Approved February 19, 1985
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY.

The meeting was called to order by REPRESENTATIVE JOE KNOPP at
Chairperson

3:30 ~~a.m.~~/p.m. on January 29, 19 85 in room 526-S of the Capitol.

All members were present except:

Representative Douville

Committee staff present:

Jerry Donaldson, Legislative Research Department
Mike Heim, Legislative Research Department
Mary Ann Torrence, Revisor of Statutes Office
Becca Conrad, Secretary

Conferees appearing before the committee:

James W. Clark, Kansas County & District Attorneys Association
Elizabeth Taylor, Kansas Association of Domestic Violence Programs
Ron Miles, State Board of Indigents' Defense Services
Judge James Buchele, Shawnee County Judicial District #12
Glenn Cogswell, Kansas Association of Professional Sureties
Manuel Baraban

HB 2010 - Relating to criminal procedure; concerning release prior to trial.

Mike Heim, Research Department, gave a brief review of this bill, stating that the major changes are lines 0060 - 0071 which set forth conditions of release.

Jim Clark, Executive Director of Kansas County and District Attorneys Association, stated they are in full support of HB 2010. Mr. Clark said this bill allows the judge to consider the dangerof the community. Domestic violence is the area they have had problems in.

Elizabeth Taylor, speaking in behalf of the Kansas Association of Domestic Violence Programs, stated they are in support of the changes in lines 64 - 71. She stated that many times when the defendent is arrested and released prior to trial, the spouse is usually much angrier than he or she was before the arrest, and will go back to abuse the spouse once he or she is released.

HB 2009 - Concerning criminal procedure; relating to appearance bond.

Mike Heim, Legislative Research, gave a brief overview of this bill.

Ron Miles, with the Board of Indigents, said the State Board supports the court administered bonding program as provided in this bill. He said they felt the bond amount should be fixed and determined throughout the State to avoid inequities within various jurisdictions and would make the program competitive with current bonding practices within the State. See Attachment No. 1.

Judge Buchele said the bond should definitely be assignable for finds, costs, and other obligations that he had including the State Indigent's Funds. He thought it also should be assignable to a private attorney and the exceptions could be dealt with by the judge.

Glen Cogswell, representing the Kansas Association of Professional Sureties which includes Sedgwick, Wyandotte, and Johnson Counties, introduced Manuel Baraban to speak against HB 2009. In the handout, Attachment No. 2, he referred to the letter from Senator Nancy Kassebaum, to an article in the Kansas City Star, and to the letter from Jerry O'Byren of Illinois.

Bill Kenney referred to Attachment No. 3 which gives statistics of violations of bail.

The Chairman announced that the committee would take action tomorrow on the Kansas Parentage Act.

Representative Solbach made a motion to approve the minutes of January 22, 23 and 24. It was seconded by Representative Wunsch. The motion carried.

The meeting was adjourned at 5:10p.m.

STATE OF KANSAS

BOARD OF INDIGENTS' DEFENSE SERVICES
503 KANSAS, SUITE 536
TOPEKA, KANSAS 66603

(913) 296-4505

HOUSE BILL NO. 2009

The State Board of Indigents' Defense Services supports the concept of a court-administered bonding program as provided in House Bill No. 2009. The board, however, recommends the following changes to this bill which will enhance state policy in this area:

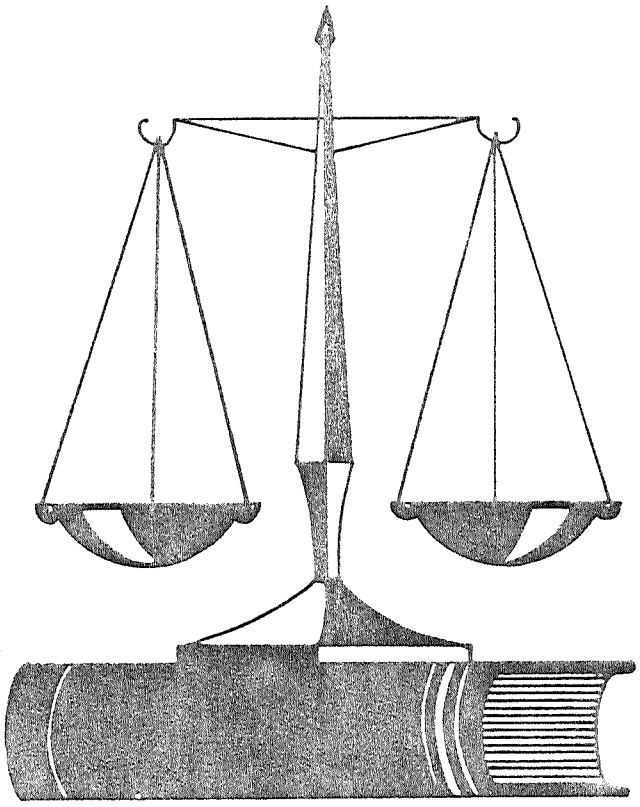
First, the percentage of cash deposit required should be fixed and determinate throughout the state. This will avoid inequities within and between various jurisdictions. A review of other state programs reveals the consistent use of a 10% cash deposit figure. This would also make the program competitive with current bonding practices within the state;

