agency is also responsible for the administration of Federal Highway Safety grants, Byrne/JAG grants, STOP Violence Against Woman Grants and the National Instant Check System (which provides electronic checks for gun purchasers).

I want to thank you for holding hearings tomorrow concerning the need to restore funding to local and state law enforcement agencies as part of the Economic Stimulus package. This funding is vital to the health and safety of Maine citizens. The recent 67% cut in Byrne/Jag funds has been devastating to Maine. We use our Byrne/JAG funds to support a statewide multi-jurisdictional drug task force which support 43 agents and 6 specialized drug prosecutors across the state. Working with our local, county , state and Federal law enforcement counterparts, we are the front line in the effort to stop the flow of drugs and guns in and out of Maine. Drugs come across state lines via rural roads, the I-95 corridor, up the coast and across the international border. In recent times our agents have successfully investigated the importation of drugs from Canada, California and just about every state in between. If this funding cut remains in place, we will be forced to lay off large numbers of our agents and prosecutors and our drug problem will explode. I truly fear that Maine, and other Northern New England States, will become open season for drug dealers.

In addition, here in Maine we have sadly seen a huge increase in Domestic Violence assaults and deaths. In 2008, 31 people in Maine were murdered, the highest murder rate in nearly 20 years. Of those deaths, 61% were domestic violence: children killing parents and siblings, spouses killing spouses, ex-boyfriends murdering innocent woman and their friends and tragically, 5 little babies, one who was just 1 month old, were killed by family members. This is not the time to slash Federal funding: now more than ever, as the economy continues to sour and as crime rates continue to rise, we need Federal funds to support law enforcement, provide services to victims of Domestic Violence and targeted efforts to reduce crime.

I applaud your efforts and offer my support and request that you push forward to restore these funds. If you would like any additional information, please feel free to contact me. Thank you for taking the time to listen to my request.

Sincerely yours,

Anne H. Jordan
Commissioner of Public Safety
Maine Department of Public Safety
45 Commerce Drive
Augusta, Maine 04333
207 626 3800
www.maine.gov/dps

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Statement Of Senator Patrick Leahy,
Chairman, Senate Judiciary Committee
Hearing On "Helping State and Local Law Enforcement in an Economic Downturn"
January 8, 2009

Later this morning, President-elect Obama will be speaking about the economic crisis and the need for an immediate stimulus package. And so it is fitting that in the Judiciary Committee's first hearing of this new Congress, we consider the urgent need for more Federal assistance to state and local law enforcement, especially during this economic crisis.

Families across America find their economic security increasingly at risk, and the possibility of increased crime during this recession means they may also find their day-to-day safety and security at risk. With unemployment on the rise, cities and towns are cutting budgets, including critical funding for police. We must act quickly and decisively to shore up state and local law enforcement, or face a reversal of the great strides we made to reduce crime in the 1990s.

This new Congress is appropriately focused on how best to turn our economy around and help those most in need. An effective way to protect our citizens, create jobs, and begin rebuilding our economy and our communities with confidence would be to restore Federal support for state and local law enforcement, which was so severely cut over the past eight years.

Congress and the Clinton administration supported American's law enforcement officers like never before, helping to put more than 100,000 new officers on the street. This support for law enforcement contributed to an historic decline in crime rates. But that progress stalled when the Bush administration gutted Federal funding for state and local law enforcement, cutting it by billions. The Bush administration diverted more and more money into Iraq, spending billions to fund training and equipment for police in Iraq instead of here at home.

The time to act is now. The last eight years have been difficult for state and local law enforcement. During the Bush years, there has been nearly a 50 percent reduction in overall funding for state and local law enforcement. If Congress had not stepped in to protect some sources of funding for state and local law enforcement, the cuts would have been far greater. This administration has also gutted assistance to state and local crime prevention programs, despite evidence that has shown time and again that prevention and treatment, along with vigorous law enforcement, are essential to keeping crime rates low.

Law enforcement depends on local tax revenues, which have started to fall with the economic downturn. Police forces will need to cut their already depleted ranks even further without help. So as crime escalates there will be fewer officers and resources to protect our families and communities. Unless we act now.

Allowing state and local police forces to fill vacancies and hire new officers and staff will also contribute to helping jump start our economy. These are good, middle class jobs for middle class people, and they can be filled immediately. These are often jobs for people who live in the hardest hit communities and will spend their money close to home. And what better way to serve

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our poorest communities than to hire more police officers to help keep them safe.

Supporting state and local law enforcement helps economic development in another important way too. As many of our neighborhoods became safer, property values rose, businesses opened and thrived, and local economies prospered. If crime returns to these newly prosperous neighborhoods, businesses, homeowners, and communities will suffer.

It is essential that we restore the COPS program and the Byrne Justice Assistance Grant program to the levels that worked so effectively in the 1990s. I also would like to see us reinvigorate our rural crime focus.

Crime is not just a big city issue. As this Committee heard at hearings in St. Albans and Rutland, Vermont, the drugs and violence so long seen largely in urban areas now plague even our most rural and remote communities. Rural communities also face the added burden of fighting these crime problems without the sophisticated task forces and specialized squads so common in big cities and metropolitan areas. In this environment, we must do more to provide assistance to those rural communities most at risk and hardest hit by the economic crisis. On the first day of this Congress, I introduced the Rural Law Enforcement Assistance Act to ensure that rural communities hit hard by crime and by the recession and without the resources available to larger communities, can get the help they need.

I would like to see us make sure crime victims aren't doubly penalized, first by the crime and then by being denied assistance and compensation. We can prevent that by doing something that does not cost one dime in Federal taxes and that is to raise the cap on the Crime Victims Fund so that we can send more money to the states for crime victims.

Our witnesses this morning bring important perspectives and experience to this vital issue. I have known Chief Schirling of Burlington, Vermont, for many years. I commend his philosophy of seeking innovative ways to meet the new challenges faced by law enforcement today. He has been a leader in the fight against crimes against children and leads the largest police force in our state. I also want to welcome Commissioner Ramsey of Philadelphia, former Associate Attorney General Schmidt, Ms. Leary, from the National Center for Crime Victims and Mr. Mulhausen from the Heritage Foundation.

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TESTIMONY OF MARY LOU LEARY
Executive Director, National Center for Victims of Crime

Before the
Committee on the Judiciary
United States Senate

January 8, 2009

"Helping State and Local Law Enforcement during an Economic Downturn"

Good morning, Chairman Leahy, ranking member Specter, and members of the Committee. My name is Mary Lou Leary, and I am the executive director of the National Center for Victims of Crime. For over twenty years the National Center has worked to ensure that victims have the rights and resources they need to recover and rebuild their lives after a crime. We help thousands of victims each year through our toll-free National Crime Victim Helpline. We provide advice and technical assistance to policy makers and victim service providers across the country. We work to raise public awareness of the impact of crime on victims and train thousands of professionals at national and regional conferences to help them address victims' needs more effectively.

We would like to thank the Committee for giving us the opportunity to speak to this important issue: the link between our economic downturn and the need to fully fund victim services and our local law enforcement response to crime. For the past eight years, the issue of crime in our communities has been neglected at the federal level. As important as homeland security is, the safety of our neighborhoods is just as important. We are hopeful that this hearing will encourage the incoming administration and Congress as a whole to refocus attention on this issue.

The current situation.

I would like to take a few minutes to talk about the increase in victimization across the country. Is there a relationship between the economic downturn and rates of victimization? We know that there is always a time lag before fluctuations in crime rates are reflected in official statistics like the Uniform Crime Report (UCR). However, we also know that in a 2008 study of 124 U.S. cities by the U.S. Conference of Mayors, more than four in 10 of the surveyed cities reported an increase in crime as a result of worsening economic conditions at that time.[1] They also reported a simultaneous cutback

[1] U.S. Conference of Mayors, "2008 Economic Downturn and Federal Inaction Impact on Crime, Mayors and Police Chiefs: 124 Cities Report to the Nation" (Washington, DC: U.S. Conference of Mayors, August 6, 2008).

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in budgets for local law enforcement. Since that report, the economy has only plunged further.

And only yesterday the *Washington Post* reported a 7.7 percent increase in major crime in Montgomery County, Maryland—the largest annual percentage increase in 17 years.[2]

But regardless of how direct the correlation between the economic downturn and crime rates may be, during the past year, victim service professionals have seen a clear increase in victimization and victim need, coupled with significantly reduced funding to respond to this crisis.

At the National Center, we have seen a 25 percent increase in calls to our National Crime Victim Helpline in the past year (from October 2007 to October 2008). Many hotlines and crisis lines around the country are seeing similar increases, as job losses and economic stress factor into increased violence in the home and in our communities.

We recently polled our members about crime and victimization in their communities. What they told us can only be described as a crisis in the nation's ability to respond to victims of crime. I'd like to share with you some of their responses.

First, 92 percent of respondents reported an increase in victimization. In particular, they noted increases in robberies, property crimes, and domestic violence. Many also mentioned an increase in the level of violence associated with these crimes. Some of the comments we received:

- A prosecutor-based assistant for domestic violence victims said, "I've seen my victim base double in the year I have been doing my job."

- Another prosecutor-based victim assistant told us, "We've had a 143 percent increase from 2005 to 2007 in face-to-face contact with victims [and] a 215 percent increase in . . . telephone contact."

- One shelter worker reported, "There has been a 34 percent increase in victim services over the last several months in my domestic violence shelter."

- A law enforcement-based victim assistant said, "Services to new victims . . . have increased by 11 percent over the previous year. Elder abuse referrals have increased by 19 percent, and services to our growing immigrant population have increased by 13 percent."

Many said that victims were also requiring more services. They told us repeatedly that due to a shortage of affordable housing, the increased cost of living, and rising unemployment, victims are requiring longer stays in emergency shelters. And many victims are coming to victim services with a broader range of needs.

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[2] Dan Morse, "Montgomery Faces 7.7% Increase in Major Crime," *Washington Post* January 7, 2009, B01.

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Nearly 90 percent of respondents thought this increased demand for victim services was linked to economic conditions. Some of their observations were telling. Some noted the link between financial stress and increased drug and alcohol use, which in turn, they felt, was connected to increased violence. Others noted an increasing homeless population, people who are particularly vulnerable to crime. Several reported increased requests for victim compensation, stating that victims are less likely to have insurance to cover their crime-related expenses. One victim service provider responded that since their services were free, they were seeing an influx of victims who used to be treated by mental health centers, senior centers, and other programs that have been downsized or closed.

One respondent who works with sexual assault victims observed that victims may suffer from longterm depression, posttraumatic stress disorder (PTSD) or other trauma-related disorders. When faced with additional stressors such as a job loss or decrease in income, victims can be pushed into a "crisis mode" where past trauma resurfaces and sets the victim on a downward spiral.

Across the board, victim service providers reported that they are strapped for funding. Many spoke of a decline in corporate and individual giving, and of significant state and county budget cuts.