Secondly, those jurisdictions in which the implementation of a cash deposit bonding program has the most potential for improving the criminal justice system and its perception by defendants will not opt out of the current malaise of its own accord. The board and I recommend that this system be made mandatory for all jurisdictions in the state;

Thirdly, the bill should be amended to allow the court to apply the 90% refundable portion of the cash deposit program to defendants' unpaid fines, costs, victims' reparation and restitution to the indigents' defense services fund.

Attachment #1
House Judiciary Committee
January 29, 1985

CAUSE AND EFFECT



Third Edition in a Continuing Study Of Liberal Bail Release Programs Throughout the United States

Attachment #2
House Judiciary Committee
January 29, 1985

FOREWORD

Several years ago, Allied Fidelity Corporation produced its first issue of "Cause and Effect." Our purpose then was to show how the harmful impact of liberal bail release programs which were coming in vogue about that time—such projects as 10 per cent cash bail plans, release on recognizance through tax-supported bail agencies and similar efforts to bypass the traditional bail bondsman in our system of criminal justice. We believe we proved our case in those days—not by our own words but by simply reproducing what some of the country's leading newspapers were reporting.

That first booklet is now being revised for the third time, and the interesting factor to note is how little things have really changed in the intervening years.

There remains today a huge amount of criminal activity by repeat offenders who are out of jail on easy bail. Thousands of defendants continue to run away from trial dates and court appointments. Heavy workloads still are being piled on police departments to track down fugitives where the bail bondsman's role has been minimized. Taxpayers' funds are still being wasted on needless bail agencies.

In contrast, America's bail bond companies are continuing to do their work quietly and effectively. They are relieving law enforcement personnel of unnecessary burdens at no cost to the taxpayer. In fact, bond companies are pouring thousands of dollars back into public treasuries through the varied corporate and personal taxes they pay.

If liberal bail release has brought progress to our criminal courts, we fail to see it. The evidence continues to pile up that permissiveness in dealing with criminal types is one of the most foolish concepts ever foisted on the American public.

Read on—and see if you don't agree . . .

THE AUGUSTA CHRONICLE
AUGUSTA, GEORGIA
DECEMBER 13, 1976

Letter to the editor

Feels bailbondsman shouldn't be abolished

Editor, The Chronicle

The Augusta-Richmond County Human Relations Commission is asking for the abolition of the professional bail bondsman who provided a good and useful service to the public and the community at no cost to the taxpayers.

The professional bondsman provided the most efficient, fair and equitable method for getting a person out of jail that a community can have. A so-called new approach to the bonding system has been in effect in certain areas of the United States since 1962 and has been a complete failure by any standards; police standards, judges' standards and law-abiding citizens' standards. The only people happy with the new approach to the bail bonding system are the criminals.

The professional bondsman must provide 24 hour service 365 days a year. The bondsman must have his patron in court at a specified date and time. The professional can do this more efficiently than any governmental agency ever could. The Augusta-Richmond County Human Relations Commission wants to let the defendant out of jail for a token fee, of which 90 per cent will be returned to the defendant if he appears in court. This will increase the administrative costs of the courts considerably thereby increasing the burden of the overburdened taxpayer. This means the law-abiding citizen will pay the bill for the law-breaker.

Some sources of revenue the city and county now enjoy will disappear. The bondsman must buy a license each year for $150.00, he must pay ad valorum taxes, school taxes, property taxes, income taxes and forfeitures. The Bondsman must pay his telephone bill, advertising bills, electricity bill, heating bill, water bill, maintenance and upkeep on an office, postage, salaries, etc. All these sources of revenue will dry up, and all these expenses which the bail bondsman now incurs will have to be passed on to the law-abiding taxpayers of our community if the professional bondsman is put out of business in Richmond County. To provide the services the bondsmen now provide, and at much reduced level of efficiency, Richmond county will have to employ a minimum of twelve (12) full-time employes. Salaries for the employes will be $100,000 a year. Add to this $75,000 annually for office space, equipment, and supplies. Also must be added the loss of income to the city and county from taxes, licenses, etc. which will be approximately $30,000 a year. The HRC is asking the people of Richmond County to voluntarily increase their taxes in excess of $200,000 each year. This is the minimum cost to the taxpayer. This is the obvious cost; the hidden costs will be much greater. As with every bureau the cost goes up each year. They will start off the program with a cost of $200,000 annually and increase this by 10 per cent to 20 per cent each year.

I hope the people of Richmond County will contact the Richmond County Bar Association and tell the lawyers they oppose the proposition of the HRC to abolish the professional bondsman in Richmond County.

Bob Raburn
611 4th St.

THE DAILY NEWS
McKEESPORT, PENNSYLVANIA
TUESDAY, JANUARY 18, 1977

Colville Urges Shedding of Bail Bond Role

In the wake of the current county bail bond scandal and ongoing investigation by federal officials, District Attorney Robert Colville said he believes the answer may be in putting the posting of bonds back in the hands of the private sector, with much firmer controls on them instead of having county taxpayers continue to underwrite the system.

The county got into bail bonding to end what were considered abuses in the old system and excessive charges to individuals by the private agencies or bail bondsmen.

"The county's system has been no more of a roaring success than the old system was," the district attorney contends.

He says some $1 million currently is owed the county agency despite the liberalization of bond procedures which permit many defendants to be released on their own recognizance or on eight per cent bonds.

Mr. Colville said the current interest and investigation into bail bond irregularities hopefully will lead to strong reforms and a return to private bonding to relieve the current burden to county taxpayers.

District Attorney Colville says a return to private bail bond individuals or companies would relieve the burden to county taxpayers provided they are regulated by strict state guidelines, with penalties for enforcement.

He thinks a maximum fee should be set at no more than 10 per cent for the bondsmen. This was one of the alleged abuses the county bail bond agency was designed to prevent. In the past, defendants often were charged high bond percentages.

He said the old system did not even require bondsmen to file as agents and no background material was registered on them.

"We need laws that control what they can get for fees so that no bondsman can get rich because of the plight of others," he continued.

Mr. Colville also sees a need for control of the surety that an individual has to put up. He said this so-called bail piece could be a virtually worthless piece of "junk or slum property" and, under the old system, the clerk of courts made no investigation of the worth of the bail piece, or other encumbrances against it.

(Note: Mr. Colville is District Attorney of Allegheny County, of which Pittsburgh is the county seat.)

OKLAHOMA CITY TIMES
OKLAHOMA CITY, OKLAHOMA
JANUARY 17, 1977

LETTERS

Own-recognizance bonds cost citizen

TO THE EDITOR:

It did my heart good to see the recent article printed on the Times Forum Page, entitled "Program To Fight Crime A Big Laugh." That writer, a complaining citizen, hit the problem on the head, but not hard enough. It goes so much deeper than the mere fact that our present judiciary and prosecuting attorneys are providing and/or condoning the release of a multitude of persons accused of crime on "free" own-recognizance bonds, only to thereafter appoint "free" attorneys or public defenders to represent these offenders. All this at the expense of taxpayers, not to mention the $24,000 tab subsidized by the Oklahoma Crime Commission.

There is more. Hundreds of thousands of dollars are lost, due to the worthlessness of these own-recognizance bonds, when offenders fail to appear for trial. The taxpayer loses the benefit of the funds, which are required to be paid when a professional bondsman, paid by the offender, posts a surety bond to obtain the release of such offender—a practice which is gradually fading away.

Moreover, when these offenders fail to promptly appear for trial, their case is stricken from the docket to be reset after the offender's rearrest, which all too often occurs only after the commission of another crime. This delay, a benefit to the offender at the expense of the state, often makes the first case increasingly harder for the state to prove.