Several respondents in rural areas spoke of the funding pressures they face. Many, who are currently serving nine or 10 counties, are under financial pressure to reduce the size of their service area. Rural programs reported a lack of funding for transportation either to bring victims to services or bring services to outlying areas. One prosecutor-based victim assistance provider told us, "If our program goes away, there is no one else in our county who is there to help victims of crime."

Addressing this crisis

How can we address this crisis? We understand that budgets are tight. But we believe that smart investments by Congress would both significantly improve services to victims and help save millions of dollars that would otherwise be lost as a result of the harm suffered by victims of crime. This harm is reflected in lost wages and productivity, substance abuse, posttraumatic stress disorder, a host of physical and psychological injuries, suicide, and loss of financial stability. Smart investments include releasing additional Victims of Crime Act (VOCA) funds, fully funding the programs included in the Violence against Women Act, restoring funding for Byrne/JAG grants, funding the COPS Office, and funding alternatives for at-risk juveniles.

VOCA

In our view, the best way for Congress to support a more effective response to victims is by releasing additional VOCA funds.

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The Victims of Crime Act (VOCA) Fund is the principal source of funding for victim services. Funded entirely through fines and penalties on federal offenders, the VOCA fund supports both crime victim compensation, which pays many of the out-of-pocket expenses incurred by victims as a result of crime, and victim assistance programs, which provide victims with support and guidance in the aftermath of crime. Nearly 4 million victims a year are served by more than 4,000 local and state victim service agencies funded by VOCA. VOCA assistance grants support programs that provide assistance to victims of all kinds of crime including victims of assault, robbery, gang violence, intoxicated drivers, fraud, elder abuse, domestic violence, child abuse and neglect, sexual assault, stalking, survivors of homicide, and many others. VOCA also supports victim assistance for those involved in the federal criminal justice system, including survivors of terrorist acts.

For the past several years, Congress has imposed a cap on the funds disbursed each year, in part to promote a steady and predictable level of funding. In recent years the cap has hovered around $625 million, but last year it decreased to $590 million. At the same time, the balance of the fund has grown to an estimated $1.9 billion. Approximately $896 million was collected during FY08 alone. That was the third largest amount deposited in one year in the history of the VOCA Fund, and it is $186 million above what was anticipated. There are indications that FY09 will be another high year for collections into the VOCA Fund, considering media reports of additional high-dollar criminal fines to be imposed in negotiated federal sentencing agreements. Therefore, Congress can release additional VOCA funds with no impact on the overall budget figures, and no fear of draining the fund.

Releasing additional VOCA funds would provide immediate relief to state victim assistance of all types.

VAWA

Another extremely important source of funding for our national response to victims is provided under the Violence Against Women Act. Many important programs authorized by VAWA 2005 have not yet been funded or have received only a fraction of their authorized funding. These include the Sexual Assault Services Program (SASP), which funds direct services for victims of sexual offenses, and programs aimed at teen victims such as the Advocates for Youth/Services for Youth Victims and the Access to Justice for Youth grant programs.

Other VAWA programs received an expansion of their purpose areas and an accompanying increase in authorization levels, but have never received the additional funding needed to serve their broadened mission. One example of this is the Services for Rural Victims program, expanded to serve victims of domestic violence, dating violence, sexual assault, stalking, and child victimization. This program was designed to address the need for additional funding for victim services in rural communities. Those victims face increased barriers to services, including lack of transportation to services that may be hundreds of miles away, increased privacy concerns in small rural communities, and lack

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of legal assistance in obtaining protective orders. This grant program is authorized at $55 million but has only received $40 million.

Fully funding these and other VAWA programs would make a significant difference in our ability to serve victims.

Byrne/Justice Assistance Grants (JAG)

As this Committee knows, the Byrne/JAG formula grant program sustained a devastating 67 percent cut in funding last year, crippling innovation and coordination efforts for state and local law enforcement.

This flexible grant program provides funding not only for local police departments, but also for a host of innovations that often become "best practices " in prosecution, defense, specialized courts, juvenile justice, forensics, and victim services. Byrne can, and does, fund programs that directly benefit crime victims and improve their access to justice. For example, Kansas has funded its victim services in the Department of Corrections using Byrne/JAG funding. And Utah funded an Internet Crime Victims' Assistance Project, which pays to bring victims of cybercrime into the state to testify when the suspect was in Utah at the time of the crime.

Many of Byrne/JAG initiatives are not direct "victim services" but are crucial for victims seeking justice. As examples of such uses of Byrne funding:

- New York funded domestic violence courts and enhanced prosecution efforts for identity theft;
- Vermont funded additional DNA forensic technicians;
- Wisconsin funded a Court Appointed Special Advocate (CASA) program;
- Rhode Island funded school resource officers;
- Maryland funded the Baltimore Domestic Violence Unit Centralization Project;
- Hawaii funded a special program to address financial exploitation of dependent adults;
- Arizona, California, Oklahoma, and other states funded special efforts to address gang violence;
- South Carolina funded a special child and elder abuse investigator; and
- Pennsylvania funded a registry for protection orders.

Other funding

I would like to mention two additional ways that Congress could invest in serving victims of crime. First, direct funding toward services for teens and at-risk youth.

Our Teen Victim Initiative works with Boys and Girls Clubs around the country, many of which report an increase in crime in their neighborhoods. We know that services to at-risk youth are crucial to prevent crime and reduce victimization. You may remember our recent survey of youth through the Boys and Girls Clubs in the greater Boston area, where we asked teens about their experience with gangs and witness intimidation. The

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kids told us—fund alternatives. One said, "We have two choices, you either play basketball or you join a gang." They told us they want to be safe, they want to be a part of making their neighborhoods safe, and they need adults they can trust.[3]

Unfortunately, programs that serve at-risk youth have also seen significant funding reductions. We need to address this problem in order to prevent young people from becoming either victims or perpetrators.

Finally, we strongly urge you to fund the COPS program. Robust local law enforcement is critical to keeping communities safe through effective enforcement, prevention, and partnership with the community. COPS funds can be used not only to hire law enforcement officers, but also for crime analysts, school resource officers, and other personnel. We suggest that those funds also be used to improve law enforcement's ability to work with victims by, for example, hiring victim advocates to work with survivors of homicide.

Conclusion

In summary, demand for victim services is up, budgets and critical services are being cut, and Congress can make a difference. In VOCA, VAWA, Byrne, and COPS, Congress has the tools to relieve this crisis. We urge Congress to act swiftly: crime victims are counting on you.

[3] Julie L. Whitman and Robert C. Davis, "Snitches Get Stitches: Youth, Gangs, and Witness Intimidation in Massachusetts," (Washington, DC: National Center for Victims of Crime, 2007.)

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214 Massachusetts Ave. N.E. Washington D.C. 20002 (202) 546-4400 www.heritage.org

CONGRESSIONAL TESTIMONY

Statement of
David B. Muhlhausen, Ph.D.
Senior Policy Analyst
Center for Data Analysis
The Heritage Foundation

Before the Committee on the Judiciary of the United States Senate

Delivered January 8, 2009

"Adding COPS Funding to the Economic Stimulus Package Will Not Stimulate the Economy, Nor Will It Effectively Combat Crime"

Introduction

My name is David Muhlhausen. I am Senior Policy Analyst in the Center for Data Analysis at The Heritage Foundation. I thank Chairman Patrick J. Leahy, Ranking Member Arlen Specter, and the rest of the committee for the opportunity to testify today. The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

While Congress is developing legislation intended to stimulate the economy, interest groups, including governors, big city mayors, and other local officials, are lining up for their share of what is rapidly becoming a political Christmas tree. Keeping with this theme, Congress is considering the proposal to add funding for the Office of Community Oriented Policing Services (COPS) to the economic stimulus package. Created by the passage of the "Violent Crime Control and Law Enforcement Act of 1994," COPS was expected to reduce crime by subsidizing the placement of 100,000 additional police officers on America's streets.

My testimony focuses on the following points:

- The COPS program encourages state and local governments to be fiscally irresponsible;

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- Additional funding for COPS will do virtually nothing to stimulate the economy;
- The expansion of government reduces economic growth;
- Claims of a forthcoming violent crime epidemic are overstated;
- The COPS program has an extensive track record of poor performance; and
- COPS assigns functions to the federal government that fall within the expertise, jurisdiction, and constitutional responsibilities of state and local governments.

COPS Encourages Fiscally Irresponsible Behavior by Local Governments
The passage of the 1994 Crime Act and the creation of COPS marks an important shift in federal assistance for state and local law enforcement. Previously, federal assistance focused on helping state and local governments test innovative ideas, such as providing funding for demonstration programs. The 1994 Crime Act shifted federal assistance away from testing innovative ideas and towards subsidizing the routine operations of state and local law enforcement.[1] Unfortunately, COPS encourages state and local officials to shift accountability for local crime toward the federal government when they fail to devote adequate resources to fighting crime. This shift in responsibility is unfortunate because ordinary street crime is the primary responsibility of state and local government.

Boston illustrates how COPS encourages fiscal irresponsibility by local governments. Boston Mayor Thomas M. Menino has blamed his inability to properly staff the Boston Police Department on a lack of COPS funding. During the 1990s, Boston accepted millions of dollars in COPS grants to hire additional police officers. When accepting these grants, Boston promised to retain these officers and maintain the same staffing levels after the federal contributions expired. Instead of developing a plan to retain the officers, Mayor Menino decided to downsize officer staffing after the grants expired, in violation of the federal grant rules.[2] The number of Boston police officers declined from 2,252 in 1999 to 2,036 in 2004—a 9.6 percent decrease. Taking population growth into account, the number of police officers declined by 13.1 percent from 40.4 officers per 10,000 residents in 1999 to 35.1 officers per 10,000 residents in 2004.[3]

Commenting on Boston's failure to retain COPS-funded officers, a former official in the COPS office pointed out that Boston officials "knew they had to pick up the salaries after the three-year period" of federal funding.[4] Responding to criticism that Boston failed to plan adequately for the phase-out of federal assistance, Mayor Menino's spokeswoman Jacque Goddard said, "The mayor knew all along the money would run out. We would have expected the federal government to offer additional grants that we would have applied for and received."[5] Despite the fact that COPS requires recipients to "specify plans for obtaining necessary support and continuing the [funded] program...following the conclusion of Federal support,"[6] Mayor Menino appears to have viewed COPS grants as an entitlement to perpetual federal funding for the officers funded under the original grants.

Unfortunately, when local elected officials fail to adequately staff the police departments under their supervision, the federal government is now used as a scapegoat.

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More COPS Funding Will Not Stimulate the Economy.
The addition of funding for COPS in the economic stimulus legislation currently being crafted by Congress will do virtually nothing to stimulate the economy. After studying the COPS program for many years, I am not aware of any empirical studies that link COPS grants to increased economic growth.