Monies collected from the professional bondsman when the offender failed to appear in court were paid into the court fund and used to pay jurors, witnesses, judges, salaries, and in the general operation of the judicial system. Moreover, the professional bondsman earnestly endeavors to recapture and rearrest the offender promptly, at no expense to the state, in the effort to have his bond forfeiture set aside. As the use of own-recognizance increases, the court fund experiences a vital loss of income from bond forfeitures, which eventually is felt by the taxpayers; more law enforcement officers are required to perform the services professional bondsmen once provided at no expense to the state, and in the recapture and rearrest of offenders; and, more funds must be made available to provide "free" attorneys to represent these free-loading offenders once they do appear in court, all at the expense of the taxpayers.

These facets of expense are eventually charged to the taxpayer—the ordinary businessman, directly or indirectly and are over and above the loss he suffers as a result of increasing crime, which has historically paralleled the spreading own-recognizance bond system.

Light sentences and general permissiveness toward the offender have certainly increased since this community lost Curtis Harris, who did such a great job combatting crime for so many years. It is a shame that his works have been forgotten so quickly.

J. B. Askins, Taxpayer

HEARING

BEFORE THE

SUBCOMMITTEE ON
CRIMINAL LAWS AND PROCEDURES

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

S. 460, S. 1297, S. 1598, S. 1601, S. 1875, S. 2212, S. 2245 and S. 3043

OCTOBER 2, 8, 9, 22, 23, NOVEMBER 4, DECEMBER 4, 1975 AND MARCH 17, 1976

Testimony of

HONORABLE WALTER H. McLAUGHLIN

Chief Judge of Massachusetts Supreme Court

...Our first contact with the criminal is when we arrest him; the immediate issue is bail. In 1971 our Legislature enacted one of the most liberal bail reform statutes in the country. It created a presumption that a defendant was entitled to be put on the streets on personal recognizance. The court is mandated by statute to try first those defendants who are in jail in lieu of bail or, more usually, on personal recognizance. Consequently, those released go their merry criminal ways until they get pinched again for another crime. One of the greatest causes of crime is letting known criminals loose upon the streets without bail or on small bail for months and sometimes years before we are able to reach them for trial...

...Any criminal list will demonstrate to any sitting judge that there are repeated offenses committed by defendants released on bail or personal recognizance while the court is unable to reach them for trial on current indictments. I knew that the Bail Reform Law of 1971 was too liberal. In the courtroom I could see defaults by the bushel. I gathered statistics. These figures represent the defaults in the major counties of the Commonwealth for the three years prior to the enactment of the Bail Reform Law and for the three years subsequent to the passage of the Bail Reform Law. Without bothering you with detailed statistics, let me indicate that in Suffolk County defaults increased six times after the passage of the new bail law; in Middlesex County they increased three times; in Essex County, they increased 17 times; in Worcester County, they tripled; in Hampshire County, they increased five times; and in the balance of the 14 counties of the Commonwealth, they tripled at least. When a defendant defaults, if you think he is immediately picked up and brought to court you are wrong. Without much criticism, because the police really have enough to do to keep up with current crime in the streets, the default warrant is usually placed in a pigeonhole in a desk at police headquarters. The next time we see the defendant is when we are lucky enough, and he is unlucky enough, to be picked up for another crime.

With this record, you would think that intelligent people would tighten up the bail laws. Not on your life! There is a new bail law flying through the Legislature which puts our present bail law to shame. It not only preserves the presumption that the defendant is entitled to be put on the street on personal recognizance, but it provides for a 5% deposit in cash on whatever bail is set. If a judge wanted to set honest-to-God bail of $50,000, he would have to set bail at $1 million. In addition to that, before a court can place bail, as we used to understand bail, he has to consider releasing the defendant in the custody of a friend or relative or place restrictions on his travel, his associates, or his place of abode. In other words, tell the defendant to be in at 10 o'clock at night or take his driver's license away from him. Under our new bail law, we do away completely with surety companies, and many times they were the only ones who had any interest in trying to find a defendant who had skipped.

It is apparent to me that the first mistake we are making in the criminal justice system is at the arrest stage. The present bail law and the proposed new bail law are just too liberal...

CHICAGO SUNDAY
Sun-Times
Sunday, October 13, 1974

Tracking down fugitives becoming impossible job

By Michael Flannery

There are so many fugitives from the Cook County court system that the men who must track them down say their part in the system is in danger of collapsing.

Record-keeping is often so chaotic that officials admit they can't provide an accurate count of the bond jumpers, probation jumpers and others who have fled the system.

"It's a frightening portent of things to come," said Cook County Sheriff's Police Lt. Bernard Singer, a man who thinks a complete breakdown is possible in the near future.

Singer is in charge of the 16-man fugitive section of the sheriff's police, whose duties include pursuing bond or probation jumpers.

Sheriff's Police Chief Edmund F. Dobbs estimated that Singer would need an additional 100 investigators to make a dent in the fugitive backlog.

Singer said there may be 15,000 fugitives at-large in the county — most of them in Chicago—but another expert said that figure sounded conservative.

Circuit Court Associate Judge Peter Bakakos, who has made a study of bail reform, noted that a recent investigation in New York City revealed 130,000 court-release violators there.

- During 1971 alone, the last year for which Bakakos had Cook County statistics, there were 22,746 bond forfeiture warrants issued by the Circuit Court.

His experience indicates that about one-third or one-quarter of those defendants became fugitives, Bakakos said.

That's at least 5,000 bond-jumping fugitives for 1972 alone. And that's not counting the number of probation jumpers, nor the fugitives still at large from previous years.

And it also fails to reflect the fact that indictments have more than doubled since 1972, according to figures from the State's Attorney's office. Assuming the fugitive rate remained constant — and some believe it may have increased — there could be an additional 10,000 new bond-jumpers this year alone.

When it comes to probation violators, it's even more of a numbers guessing game.

Richad Napoli, chief of Adult Probation for the Circuit Court, estimates that about 20 per cent of the 19,500 probationers his office handles "return to court — though not necessarily all are violators." That's about 4,000 persons.

Charges have repeatedly been leveled that the probation department, with 115 officers, is a patronage stronghold where efficiency is hardly the watchword.

"There's not a lot of good statistics on fugitives" from probation, Napoli said.

Some police officers contend that any such distinction would be academic anyway. Supervision is so lax, they say, that a probationer can return to a life of crime with ease. There are numerous examples of persons who committed repeated new offenses while on probation without ever having it revoked.

Napoli admitted that records are in such a shambles his office doesn't know how many probationers have fled the area.

Assistant State's Atty. Gino DiiVto, in charge of the criminal section, said he was appalled to hear that a two—man team of Sheriff's Police investigators carries an average case load of from 300 to 500 fugitives.

"Each guy should have three or four cases he's really working on," DiVito said. "They should be able to follow them through for a while before giving up."

The 16 men in the fugitive section (who are also saddled with such chores as accompanying County Jail inmates to funerals, escorting extradited prisoners from other jurisdictions back to Cook County and serving thousands of writs annually) tend to be pessimistic about it all.

An investigator who works on the high-crime South Side of Chicago and who, with his partner, is currently supposed to be tracking down over 500 fugitives, said it works like this:

"If we knock on the door at the address given on the warrant and the people there say they've never heard of the subject — well, that's it.

"You can't really work on each case like you're supposed to. What we can we do?"

THE SAN DIEGO UNION
DECEMBER 28, 1976

Tax Burden Cited In New Bail Plan

By BILL OTT
Staff Writer, The San Diego Union

A spokesman for the bail bond industry said that reform of bail procedures in state courts — as proposed by California Attorneys for Criminal Justice — would amount to an added burden on taxpayers.

William F. Sandbach of Sacramento, executive director of the California Advisory Board of Surety Agents, took issue with CACJ proposals that would allow defendants seeking release from custody to make cash deposits directly with the court.

San Diego attorney Louis S. Katz, newly elected president of CACJ, outlined the proposed reform earlier this week. He said it would abolish the need of going to a bail bondsman, who puts up a surety bond to guarantee an individual charged with a crime will make his court appearances. CACJ will support legislation to bring about the reform.

The proposal, if it materializes, would pattern the bail system in state courts here after procedures already in effect in Illinois and in federal courts.

MORE EMPLOYES

Sandbach said reform as proposed by CACJ would amount to establishing a state-run bail bond business.