However, there is one study that analyzed the effect of intergovernmental revenues and combined transportation and public safety expenditures on economic growth.[7] The analysis examined economic growth in 50 states and the District of Columbia from 1978 to 1992. It found intergovernmental revenues and total expenditures for transportation and public safety to be negatively associated with economic growth on the state-level.[8] While establishing legal institutions to protect property rights and enforce the rule of law and contracts are vital to supporting economic activity, our nation has already developed these institutions. Thus, the negative association should not be surprising. In contrast, increased spending on legal institutions in developing countries can theoretically play a crucial role in encouraging economic growth. In addition, the study found that increases in government expenditures are associated with lower economic growth. This finding should not be startling because a voluminous set of economic literature supports this negative relationship.

The Expansion of Government Reduces Economic Growth
Increased government spending is unlikely to lift our nation's economy out of the current recession.[9] There are two major reasons for this negative relationship. First, government spending crowds out private spending, especially private investment spending that would have elevated productivity and promoted technical advancement.[10] Second, the amount of government spending indirectly measures other government interferences into the operation of the private sector, such as regulations that pin down economic growth and efficiency.[11] Numerous studies demonstrate that the increased size of government reduces economic growth.[12] The size of government is most commonly measured as the percentage of GDP consumed by government expenditures.

An analysis of 50 states and the District of Columbia from 1967 to 1992 found that the size of government, measured as total government expenditures as a percentage of total state personal income, is negatively associated with economic growth.[13] A ten percent increase in government size leads to a 0.2 to 3.7 percent decrease in economic growth.[14]

Cross-country comparisons also demonstrate that the size of government is inversely related to economic growth. An analysis of 59 developing countries from 1960 to 1985 found that a 1 percent increase in government size, defined as government expenditures as a percent of gross domestic product (GDP), is associated with a 0.143 percent decrease in the rate of economic growth.[15] Several other cross-country studies found similar results.[16]

Instead of increasing the size of government, Congress needs to consider how economic recoveries occur. The two major ways to respond to economic downturns are through changes in monetary and fiscal policies. Monetary policy has been vital for ending

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recessions since World War II.[17] Fiscal actions, such as the economic stimulus legislation being drafted by Congress, are another way thought to encourage economic growth.

While Congress appears to be drafting a massive spending bill, policymakers should consider lowering taxes and eliminating wasteful programs instead of increasing spending that will likely do nothing but push our country deeper into debt. According to an analysis of the United States from 1955 to 2000 by Andre Mountford of the University of London and Harald Uhlig of Humboldt University, deficit-financed tax cuts appear to be the best fiscal policy for stimulating the economy.[18] While Congress is considering adopting massive new spending programs to shock the economy, Mountford and Uhlig's research strongly indicates that the weak short-term gains from government spending shocks are unlikely to outweigh the long-term costs of spending shocks.[19] While spending shocks may affect economic activity temporarily, these new spending programs can create fiscal and, in some cases, economic problems after these programs expire.

In another study by President-elect Barrack Obama's nominee for Chair of the Council of Economic Advisors, Professor Christina D. Romer and her coauthor, Professor David H. Romer, found that a tax increase of 1 percent of GDP decreases real GDP by about 3 percent.[20] Conversely, lowering taxes by 1 percent of GDP is associated with an increase in real GDP of 3 percent.

As the research mentioned in this testimony suggests, new government spending is unlikely to make a substantial and long-term contribution to an economic recovery. In particular, the possibility of increased COPS funding providing an economic stimulus is improbable. Government spending infused into the economy must first be taxed or borrowed out of the private sector. This transfer can only be efficient if the government spends the money more effectively than the private sector. Unfortunately, many government programs weaken the private sector by directing resources toward less productive uses and thus hinder economic growth.

Claims of a Forthcoming Violent Crime Epidemic are Overstated

According to some mayors, police chiefs, and criminologists, the United States is at the beginning of an epidemic of violence that will worsen if Congress does not increase funding to subsidize state and local criminal justice programs.[21] After the September 11, 2001, terrorist attacks, the Bush Administration and Congress decided to reprioritize federal resources away from subsidizing local police salaries and toward bolstering homeland security needs. This meant shifting funding away from wasteful and ineffective law enforcement grants, which did not address any clear national responsibility, and toward strengthening the capacity of state and local governments to respond to terrorist threats.

Those who want to restore COPS funding bolster their argument with reports that crime rates are rising.[22] In 2006, the Police Executive Research Forum (PERF) warned the nation that the violent crime rate, as reported by the Uniform Crime Reports (UCR), increased in 2005 compared to 2004.[23] PERF concluded that this one-year increase represented "the front end of a tipping point of an epidemic of violence not seen for

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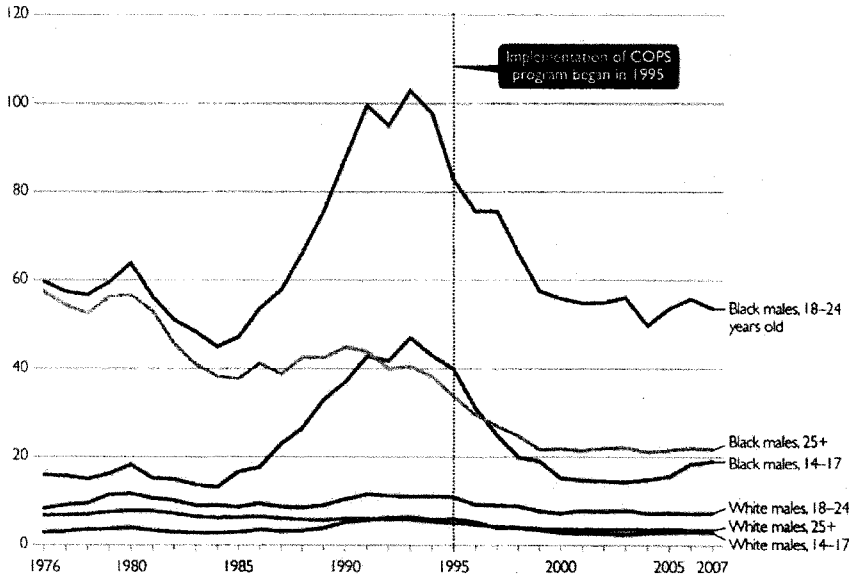
years."[24] Then PERF called on Congress to increase funding for federal subsidies of the routine activities of local law enforcement. However, the forthcoming epidemic of violence appears to have stalled. The UCR indicates that in 2007 the violent crime rate decreased and is slightly below the level reported in 2005.[25]

Homicide Victimization Rates Among White and Black Males

Homicides Per 100,000 Residents, 1976–2007



Source: James Alan Fox and Marc L. Swatt, "The Recent Surge in Homicides Involving Young Black Males and Guns: Time to Reinvest in Prevention and Crime Control," Northwestern University, December 2009, Table 8.

Chart 1 heritage.org

More recently, Professors James Alan Fox and Marc L. Swatt of Northwestern University assert that homicides involving young black males are "surging."[26] For example, Fox and Swatt note that from 2002 to 2007 the homicide rate for black males aged 14-17 increased by 31 percent.[27] To put this "surge" in proper perspective, policymakers need to understand that the years used in this comparison were selected for their dramatic effect. To obtain a balanced perspective on homicide rates of young males, we need to see the long-term trend. Chart 1 presents the trends in homicide victimization rates of white and black males by age group from 1976 to 2007.[28] The 2007 trend in black homicide victimizations is dramatically lower than the trend in 1993, while the trend for while males remained relatively flat. Further, the homicide victimization rate of 14- to 17-year-old black males spectacularly decreased by almost 60 percent from 1993 to 2007—a decrease from 47.0 homicides per 100,000 in 1993 to 19.0 homicides per

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100,000 in 2007.

While the modest increase in 14- to 17-year-old black male homicide victimizations is tragic, the trend does not hold for older black males. From 2002 to 2007, the homicide victimization rates of black males aged 18-24 and 25 and older decreased by 2.5 percent and 1.4 percent, respectively.

Overall, America is a much safer place compared to fifteen years ago. A recent review of crime data reported by police departments by the *Associated Press* found that in 25 cities with populations of more than 350,000 residents experienced an overall drop of 2.7 percent in total slayings from 2007 to 2008.[29] Besides crime statistics reported by police departments, another barometer of crime trends is the National Crime Victimization Survey (NCVS). For the latest year of data, the "rates for every major violent and property crime measured by the NCVS in 2007 were at or near the lowest levels recorded since 1973, the first year that such data were available."[30] The overall victimization rate for violent crime in 2007 was 20.7 incidents per 1,000 persons compared to 21.1 incidents in 2005.[31]

Contrary to the claims of the proponents of more federal subsidies for state and local law enforcement, funding these programs would have little effect on crime rates, but they would contribute to the overfederalization of the criminal justice system.

COPS has an Extensive Track Record of Poor Performance

Research by both The Heritage Foundation and the U.S. Department of Justice found that the COPS program failed.[32] According to COPS, the program reached an important milestone on May 12, 1999, "funding the 100,000th officer ahead of schedule and under budget."[33] While measuring the goal of adding 100,000 additional officers is problematic, the best available evidence indicates that COPS fell short of this goal. Research indicates that COPS did not actually put 100,000 additional officers on the street.[34] A National Institute of Justice (NIJ) process evaluation of COPS concluded: "Whether the program will ever increase the number of officers on the street at a single point in time to 100,000 is not clear."[35]

Most hiring grantees faced officer retention issues with their COPS-funded officer positions. According to an NIJ national survey of COPS grantees, 52 percent of hiring grantees were uncertain about their long-term plans for officer retention, 37 percent would achieve retention with funds cleared through the attrition of non–COPS-funded officers, 20 percent reported that retention would occur by cutting other positions, and 10 percent reported that the officers would not be retained. Of the medium and large police agencies that received hiring grants from 1994 to 1998, only 46 percent reported that all of their original COPS-funded officers were still employed in 1998.[36]

Very Little Impact on Crime. Heritage Foundation evaluations have uniformly found that COPS grants had little to no impact on crime rates.[37] In 2001, Heritage's Center for Data Analysis (CDA) conducted the first analysis of the COPS program's effectiveness.[38] The CDA evaluation accounted for yearly state and local law enforcement expenditures, and

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other socioeconomic factors, in counties from 1995 to 1998. It found that COPS grants for the hiring of additional police officers and for technology had no statistically significant effect on reducing the rates of violent crime.

In 2006, a second CDA evaluation of COPS grants using data from 1990 to 1999 for 58 large cities confirmed the earlier conclusion that the program has done little to reduce crime.[39] In addition, it found that the ineffectiveness of COPS grants awarded to large cities may be due to their misuse, with grants awarded to large cities used to supplant local police expenditures. Federal funds were substituted for local funding.

The 2006 CDA evaluation found COPS grants had a small effect on the crime rates in large cities, strongly indicating that increasing funding for the COPS program will do little to reduce crime.

The COPS grants were disbursed in three types: hiring grants, MORE grants, and innovative grants. The hiring grants paid for 75 percent of the salaries of newly hired officers over three years. Grantees were required to retain the new officers after the grants expired.

Although the hiring grants were associated with a slight decrease in robberies, the hiring grants failed to have a statistically measurable impact on murder, rape, assault, burglary, larceny, and auto theft rates. A 1 percent increase in hiring grants is associated with a 0.01 percent decrease in robbery rates, or a reduction of 0.06 robberies per 100,000 residents. The hiring grants' meager effect on robberies, and the lack of statistically significant findings for the six other crime categories, suggests that new funding for the hiring grants will do little to help large cities fight crime.

The Making Officer Redeployment Effective (MORE) grants provided funding for technology, officer overtime, and civilian staff salaries. The MORE grants were intended to redeploy veteran officers from administrative tasks to community policing.

The MORE grants appear to deter more crime than the hiring grants. Though MORE grants did not have a statistically significant relationship with murder, rape, larceny, and auto theft rates, the grants had a small deterrent effect on robbery, assault, and burglary rates. A 1 percent increase in MORE grants was associated with:

- A 0.007 percent decrease in robberies.
- A 0.005 percent decrease in assaults.
- A 0.002 percent decrease in burglaries.

For the average large city, the deterrent effect of a 1 percent increase in MORE grant funding per capita resulted in:

- 0.005 fewer robberies per 100,000 residents.
- 0.03 fewer assaults per 100,000 residents.
- 0.017 fewer burglaries per 100,000 residents.

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The MORE grants have changed since the 1990s. They were renamed "technology" grants, and they no longer require grantees to use the funding to redeploy officers from administrative tasks to community policing. Instead of the original competitive application process, the technology grants are awarded through congressional earmarks. Limiting the MORE grants to earmarks may negate the deterrent effect found in this evaluation.

The innovative grants provided funding for addressing specific problems, such as domestic violence, gangs, and youth firearms violence. The innovative grants have a statistically significant relationship with a reduction in the murder rate, but no statistically measurable effect on the other crime rates. A 1 percent increase in innovative grants per capita is associated with a 0.001 percent decrease in murders per capita, or 0.0002 fewer murders per 100,000 residents. By the end of the Clinton Administration, most of the innovative grants were discontinued.

Additional research concludes that COPS was ineffective at reducing crime. Professors John Worrall of the University of Texas at Dallas and Tomislav Kovandzic of the University of Alabama at Birmingham recently evaluated the impact of COPS grants in 189 large cities from 1990 to 2000.[40] The authors found that COPS hiring, MORE, and innovative grants had little to no effect on crime. Commenting on the significance of their finding for public policy, the authors concluded that "a strategy of throwing money at the crime problem, of simply *hiring* more police officers, does not seem to help reduce crime to a significant extent."[41]

Are COPS grants worth the cost? The value of the crimes prevented by COPS grants was estimated using prior research on the cost of crime to victims. Specifically, the dollar values of crimes prevented through COPS grants are estimated on a per capita basis. A 1996 National Institute of Justice (NIJ) study estimated the cost of crime to victims (victim-cost) based on personal expenses (for example, medical care and property losses), reduced productivity relating to work, home, and school, and quality of life losses.[42] For the analysis, the NIJ figures are converted into 1995 dollars. For example, each murder prevented results in an estimated victim-cost savings of $3.1 million. The victim-cost savings for each crime prevented are $8,400 for robbery, $25,300 for assault, $1,500 for burglary, and $3,900 for auto theft.

From 1995 to 1999, large cities spent an average of $3.05 per capita in hiring grants, $1.36 per capita in MORE grants, and $0.62 per capita in innovative grants. The cost-benefit estimates indicate that COPS grants did not pay for themselves.[43] See Chart 2.

- On average, large cities spent $3.05 per capita in hiring grants, which lead to a victim cost-savings of $0.93 per capita—a net loss of $2.12 per capita.
- On average, large cities spent $1.36 per capita in MORE grants, which lead to a victim cost-savings of $1.70 per capita—a net gain of $0.34 per capita.
- On average, large cities spent $0.62 per capita in innovative grants, which lead to a victim cost-savings of $1.34 per capita—a net gain of $0.72 per capita.

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Thus, average total COPS grant spending of $5.03 per capita in these cities produced $3.97 in victim-cost savings, for a net loss of $1.06 per capita.

The Negative Return of COPS Grants

Figures are Averages for Large Cities

Grant Type	Per-Capita Expenditures	Per-Capita Victim-Cost Savings	Net Gain/Loss Per-Capita
Hiring	$3.05	$0.93	–$2.12
MORE	$1.36	$1.70	+$0.34
Innovative	$0.62	$1.34	+$0.72
Totals	$5.03	$3.97	–$1.06

Note: Dollar amounts are in 1995 dollars.

Source: Calulations based on David B. Muhlhausen, "Impact Evaluation of COPS Grants in Large Cities," Heritage Foundation *Center for Data Analysis Report* No. CDA06–03, May 26, 2004, and Ted Miller, Mark A. Cohen, and Brian Wiesema, "Victim Costs and Consequences: A New Look," U.S. Department of Justice, Office of Justice Programs, National Institute of Justice *Research Report*, January 1996.

Chart 2 heritage.org

Overall, the innovative grants were allocated the smallest share of COPS funding, and appear to have produced the greatest monetary benefits. Though the benefits of the MORE grants are not as large as the innovative grant benefits, the MORE grants produce positive returns. The hiring grants, which were allocated the largest share of funding over the years and received the most public attention appear to be the least effective of the grants.

COPS grants used for supplanting local funds. The ineffectiveness of COPS grants awarded to large cities may be due to the misuse of the grants. The 2006 CDA evaluation found that COPS grants awarded to large cities were used to supplant local police expenditures. Supplanting occurs when federal funds are used to replace local funds, such as when federal funds intended for hiring additional police officers are instead used to pay the salaries of currently employed officers.

This finding is supported by multiple audits conducted by the Department of Justice. Its Office of the Inspector General (OIG) found that cities failed to hire the number of officers required, and did not comply with other grant conditions.[44] For example, instead of hiring 249 new officers, Newark, NJ, reduced its police force by 142 officers from fiscal years 1996 to 1997.[45] Other audits indicate that some police departments supplanted local funding by failing to hire the required number of additional officers. For example, OIG audits indicated that Atlanta, GA, El Paso, TX, and Sacramento, CA, used COPS grants to supplant local funding.[46] Atlanta used over $5.1 million in hiring grants to pay the salaries of officers who otherwise would have received funding from local sources. After receiving grants to hire 231 additional police officers, El Paso failed to hire the number of officers required by the grant. Sacramento used over $3.9 million in hiring grants to retain officers funded through earlier grants.

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In Washington, D.C., the police department was awarded almost $11 million in MORE grants to hire 56 civilians and redeploy 521 officers through technology purchases.[47] When the OIG asked for a list of officers redeployed from administrative duties to community policing as required by the grants, the list included only 53 officers. Of the 53, one officer was deceased, ten were retired, and thirteen no longer worked for the police department.

COPS appears to have done little to resolve the misuse of the grants. According to congressional testimony by the Justice Department Inspector General Glenn A. Fine, "in many cases, the response to our findings was a paper exercise and...the COPS program did not take sufficient action to either bring the grantee in compliance, to offset the funds, to recoup the funds or to waive the funds."[48] Fine testified that COPS did not pay enough attention to ensure adherence to the grant requirements, including the hiring of officers, retaining officers, and tracking the redeployment of officers.[49]

Outside the Federal Government's Scope, Expertise, and Responsibility
Grants that subsidize the routine activities of local law enforcement assign to the federal government functions that fall within the expertise, jurisdiction, and constitutional responsibilities of state and local governments.[50] Additional grant funding would encourage state and local officials to become even more dependent on federal grant funding by shifting accountability for local crime away from state and local governments and toward the federal government.

Combating ordinary crime is the principal responsibility of the state and local governments. If Congress wants to aid in the fight against crime, it should limit itself to unique roles that only the federal government can play. The federal government should not become a crutch on which local law enforcement becomes dependent.

Conclusion
The inclusion of COPS funding in the economic stimulus package will be exceedingly unlikely to produce any stimulus for an economic recovery. Not only does the COPS program have an extensive track record of poor performance, but it encourages local government to be fiscally irresponsible.

* * *

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[7]Stephen M. Miller and Frank S. Russek, "Fiscal Structures and Economic Growth at the State and Local Level," *Public Finance Review*, Vol. 25, No. 2 (1997), pp. 213-237.
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[9]Brian M. Riedl, "Why Government Spending Does Not Stimulate Economic Growth," Heritage Foundation *Backgrounder* No. 2208, November 12, 2008, at *http://www.heritage.org/Research/Budget/bg2208.cfm*.
[10]Burton A. Abrams, "The Effect of Government Size on the Unemployment Rate," *Public Choice*, Vol. 99 (1999), pp. 395-401. Abrams notes that "In theory, it is possible for government spending to be allocated into growth enhancing infrastructure and education but in practice most outlays go for redistribution or government-mandated consumption which does not improve productivity" (p. 395).
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[23]Police Executive Research Forum, *Chief Concerns.*

[24]Police Executive Research Forum, *Chief Concerns*, p. 1.

[25]Calculations based on data from the Federal Bureau of Investigation, Crime in the United States, 2007, September 2008, Table 1, at *http://www.fbi.gov/ucr/cius2007/data/table_01.html* (January 6, 2009).

[26]Fox and Swatt, "The Recent Surge in Homicides Involving Young Black Males and Guns."

[27]*Ibid.*, p. 1.

[28]The data are based on Table 8 from Fox and Swatt, "The Recent Surge in Homicides Involving Young Black Males and Guns."

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[30]Michael R, Rand, "Criminal Victimization, 2007," U.S. Bureau of Justice Statistics *Bulletin*, NCJ-224390, December 2008, p. 1.

[31]*Ibid.*

[32]Gareth Davis, David B. Muhlhausen, Dexter Ingram, and Ralph Rector, "The Facts About COPS: A Performance Overview of the Community Oriented Policing Services Program," Heritage Foundation *Center for Data Analysis Report* No. CDA00–10, September 25, 2000, at *http://www.heritage.org/Research/Crime/CDA00-10.cfm*; Christopher S. Koper, Jeffrey A. Roth, and Edward Maguire, "Putting 100,000 Officers on the Street: Progress as of 1998 and Preliminary Projections Through 2003," in Jeffrey A. Roth, Joseph F. Ryan, Stephen J. Gaffigan, Christopher S. Koper, Mark H. Moore, Janice A. Roehl, Calvin C. Johnson, Gretchen E. Moore, Ruth M. White, Michael E. Buerger, Elizabeth A. Langston, and David Thatcher, *National Evaluation of the COPS Program: Title I of the 1994 Crime Act* (Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, 2000), p. 163; and U.S. Department of Justice, Office of Inspector General, "Police Hiring and

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[38]Muhlhausen, "Do Community Oriented Policing Services Grants Affect Violent Crime Rates?"