"So you would have to have an added corresponding number of state employes to run it," he said. "This would be tremendously expensive to the taxpayers."

In addition, Sandbach said, the state would have increased costs of keeping in custody the defendants who are awaiting trial. He said a greater number of individuals would be unable to make bail under the proposed reform.

"Law enforcement agencies also would have an increased cost of tracking down people who fail to appear in court," he said.

Sandbach said Illinois has found its court-run bail system an "abyssmal failure."

REDUCED BAIL

He said, "When you permit a defendant to post 10 per cent (of bail) with the court, there is no requirement for proof that the defendant has the remaining 90 per cent in the event of default. So, in effect, what you have done is just reduce bail by 90 per cent. When the courts realized this in Illinois, they raised the bail schedules."

As a result, Sandbach said, where an Illinois defendant used to be able to give $100 to a bondsman, he now has to give $500 to the court. "And courts don't operate on credit. What happened in Illinois? The number of people awaiting trial in Cook County jail (Chicago) has gone up 550 per cent."

10% DEPOSIT

Under present procedures in state court, unless a defendant is released by the court in his own recognizance, he normally makes a 10 per cent deposit with a bail bondsman to provide a surety to guarantee court appearances. For example, if a judge sets bail at $5,000, the individual seeking release must deposit 10 per cent, or $500, with a bail bondsman unless he can put up the full amount himself.

"The poor can't," Katz said. "And under present procedures, the bail bondsman keeps the 10 per cent deposit after the case is disposed of, even when the individual is acquitted."

Under procedures in federal courts and in Illinois, the person who puts up a deposit with the court for release, gets the 10 per cent returned after his case is disposed of.

THE INDIANAPOLIS STAR

Sports—Financial—Classified WEDNESDAY, JANUARY 5, 1977 Page 27

FORFEITED BAIL BONDS

Firm Ordered To Pay County $34,398

By PHILIP J. TROUNSTINE

More than $34,000 in forfeited bail bonds written by agents of an ailing California-based insurance firm were ordered paid to Marion County from the company's Indiana insurance account yesterday.

The bonds, written for about 40 defendants who later failed to appear in court, were written by local bondsmen representing the Imperial Insurance Company of La Habra, Calif.

Imperial has been in conservatorship since September, 1975, and its assets are being managed by the insurance commissioner of the State of California.

The Indiana insurance commissioner told the company's local agents they may not write bonds for Imperial about the same time the firm's financial ills were made public.

But bail bonds and court costs totaling $34,398 still have not been paid to Marion County, even though they were declared forfeited by various municipal and criminal court judges.

The reason they were held up, according to William A. Bayless of the Indiana Insurance Department, is that a sub-agent for Imperial. Gerald E. Charles, had petitioned Judge D. William Cramer for an order setting aside the forfeitures.

That petition, filed Sept. 16, 1976, never was answered until yesterday, when reporters from The Indianapolis Star questioned Judge Cramer about it.

Cramer said he had no idea that the Indiana Insurance Department thought it couldn't make payment from Imperial's insurance fund until he took action on the matter.

He pointed out that Imperial had only petitioned him and that the petition alone was no reason to hold up payment.

Insurance companies which underwrite bail bonds by law must set up an account in Indiana from which the state may withdraw funds in case of forfeiture. According to Bayless, Imperial's account contains about $100,000.

Marion County's $34,000 claim is not the only one against the accout. According to Bayless, the total in forfeit bail bonds claimed against Imperial from throughout Indiana is about $60,000.

Charles, Imperial's local agent who works with Raymond J. Bell, the company's Indiana representative, had asked that the forfeitures be set aside because his bondsmen were not given 72 hours' notice that they had to produce their clients in court.

The Bail Act of 1961 specifies that a bondsmen must be given at least 72 hours' notice that his client is due to appear. But according to Judge Cramer, presiding municipal court judge, notice from the court to the defendant satisfies the requirement of the law, and he yesterday denied Charles' petition.

According to Cramer, the Charles petition was the first time the question of the 72-hour notice issue had been raised in Marion County. A similar case in Lake County that was appealed to the Indiana Supreme Court held that indeed the bondsmen had to be given notice. But Cramer said he believes that if the defendant is viewed as an agent of the bondsman, the law is satisfied.