[39]Muhlhausen, "Impact Evaluation of COPS Grants in Large Cities."

[40]John L. Worrall and Tomislav V. Kovandzic, "COPS Grants and Crime Revisited," *Criminology*, Vol. 45, No. 1 (February 2007), pp. 159–190.

[41]*Ibid.*, p. 185.

[42]Ted Miller, Mark A. Cohen, and Brian Wiersema, "Victim Costs and Consequences: A New Look," U.S. Department of Justice, Office of Justice Programs, National Institute of Justice *Research Report*, January 1996, at *http://www.ncjrs.gov/pdffiles/victcost.pdf* (April 16, 2006).

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[47]U.S. Department of Justice, Office of Inspector General, "Office of Community Oriented Policing Services Grants to the Metropolitan Police Department, District of Columbia," Executive summary, *Audit Report* No. GR–30–01–003, December 29, 2000, at *http://www.usdoj.gov/oig/grants/g3001003.htm* (April 16, 2008).

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NATIONAL SHERIFFS' ASSOCIATION

1450 Duke Street • Alexandria, VA 22314-3490 • 703-836-7827 • Fax 703-683-6541
WWW. SHERIFFS.ORG • NSAMAIL@SHERIFFS.ORG

January 13, 2009

The Honorable Senator Patrick J. Leahy, Chair
Senate Judiciary Committee
152 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Arlen Specter, Ranking Member
Senate Judiciary Committee
711 Hart Senate Office Building
Washington, D.C. 20510

Dear Senators Leahy and Spector:

We thank you for allowing the National Sheriffs' Association (NSA) to submit this letter into the official record for the Senate Judiciary Committee's hearing on "Helping State and Local Law Enforcement During an Economic Downturn," held on January 8, 2009.

On behalf of the National Sheriffs' Association, we are writing to express our strong concerns regarding the severe decrease in critical federal funding for state and local law enforcement programs. In particular, NSA is concerned with the drastic reduction in funding for the Byrne Justice Assistance Grant (JAG) and COPS Programs over the last several years.

In the early 1990's, Congress joined in a partnership with local law enforcement to provide federal funding assistance to combat crime and hire more officers to protect communities nationwide. Unfortunately, in recent years, the federal government has strayed from its commitment to state and local law enforcement.

For nearly two decades, the Byrne program has funded multi-jurisdictional state and local drug and gang task forces, community crime prevention programs, substance abuse treatment programs, prosecution initiatives, and many other local crime control and prevention programs. NSA perceives Byrne JAG as the foundation of federal aid for local law enforcement to address violent crimes. The continued reduction in Byrne funding will undoubtedly obliterate the successes that state and local law enforcement have already achieved.

In many states, Byrne funded multi-jurisdictional task forces are the cornerstone of drug and gang enforcement efforts. These task forces represent the ideal in law enforcement: pooling limited resources, sharing intelligence, strategically targeting a specific problem, and eliminating duplication of efforts. Moreover, these task forces allow federal, state and local law enforcement and prosecutors to work together and share intelligence to stem large-scale organized crime. Due to a cut of 67% of Byrne JAG funding in FY '08, from $520 million in FY '07 to $170 million in FY '08, many task forces have been forced to significantly scale back their operational effectiveness or shut down completely.

Serving Our Nation's Sheriffs Since 1940

Additionally, enough emphasis cannot be placed on the importance of COPS programs, particularly the COPS Hiring Program which allows law enforcement agencies to hire and train new officers. COPS programs allow for funding to be directly distributed to local law enforcement agencies – those who can best assess and allocate funds to where they have the most impact. COPS programs assure the quality of policing services through better training and the highest-technology equipment. Yet, in recent years, the COPS funding has been dramatically cut and funding for the COPS Hiring Initiative has been completely zeroed out.

According to the Bureau of Labor Statistics, the United States is currently battling an economic recession, and nearly 11.1 million people in the United State are unemployed. Sociologists and economists have found that when the economy is down and unemployment is high, crime rates increase. State and local law enforcement agencies are expected to combat this rise in crime; however, are expected to do so with depleted resources and limited personnel.

As the United States is struggling to free itself from a recession, we strongly request that state and local law enforcement receive the funding necessary to continue to combat crime and protect their communities. The strain caused by limited funds for law enforcement programs in the face of increasing crime in the Nation's communities should be a major inducement for government and law enforcement alike to share the responsibility for keeping our communities safe. We strongly urge Congress to fully fund Byrne JAG and COPS programs, particularly the COPS Hiring Initiative.

Respectfully Submitted,

Sheriff David A. Goad
President

Aaron D. Kennard
Executive Director

Serving Our Nation's Sheriffs Since 1940

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The National Troopers Coalition
1308 9th Street, NW
Washington, DC 20001
Office: 202-387-1NTC
Fax: 202-387-0510

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January 7, 2009

Senator Patrick Leahy
433 Russell Senate Office Building
Washington, D.C. 20510

via E-Mail & Regular Mail

Dear Senator Leahy,

On behalf of the 45,000 state highway patrolmen and troopers who are represented by the National Troopers Coalition, I am writing to express our support for an enhancement of the proposed economic stimulus package and making supplemental appropriations for Fiscal Year 2009 for the Department of Justice's Edward Byrne Memorial Justice Assistance Grant Program.

Your leadership in supporting law enforcement's efforts at all levels, state, regional and local, to combat illegal drugs is welcomed and appreciated. We know you are aware of the significant importance of federal funding of multi-jurisdictional and multi-agency task forces in our fight against the illegal drug traffickers.

The dollars provided for as emergency supplemental funding of Byrne-JAG programs is vital in supporting both a continuation and broadening of our efforts. Without this critical funding, we are fearful that we will experience a reversal of the progress made in recent years.

It is imperative that the funding be restored and maintained to the Byrne-JAG programs, and we offer our support to you and your colleagues to that end. Please don't hesitate to contact us if we can be of further assistance and, again, we thank you for taking on this important fight.

Sincerely,

Dennis Hallion
Chairman

DH/sb

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U. S. SENATE – COMMITTEE ON THE JUDICIARY

Statement of
Thomas J. Nee, President
National Association of Police Organizations
317 South Patrick Street, Alexandria, Virginia 22314

"Helping State and Local Law Enforcement During an Economic Downturn"
January 8, 2009

Chairman Leahy, Ranking Member Spector, and members of the Committee, my name is Tom Nee and I am a Patrolman with the Boston Police Department. I also serve as the president of the Boston Police Patrolmen's Association, as well as the National Association of Police Organizations (NAPO). I am submitting this statement today on behalf of NAPO, representing over 241,000 active and retired law enforcement officers throughout the United States. NAPO is a coalition of police unions and associations from across the nation, which was organized for the purpose of advancing the interests of America's law enforcement officers through legislative advocacy, political action and education.

The duty of every law enforcement officer in America is to serve and protect the people of our communities. As such, we need the manpower and tools to do our best to fight crime and, as a part of a national crime fighting strategy, we require the full support of the federal government. I would like to take this opportunity to make you aware of the fact that state and local law enforcement in America is being dangerously shortchanged. In a time when city and state budget coffers alike are tighter than ever, our officers are being passed over for the funding they need to fight crime and terrorism. Crime is on the rise and we need the resources to fight back now.

NAPO served as the leading law enforcement organization, working tirelessly with members of Congress and the administration, to enact the COPS program. Since its inception, the COPS Office has been extremely successful in implementing and carrying out its designated objectives. To date, the COPS Office has funded over 118,000 community police officers in 11,300 communities and countless resources, including enhanced crime fighting technology, equipment, and the development of innovative partnerships with communities to fight crime. COPS, together with the Byrne Memorial Justice Assistance Grant (Byrne-JAG) Program, have given state and local law enforcement the necessary funding to truly assist their efforts to keep our nation's communities safe.

With the support of these federal grant programs, community policing has been a dominant force behind the dramatic reduction in crime this nation has witnessed over the past 13 years. In 2000, violent crime rates were at their lowest level in thirty years, particularly in large cities. More police officers patrolling the streets not only provides greater police presence in our communities but also increases police knowledge of crime problems as well. Thus, allowing law enforcement to do its job more efficiently and effectively.

It is not a coincidence that community policing was at its best and national crime rates were at their lowest when federal support for programs such as COPS and Byrne-JAG was at its highest. It is also no coincidence that the steep reduction in federal support for these programs corresponds with the increases in violent crime rates nationwide. Local law enforcement has more knowledge and

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intelligence about the criminals in their jurisdictions than their federal counterparts, making them an essential part of the national strategy to combat crime.[1]

The administration of George W. Bush has been vocal in its dismissal of these important programs. It has repeatedly proposed steep cuts to the COPS and Byrne-JAG programs, with the COPS hiring initiative receiving the brunt of cuts. Since 2000, funding for the Byrne grants has been cut by more than 83 percent, from $1.023 billion to $170 million in fiscal 2008, and the COPS program has been cut by more than 43 percent, from $1.027 billion to $607 million. This fiscal 2008 level includes $20 million for the COPS hiring initiative, which had been zeroed out in the previous three fiscal years. $20 million will allow for the funding of less than 500 officers nationwide. While better than no funding, this is not enough to make a real impact in our nation's communities.

Today, local police departments, already undermanned due to a lack of resources to hire new officers, must place officers into Drug, Gang and Terrorism Task Forces, as well as protect critical infrastructure during periods of heightened national threat advisory levels, often at the expense of street patrols and community policing efforts.

Phoenix, Arizona law enforcement agencies have had to redeploy officers and resources to fixed structure protection, such as water treatment facilities, Arizona Public Service power stations, and airports, among other infrastructure. While these resources are being shifted away from community policing, Phoenix is seeing record increases in violent crime. Just between 2005 and 2006, the city saw a nearly 5 percent increase in its violent crime rates, including a 4.5 percent rise in homicides and an over 6 percent rise in aggravated assault. Now if you include 2004 in those numbers, Phoenix law enforcement saw an astounding 12 percent increase in homicides and an almost 20 percent increase in aggravated assault over a two year period.

Law enforcement in Los Angeles, California has seen a substantial amount of resources - officers and funding - shifted to homeland security details. Hundreds of law enforcement personnel have been assigned to terrorism prevention issues. However, the Los Angeles Police Department has limited funds to hire new officers. When the department is mandated to redeploy officers to protect infrastructure, staff terrorism task forces, and take on counterterrorism duties, patrol units suffer. Over the past several years, although Los Angeles has seen a decrease in the overall level of violent crimes, including murder, it has seen a significant increase in gang-related homicides and violent crimes. Los Angeles police attribute this to the lack of resources the police department has to cover the holes in community policing and gang deterrence caused by new terrorism prevention duties.

Chicago and Miami are also seeing similar spikes in gang-related violent crimes and the cities' police departments are spread too thin to properly respond to this disturbing trend. Gang violence, terrorism prevention, and the fight against domestic crime cannot always be taken as separate issues, but as pieces of a whole – the protection of our nation's communities. The issue at hand is about giving state and local law enforcement the equipment, training and personnel it needs to accomplish all of its duties.

Another case in point: New York City. The New York City Police Department (NYPD) has lost over 4,000 officers since 1999. After the 9/11 terrorist attacks, the city has been on high alert and its police department has dedicated over 1,000 police officers to counterterrorism activities. Officers

[1] Stimson, Cully. "Heritage Foundation: Don't Burn the Byrne Grants." FOXNews.com, February 8, 2008. http://www.foxnews.com/story/0,2933,330008,00.html

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assigned to street patrol are being trained in terrorism prevention in addition to their usual training, adding to their responsibilities while patrolling New York City streets. Despite these additional duties and training, New York City police officers are some of the lowest paid law enforcement officers in the nation.[2] Low salaries and no premium pay for the added terrorism responsibilities are the primary sources for low officer retention rates and the City's inability to recruit and retain new officers. The NYPD no longer has the funds or personnel to have officers completely dedicated to either terrorism prevention or community policing.

I would like to offer one final example, and it is one that many police departments across the country are also experiencing. On January 1, 2009, the Boston police department was told it might be forced to lay off as many as 200 officers because of cuts in state funding, wiping out hiring efforts to strengthen the force and increase community policing after homicides hit a 10-year high in 2005. If this were to happen, it would end many innovative community policing initiatives that the additional personnel allowed and drive officers off the street and back into patrol cars. There is a high probability that this will result in an increase of violent crime, which not only makes law enforcements' job harder, but also lowers the standard of living for the citizens of Boston.

As we have witnessed in cities such as Phoenix, Los Angeles, New York and Boston, local law enforcement agencies are struggling to meet the needs of their communities due to increased duties, tighter state and local budgets, and diminished federal assistance and support. With the police departments in this nation's largest cities undermanned and overworked and national crime rates at their highest levels in fifteen years, there is no acceptable justification for dangerously low funding levels that the COPS program and the Byrne-JAG program are experiencing.

Over the past 15 years, local law enforcement officers and the agencies they serve have made tremendous strides in reducing the level of crime and violence in our communities. This success was in large part because of the generous assistance and support given to them by the federal government. However, today, as state and local law enforcement take on more duties to protect our communities from rising crime and terrorist threats, federal support of vital assistance programs is in a continuing state of decline. Now is not the time to disregard the programs and resources that have proved to be effective in protecting our neighborhoods. Community oriented policing works. We recognize this fact and so do Americans. It is now time that the federal government recognizes the important impact having more police on the streets has on crime.

Thank you for your time and consideration of this important issue. NAPO looks forward to working with the Committee to ensure that in this time of economic downturn, state and local law enforcement are given the resources they need to protect our nation's communities from crime and terrorism.

[2] During training, new hires earn $25,100 a year. Upon completion of the Police Academy, their annual base salary increases to $32,700. Adjusted for inflation, this is the lowest pay in the history of the NYPD for rookie officers.

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Senate Committee on the Judiciary: "Helping State and Local Law Enforcement During an Economic Downturn"
Testimony of Charles H. Ramsey, Philadelphia Police Commissioner
January 8, 2009

Good Morning Chairman Leahy, Ranking Member Specter and distinguished Committee members. Thank you for this opportunity to discuss the future of our nation's law enforcement agencies at such a critical time in our history. As the Police Commissioner for the City of Philadelphia, a member of the Major Cities Chiefs Association, and the former Chief of Police for the Metropolitan Police Department for nine years, I cannot overstate the importance of developing a sustainable relationship between the federal government and our state and local police agencies.

My testimony here today reflects not just the experience of the City of Philadelphia or the Philadelphia Police Department; our experience, especially at this time, is not unique. Federal support for municipal police organizations has been declining steadily since the horrific attacks of September 11, 2001, in favor of homeland security funding. From 2001 until now, local police have received 81% less financial support, from $2.1 billion to $400 million, for initiatives such as additional personnel hiring and technology grants.

I would submit, however, that this is not an either/or proposition. In looking forward, the federal government can and should support local police in both grants for crime reduction and homeland security. At its highest, the Philadelphia Police Department received almost $32 million in federal grants for crime reduction in 1996. Last year in 2008, we received $3.5 million in federal funding.

Not only do we as local law enforcement agencies share a similar history with decreasing federal investments, but we all share the present experience of being in an economic recession. No city or state has been spared from this recession. Local governments across the country are facing extraordinary budget shortfalls, necessitating cutbacks in services, programs, and personnel. The public safety sector is not immune, and the consequences for our cities, large and small, are very real. Local police agencies are the primary agency in any municipal government, for preventing, responding to, and reducing crime, violence and terrorism. A strong and economically viable city will have a strong, capable and well-trained local police agency as its foundation. With cities and states universally scaling back their police operations, infrastructure, reducing or cancelling academy classes, cutting back investigative and patrol overtime, slowing their financial investment in technology and implementing hiring freezes for sworn and civilian positions, all of us, police, local, state and
federal government have a stake in ensuring that public safety for the citizens in this country is not compromised.

Providing federal support to local and state law enforcement agencies during this economic downturn is an investment in the growth and success of this nation's future. If we are to build a sustainable future for our cities and states, and that is one of the core issues here, sustainability, then the federal government must partner with local police departments in offering dependable and meaningful support. The public safety dividends reaped by reinvigorating local police with funds for additional personnel, advances in technology, enhanced training in emergency preparedness and homeland security, and the equipment necessary for intelligent policing, are innumerable. Safety and security are essential; essential for the American people and essential for a viable and effective government. Quite frankly, we're not just discussing local policing today; we are discussing how the federal government can partner with municipal government in making it the strongest it can be.

Criminologists, social scientists and statisticians have rigorously studied policing in this country for over 40 years. One area that has received much inquiry is the positive impact of targeted policing initiatives through increased personnel in particularly crime-ridden areas. I've also been in this profession for over 40 years, and based on my experience, the most influential deterrent to crime is a highly visible and well-trained uniform patrol division.

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More personnel not only deter those would-be criminals from breaking the law, but contribute a sense of safety and well-being to our law-abiding citizens that is intangible and invaluable.

In Philadelphia in particular, Mayor Michael A. Nutter and I set aggressive goals for the Department in January 2008, and worked diligently to reduce the level of violent crime in the city. Homicides in 2008 compared to 2007 decreased by 15%, shooting victims by 11%, and our homicide clearance rate reached 75%. This was accomplished by returning more officers from specialized units to uniform patrol in order to increase the size of our patrol force. In light of the current budget constraints, the Philadelphia Police Department will be unable to hire an additional 200 officers originally planned in the beginning of the 2009 fiscal year. "More police = less crime," a formula that when directed using evidence-based policing principles, such as targeting hot spots where violence is disproportionately high, is a crime fighting strategy with which I agree. Additionally, the Philadelphia Police Department must reduce our use of all overtime while maintaining our progress, and our presence on the street. Driving down crime in the years to come, not just for us, but for all local police, will present an even greater challenge in this economy.

The return on investment by the mere proactive presence of well-trained police on the street, coupled with the technological and human resources to investigate and analyze crime, is a very powerful and robust combination. This is exactly the area where local police agencies are being impacted operationally by the state of the economy. Not coincidentally, this is exactly the area where the federal government can step in, right now, with President-elect Obama's stimulus package, and help our nation's cities fortify our public safety programs.

Four areas, common to all law enforcement agencies, have emerged as the focal points for federal support for local police over the past ten years: 1) Hiring law enforcement personnel (both sworn positions and key civilian positions in forensics and intelligence) 2) Training and technology grants 3) Increasing homeland security funds for use locally, such as reinstating the Law Enforcement Terrorism Prevention Program (LETPP) and 4) Increasing flexible assistance through The Edward Byrne Memorial Justice Assistance Grant (JAG).

The opportunities afforded to local police agencies via federal grants for personnel hiring through the COPS program are so vitally important to all of us now. It is not just sworn positions, however, that are needed for effective crime fighting. Increasing the number of civilian positions in the area of forensic sciences, specifically ballistics, DNA analysts and technicians, and intelligence and crime analysts also provides an essential complement to our local police agencies.

Bringing these civilian positions into police organizations permits a greater number of sworn officers to remain where they are needed most, in uniform patrol. In addition, the federal government could double its efforts in this area by providing an educational subsidy for persons interested in pursuing college-level and advanced degrees in the study of forensic sciences and criminology in exchange for future service at a law enforcement agency. In such a way, the federal government would not only be contributing to improving the quality and professionalism of our local police agencies, but providing educational and public sector job opportunities at a time when America is suffering enormous workforce losses.

For the Justice Assistance Grants in particular, the issue of sustainability over its implementation period is also pertinent. Here, both the federal government and local and state police agencies could partner with each other more effectively with respect to information-sharing. The results of these grants, such as program and impact evaluations, if shared openly and collaboratively, could serve as an invaluable repository of both successful and unsuccessful crime reduction initiatives. Collaboration technology could be used to make the programs funded by JAG available for internet-based researching and sharing amongst police agencies across the country. Additionally, those programs that are well-implemented and have significant effects on

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reducing crime and violence could be used as models for other agencies, and more permanent funding could be sought.

Police hiring grants and law enforcement technology grants, totaling $950 million, comprised the cornerstone of the "COPS Improvement Act of 2007," introduced by Senator Biden, with 35 cosponsors, including Senate Judiciary Committee Chairman Leahy, and Ranking Member Specter in March 2007. Both the International Association of Chiefs of Police and the Major Cities Chiefs Association endorsed this important Act, which would have reauthorized and made critical improvements to the Department of Justice's community policing program. Within this Bill was an important procedural change that would have eliminated the $75,000 cap for hiring officers. I believe it is important to highlight such a change because federal funds could have been used to support fully the hiring of officers over a sustained period of time, once again, speaking to the issue of sustainability. Although this Bill did not pass in the House of Representatives in 2007, the funding priorities still remain the same today, and would provide local police departments with the much-needed assistance required to continue fighting crime and violence successfully.

Lastly, in considering how the federal government can partner effectively with local and state police, we should not lose sight of one of the most potent weapons in our arsenal, that of prevention. Long-term and sustainable solutions to crime and violence must include prevention initiatives spanning from early intervention to re-entry. Groups such as the National Crime Prevention Council and Fight Crime: Invest in Kids, for example, work with police departments across the country to educate our youth and promote healthy and viable communities. Federal funding that provides intergovernmental cooperation and assistance between local law enforcement agencies and prevention organizations will go a long way toward making us all safer in our future.

When city and state governments have faced serious fiscal constraints historically, public safety operations have typically been one of the last sectors to be impacted. Government officials recognizing the importance of safety and security in their cities will cut back other programs and services prior to impacting police operations.

I believe it is a testament, therefore, of the severity of this financial crisis that police operations across the country are being adversely affected. Collectively, we cannot overlook this very simple fact. When we as a nation, have to compromise the safety of our citizens, it's time to re-examine our priorities at the national level. There is an opportunity here, despite the difficulty we face, and the federal government can assist us in building this partnership by reinstating funding that has proved invaluable in our past. I look forward to continuing this very important dialogue with all of you, and will gladly accept questions. Thank you for this opportunity to appear before you today.

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BURLINGTON POLICE DEPARTMENT
1 North Avenue
Burlington, Vermont 05401

Michael E. Schirling
Chief of Police

Phone (802) 658-2704
Fax (802) 865-7579
TTY/TDD (802) 658-2700

TESTIMONY OF CHIEF MICHAEL E. SCHIRLING
SENATE COMMITTEE ON THE JUDICIARY
JANUARY 8, 2009

WRITTEN TESTIMONY AND EXHIBITS BY
MICHAEL E. SCHIRLING
CHIEF OF POLICE
BURLINGTON POLICE DEPARTMENT
BURLINGTON, VERMONT

Good Morning Mr. Chairman and Members of the Committee.

My name is Michael Schirling and I have the privilege of serving as the Chief of Police in Burlington, VT. I am pleased to be here this morning to discuss the challenges currently confronting small cities and U.S. law enforcement and how the Federal government can renew its commitment to the safety and vibrancy of our communities at this crucial time of economic downturn.

To provide some cursory background information - Burlington is a community of approximately 40,000, located on the eastern shores of Lake Champlain about 35 miles south of the Canadian border. It is the central hub of activity and commerce for northwestern Vermont and the greater Burlington area, which encompasses a population of approximately 150,000 residents.

Through our 144 year history of providing law enforcement services to Vermont's largest City, our ranks have grown to 100 officers and 36 civilian personnel. Over the last ten years our policing paradigm has shifted from a response based model to one embracing the core tenets of community policing – partnership and problem solving – with an eye toward preventing crime and mitigating disorder on our streets and in our neighborhoods, using a variety of methods and employing the resources of a host of stakeholders.

We believe, in addition to traditional law enforcement activities such as enforcement and investigative initiatives that, increasingly, law enforcement, together with the communities they serve, must focus on education and prevention as well as outreach and intervention in an effort to stem the tide of crime by reaching youth and the disenfranchised at a neighborhood level. By expending resources to impact the path or life of our citizens before crime occurs, or crime reaches the level of serious and violent offenses, the cost to society in not only dollars, but in reducing tragedies, is immeasurable. Changing the direction of a single life or even an entire community can be accomplished with proper resources and strategies.

Over the last ten years our officers and staff have had a variety of successes utilizing the community policing model including:

- Successful neighborhood policing utilizing geographic assignment of officers and supervisors to ensure a greater sense of connection with the community and ownership of neighborhood level problems
- Working with neighborhoods and businesses to address the communities safety and crime prevention needs, street by street
- More robust connections with youth via our School Resource Officer program and other youth initiatives
- Well developed relationships with our local colleges and universities to foster better integration of students with traditional residents
- Successful efforts to support victims and survivors of crime utilizing a community-based Parallel Justice program
- Partnership with our Community Justice Center to create alternative, community-based, restorative sanctions for low-level offenders
- Creation of a Community Support Program that offers mediation and intervention services to citizens in conflict in an effort to reduce the number of crimes that occur and referrals to our already burdened Court system
- Partnership in a mental health street worker project in our downtown to help manage service-resistant individuals suffering from mental health and substance abuse problems, while ensuring a vibrant retail and entertainment district
- Participation in a grassroots community group (titled the Uncommon Alliance) working to mitigate the impact of real and perceived bias in policing and to foster trust with members of our increasingly diverse community
- Robust working relationships with Federal, State, and local agencies throughout Vermont to tackle tough issues and complex cases involving violent crime and drug distribution
- Work with the VT Department of Corrections and other stakeholders on cutting edge offender re-entry initiatives
- Partnership with Federal, state, and local law enforcement in a multi-disciplinary task force approach to child sexual exploitation and sexual violence against women - putting the needs of victims first
- Creation and ongoing operation of the Vermont Internet Crimes and Internet Crimes Against Children Task Forces providing education, law enforcement

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training, investigative support and computer forensics across a wide variety of technologically challenging crime trends

Many of these successful initiatives have had the support of federal funding in the past. Some were created using critical federal seed money. Alternatively, other critical operational projects have been federally funded, allowing us to expend our local resources on direct service provision and expanding our community policing initiatives.

While we, like many law enforcement organizations in Vermont and across the nation, have met with success using a community policing model and adapting to the emerging needs of our jurisdiction, the changing face of crime coupled with the mobile and interconnected nature of modern society continue to pose significant challenges to our resources. Some of our contemporary challenges include:

- Recruitment and retention of qualified, service-oriented police officers and support personnel in an increasingly competitive national recruitment landscape
- Shifts in violent crime from large urban areas to smaller urban and rural jurisdictions have resulted from a variety of factors including offender displacement caused by successful policing initiatives
- In Vermont, this shift in violent crime has manifested itself in a variety of ways including;
    - An increase in the overall number of homicides committed statewide in Vermont in 2008
    - An alarming evolution in the realm of crimes against women, resulting in two random abductions and murders in the last three years
- Stresses created by the burgeoning drug trade, both in illicit drugs, in our area led by a resurgence in cocaine (powder and rock/crack), as well as the widespread trade and trafficking in prescription narcotics such as oxycontin
- Prescription medication being sold on a street level, not only by traditional drug dealers but by dozens of other drug users, in a network similar to what you would see on the Internet – a distributed, decentralized trade of the medication to sustain ongoing use by individuals day to day
- An expansion of the number of property crimes, car breaks, burglaries, and armed robberies, particularly at convenience stores and pharmacies, stemming from the drug trade and attempts to directly or indirectly acquire prescription drugs
- Continuing challenges posed by computer and Internet crime and the emerging challenges on increasingly mobile devices used to facilitate high-tech crime
- Stresses on our resources, stemming from persons suffering from underlying mental health and substance abuse problems, being shuttled into the criminal justice system as a surrogate for mental health or health care systems that are overburdened or under-resourced
- Smuggling in narcotics and other illicit materials as well as human trafficking, across the Northern Border draining resources of Federal, state, and local agencies in our border areas as well as areas miles away

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- Diminishing resources and support for offender re-entry which correlates to an increased risk of recidivism
- Shortages in correctional facilities in Vermont for pre-trial detainees and on both state and Federal charges
- Shifts in burdens to local governments and, in particular, police agencies caused by shortages in correctional facilities for convicted offenders
- Stresses associated with post-911 security for transportation infrastructure, highlighted by an array of Federal requirements at our airports

One example of the challenges we now face, specific to the drug trade and the increasingly mobile nature of drug traffickers involves the following case from 2008.

> On July 4, 2008, Burlington Police received information of local resident involved in the sale and distribution of crack cocaine from his residence located in our most densely populated neighborhood, within a block or so from three elementary schools.
>
> Investigation revealed that the suspect, local to Burlington, was receiving weekly shipments of crack cocaine. The drugs were transported by three couriers were travelling regularly from New York City to Burlington. Once in Burlington, the couriers would reside with the local subject for a week at a time, providing the crack cocaine that the buyers requested to purchase at the door or the residence. Transactions involved the couriers holding the currency and the crack while the local suspect acted as the retail agent for the transactions to the buyers.
>
> Half way through a week, the source providing the crack cocaine to the couriers would send a "runner" from the Schenectady, New York area to collect what ever amount of currency had accumulated at the residence and transport the money to the main source in New York City. When the supply of drugs was exhausted, he would travel back to New York City and be replaced by the next courier. Investigation revealed this activity occurred over a four month period resulting in the sale and distribution of 80 ounces of crack cocaine in the Burlington area.
>
> In late 2008, after completing an extensive investigation involving multiple agencies, a variety of investigative resources and including numerous controlled drug purchases and search warrants the case culminated with the arrest of several suspects.

A second case example involving the proliferation of prescription medication is illustrated by this investigation:

> In October of 2008 investigators began receiving information that a local Burlington resident was selling Oxycontin from his home in the Old North End of the city. The suspect's residence was, once again, within a short distance of two elementary schools.
>
> Police executed a search warrant at the residence after a period of surveillance. The resident was found in possession of 13 Oxycontin 80 mg pills and about $2,000 in US Currency. The suspect admitted that he was addicted to Oxycontin and he had been selling the pills to support his and his girlfriend's addiction. He admitted that he had been selling approximately 90 to 150 Oxycontin 80 mg pills each day, 5 days per week for 6 months. The suspect sold approximately 11,700 to 19,500 Oxycontin 80 mg pills during this time period. The street value, in Burlington, of these quantities, range from $936,000 to $1,560,000. This suspect had no property or money to show for these sales. He lived in filth with his girlfriend and their toddler. The toddler had to be taken into state custody based on the unhealthy living conditions and lack of food. The money that the suspect had in his possession was only used for resupplying the Oxycontin for personal use.

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The suspect identified two sources of supply for the Oxycontin. One source resided in New York City and regularly travelled to Burlington to deliver the Oxycontin and pick up money accumulated from sales.

These two cases are illustrative of the issues that small cities and rural police agencies face each day.

Another case example related to the vast reach of crime facilitated by contemporary technology and its' impact on smaller jurisdictions comes from the following:

In 1998 members of the Chittenden Unit for Special Investigations (our multi-agency sex crimes task force) and the Vermont Internet Crimes Against Children Task Force (ICAC) arrested William Rangnow for Sexual Assault on a Minor. This multi-jurisdictional investigation revealed that Rangnow had utilized the Internet to lure a 14 year old girl to meet and engage in sexual contact. Rangnows conviction resulted in his placement on the Vermont Sexual Offender registry.

In 2005, members of the VT ICAC were contacted by a Detective from Springfield Ohio who advised he had been engaged in an Internet Undercover Operation. This operation identified a suspect in Vermont who was soliciting a minor *(undercover officer)* for sexual contact. Investigation continued in VT and the suspect was identified as William Rangnow. Research indicated that William Rangnow had served his sentence and was on probation at the time of the new investigation.

Investigation culminated in a planned meeting between Rangnow and another undercover officer he believed to be a juvenile female purported to be for sexual contact. In coordinating this meeting and arrest of Rangnow, numerous agencies including:

- Springfield Ohio Detective – Initial investigation/identification of suspect
- Springfield Ohio Department of Children Services – Assist Detective/Undercover contact with suspect
- ICAC Task Force Investigators – Overall investigation, coordination of operation, drafting of warrants/Ops plan, suspect interrogation and arrest
- Chittenden Unit for Special Investigations – Surveillance / investigation / interrogation, etc.
- Drug Enforcement Administration/Task Force Members – Surveillance
- Colchester, VT Police Department – Surveillance/Warrant execution
- Essex, VT Police Department – Surveillance/Warrant execution
- South Burlington, VT Police Department – Surveillance/Warrant execution
- Burlington, VT Police Department – Undercover Officer/surveillance/warrant execution
- Vermont State Police – Undercover officer/investigation/surveillance
- Vermont Department of Corrections/Probation – Intelligence/suspect violation

This case highlights the highly motivated nature of online predators and the necessity for inter-agency cooperation and assistance as well as the complex and multi-jurisdictional nature of crimes involving technology. The investigation spanned from Ohio to Vermont and involved a host of resources to apprehend this dangerous offender.

There has been progress in our national efforts to stem the tide of crime. However, much work remains to be done and recent setbacks in many areas of the country cloud that progress. Increases in violent crime, drug sales and gang activity in some parts of America, correspond directly to the substantial decline in funding for state, tribal and local law enforcement from federal government assistance programs in recent years.

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The current economic recession will have a significant impact on local and state funding streams that are stretched to their limit. This economic turmoil has caused concern for public safety resources because maintaining safe communities is arguably one of the key elements of economic vitality and growth for any community. Ensuring that resources exist to enable our Department, as well as Americas 18,000 law enforcement agencies and 800,000 police officers, to continue to combat crime and disorder day to day, will require a renewed commitment to historic funding streams such as Community Oriented Policing Services Program (COPS) awards and the Edward R. Byrne Memorial Justice Assistance Grant Program (Byrne-JAG).

Without renewed assistance the current economic trend will cause already strained resources to be taxed even further and diminish hopes of continued progress. Without renewed assistance, Vermont and other areas of the nation where small cities and rural law enforcement are the first line of safety on our streets and in our downtowns will inevitably face difficulties including:

- Cuts in personnel – both police officers and key support positions
- Inability to fund critical equipment needs such as bulletproof vests, less-than-lethal munitions, as well as communications, and technology projects
- Reductions in the ability to pay overtime costs associated with complex investigations, drug interdiction, traffic safety initiatives, and other critical public safety operations
- An erosion of resources to support victims and survivors of crime
- Diminishing resources for service agencies who provide support to offenders, persons suffering mental illness, and those with substance abuse problems which will inevitably lead to a displacement of assistance requests and emergency calls creating additional burdens on local police and justice systems
- Inability to procure local or state matching funds should matches be required for future Federal funding sources

Historic funding sources such COPS and Byrne-JAG should be re-invigorated and distributed nationwide to allow law enforcement agencies to craft creative, meaningful policing strategies tailored for their respective communities, each with distinct needs. Some communities will require funding for police officers, while others may require support personnel such as computer forensic examiners, mental health and substance abuse clinicians or other specialized practitioners to tackle the issues they face. Many communities desperately need operational technology funding for projects ranging from radio system enhancements to mobile data terminals or technology infrastructure. Others will need assistance in facilitating education and prevention endeavors, arguably our best dollars spent to keep communities safe. Still others are working in police facilities that are substandard and do not meet the needs of contemporary policing and community engagement activities. Toward that end, I believe these unique circumstances require the unusual step of Federal funding for facility and infrastructure projects (including ones related to green facilities and alternative energy initiatives) as well as personnel and operational resources. Put simply, each community is in need of something a bit different from the next, but the common theme is that resources are

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needed to take the next steps in our efforts to keep our streets, downtowns, and the next generation of Americans – our youth - safe.

As you consider how to support law enforcement operations in a way that will have a positive impact on crime control and public safety, it is important to note that policing does not exist in a vacuum. Not only are there key partners in direct community policing efforts such as community and restorative justice centers, neighborhood groups, businesses, and other stakeholders, but other critical pieces of the justice system that are essential to supporting the aftermath of successful policing efforts including prosecutors, courts, and corrections. It is essential that government at all levels provide adequate resources to these institutions as well.

Federal, state, local, university and tribal law enforcement are doing all that we can to protect our communities from increasing crime rates and the specter of terrorism, but we cannot do it alone. We need the full support and assistance of the federal government. It is essential for key law enforcement programs like COPS and Byrne to be fully funded in 2009 and in the years that follow. With your help, and our commitment to a safer America, we can continue to make great strides. As we work toward economic recovery, the safety of America's communities, large and small, is a critical component to economic stability and growth.

To that end, Mr. Chairman, yesterday I was heartened to see you introduce the Rural Law Enforcement Assistance Act of 2009. This proposal for $75 million in funding for hiring police officers, purchasing necessary police equipment, promoting the use of task forces and collaborative efforts with federal law enforcement, as well as prevention and treatment programs in rural communities is a necessary step to ensuring the continued success of law enforcement agencies in our small cities and rural areas.

In closing, I would like to thank you Mr. Chairman and distinguished Senators, for taking testimony on this important set of issues and for your continued leadership and assistance on law enforcement matters nationwide.

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STATEMENT OF JOHN SCHMIDT

"Helping State and Local Law Enforcement During an Economic Downturn"
Senate Judiciary Committee, January 8, 2009

My name is John Schmidt. I am now a partner in the Chicago-based law firm of Mayer Brown LLP. From 1994 to 1997 I served as the Associate Attorney General at the Justice Department and one of my responsibilities was the implementation of all aspects of the 1994 Federal Crime Bill.

A major focus of that Bill was the creation of the COPS Program to put 100,000 added police officers into communities across the country. I worked closely with local police and other public officials, and with organizations such as the Federation of Police, the International Association of Chiefs of Police and the U.S. Conference of Mayors, to move as quickly as possible to put that federal funding to work to add officers to the ranks of state and local police departments.

The COPS Program demonstrated both how effective federal assistance can be and how quickly its impact can be felt if federal and local authorities work together to make that happen. For example, even before the President had signed the 1994 Act, I had a meeting with a delegation from the U.S. Conference of Mayors in which we agreed that if they would tell us then how many officers they were prepared to begin hiring and training, we would tell them immediately what minimum level of funding they could be assured of receiving. As a result we had new officers through the hiring process and into training academies across the country within a matter of a weeks.

Local officials will respond with a similar sense of urgency to federal assistance today because, if anything, the need is even greater. In 1994 we faced a situation in which the level of criminal violence in communities across the U.S. was intolerable and we needed to expand police forces substantially so that they could work with communities to bring that violence under control. Over the rest of the 1990s, that expansion of forces continued, and by the end of the decade the number of sworn officers in the U.S. had increased by over 100,000, most of them funded through the COPS Program. Levels of violence across the country had also declined dramatically.

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After the change in Administration in 2001, federal funding for hiring additional officers largely disappeared. Fortunately the state of the economy was such that communities were overwhelmingly able to maintain their police forces at the new higher force level that had been achieved. The events of 9/11, however, imposed major new burdens on state and local law enforcement, including the need to participate in joint anti-terrorist efforts with the FBI and other federal authorities, to conduct pro-active security patrols at potential target facilities, and to respond aggressively to threats of any kind that emerged. As a result of these added burdens, and the normal growth of population and economic activity, even with forces maintained at the higher levels achieved in the 1990s, law enforcement came into the current time of economic crisis with its resources strained.

We are now experiencing across the country a real decline in the size of state and local police forces. This has been brought about by severe reductions in public revenues in virtually every state and locality.

Communities reduce the size of their police forces first by not filling vacancies and then, as an ultimate step, by the layoffs of existing officers. They take either of these steps only as a last resort—but that is the condition many communities are in today.

My home city of Chicago is a good example. The Mayor very reluctantly presented, and in December the City Council very reluctantly passed, a 2009 budget that is balanced only by slowing down the filling of vacancies in the Police Department. The total number of vacancies by year end was something over 400, and there will be added vacancies during the coming year, but the budget allows for filling only 200 vacancies. The result is a reduction in the size of the police force—at a time when crime rates in Chicago, as in many other cities, are going up.

Chicago's situation is by no means the most dire. In Michigan, hard-hit cities like Pontiac have been forced to reduce the size of their police force by more than 50%--and are experiencing a major wave of increased crime. Cities in Ohio are now going beyond simply not filling vacancies to actual layoffs of police officers. The problem is not at all geographically limited. The City of Sacramento, California recently announced that it had managed to come up with funding to fill 11 vacancies on its police force—but the total number of vacancies was 98, representing over 10% of the total force.

Based on pervasive accounts of widespread unfilled vacancies, and in some cases outright layoffs, there is no doubt that the nationwide reduction in the total number of officers is in the tens of thousands. The real number may be even higher—and it is growing every day.

Those reduced police forces will mean increased crime and violence in communities across the U.S. That would be true even in a time of prosperity. It is even more true as the same economic forces that dramatically reduce revenues for states and cities produce higher levels of desperation for individuals and families, greater social disintegration, and increased temptation for crimes of economic gain.

The impact will be felt most severely in communities, or neighborhoods within them, that have recently escaped from a period of severe violence and now are most vulnerable to slipping back if police become less visible and pro-active, citizens lose confidence in their security, and gangs and other criminal elements take advantage of that deteriorating situation. Increasing crime rates will make economic recovery in those affected areas even more difficult.

Federal aid to enable state and local police forces to fill vacancies, avoid imminent layoffs or hire back previously laid-off officers could make an immediate and substantial difference in this frightening scenario. Some particular elements of the COPS program of the 1990s do not fit the current environment. For example, the COPS program provided for maximum grants of $30,000 per year, representing no more than 80% of the total salary of an officer. Even in 1994 those limits were substantially below the real cost of officers in many communities, but the general economic strength allowed local communities to pick up the difference. Today those local economic resources are not available and I believe a current emergency program should be structured without that limit and without the required local share of funding.

The 3-year limit used for COPS grants may continue to make sense in the current circumstances. That limit means that communities would have to hire today, with federal funding, on the assumption that by the end of 3 years they will be able to pick up the ongoing cost of the new hires. In areas other than law enforcement, communities might well hesitate to make that commitment, but the urgency of law enforcement, and the

consequences of reduced police forces, are such that I believe affected communities will respond positively to a federal program with a 3-year limit.

The average salary of a new police officer nationwide is between $45,000 and $50,0000 a year. Using the $50,000 average figure, an emergency federal program could provide funding for 15,000 officers at a total cost of $750 million over each of the next three years—a total cost of $2.25 billion. A program of that size would make a meaningful difference in communities across the country.

Apart from its benefit in community safety, such a program has obvious value in terms of economic stimulus. All of the funding goes directly to pay the salaries of officers hired to work in police departments across the country. Those new hires will begin earning (and spending) as soon as they get through the hiring process and begin their training at police academies—within just a matter of weeks if the program follows the pattern of what was done in 1994. Thus, the positive economic impact will be felt even before the public safety benefits.

While these numbers are not large in relation to the size of the overall economic stimulus now being discussed, it is hard to think of anything that will put money directly and faster into more communities than federal funding for the hiring of police officers.

I strongly urge Congress to enact an emergency program of police hiring to minimize the substantial reductions in police force size that are now occurring nationwide on an accelerating basis. Such a program would make a measurable contribution to preserving, through a time of difficult economic circumstances and into a period of recovery, the hard-won gains achieved by police and citizens across the country in reducing crime and violence in our communities.

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