Bayless said he will set the wheels in motion for payment of the $34,000 as soon as Cramer's order reaches him. But, he added, he expects Charles to try to block the payment since in the end, Imperial probably will try to get it back from him.

Allied Note: Critics of the bail industry often contend that the traditional surety system does not work because courts do not collect judgments on forfeitures. More rigorous enforcement of existing legislation or adoption of new regulations, however, could lay that criticism to rest. In Indiana, for example, where laws provide for tight control of surety companies, judgments are collected and companies either pay up or lose their license. The system can and does work, if given a chance. Incidentally, the judgment funds described in the article above were collected in full by the Indiana Department of Insurance.

EXPRESS

SURETY INFORMATION CENTER

December 7, 1983

Dear Fellow Bondsmen:

This news article appeared in newspapers across our nation on December 4, 1983. Our Center would like to share this information with those of you who missed this article.

N.Y. crime suspects take their time

N.Y. Times News Service

NEW YORK — The 75 criminal suspects who failed to appear for court dates in New York City last week after their release from jail to ease overcrowding are part of an army of suspects who daily avoid prosecution by simply ignoring the charges against them.

As of last week, 312,000 arrest warrants, a record, were outstanding. They had been issued by the city's judges for people who had jumped bail or failed to appear in court for some other reason, according to the police department. Some 31,000 warrants were issued for suspects accused of felonies, many on charges of violent crimes, according to the police.

The backlog of cases is so great that Police Commissioner Robert J. McGuire says he views the situation with anger and despair. What concerns him most, he said, is that the police department winds up spending time and money rearresting the same people.

"What I find to be unacceptable is that we are duplicating and sometimes triplicating our own efforts, and for no purpose and with no sanctions imposed, and all the time we are exposing our people to risk," said McGuire, who is leaving office at the end of the month. "That's wrong. And you should not have a system that tolerates that permanently, that has become part of the subculture."

There are three times as many outstanding arrest warrants in New York City as there are people in New Hanover County.

"The number of warrants outstanding is horrendous," he said. "The system just keeps pouring people in."

In discussing the court-ordered release of suspects to reduce crowding in city jails, Robert M. Morgenthau, the Manhattan district attorney, said Manhattan had the worst problem with missed court dates. Of the 166 prisoners freed, 45, or 27 percent, did not appear in court in the borough through last Monday, he said.

He said many defendants committed another crime after release in their own custody or on low bail. It is often only when suspects are returned to court for second crimes that officials discover warrants outstanding for the first crimes, he said.

Moreover, the police and prosecutors say it is not unusual for a judge to release a suspect in his own custody after the police have had to rearrest him on a bench warrant.

"Our findings are that once we bring him in, the court often releases him," said William Ruth, the deputy inspector in charge of the warrant squad. "Then he disappears again."

Judges, prosecutors and police officials agreed that the police concentrate on capturing felony suspects who have absconded. Suspects issued bench warrants in a misdemeanor case have little to fear if they flee, the officials said.

This same problem not only exists in New York City, but in every jurisdiction throughout our nation. Bondjumping has become a lethal disease upon our industry.

As you recall, ESIC has declared war on <u>all</u> bond jumpers. With your continued input, the NEW PROFESSIONAL BAIL BONDING INDUSTRY will survive!

Cordially,

J. K. Shiver
General Manager

205 PRINCESS STREET / P.O. BOX 1168 / WILMINGTON, NC 28402 / 1-800-334-1219 / IN NC 1-800-334-1220

January 26, 1984

Adam Shapiro
Sprague and Rubenstone
Suite 400
The Wellington Building
135 S. 19th Street
Philadelphia, Penna. 19103

In Re: 10% bond , etc.

Dear Mr. Shapiro:

In response to your request of January 23, 1984 concerning a local rule on bond, we reply as follows:

(a) Mercer County does not have a local rule permitting the posting of a percentage bond, nor do we have the personnel to enforce the return of defendants if such bond was posted.

(b) When cash bond(in the full amount) is posted, Mercer County deducts .02% up to $500.00, and .01% for bond over $500.00 to cover administrative costs.

Property bond is based on the assessed valuation(see copy of Court Order enclosed).

We trust this information will be helpful to you.

Yours very truly,

Marie V. Forsyth
Clerk of Courts

Encl.

United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION
WASHINGTON, D.C. 20510

November 19, 1981

Mr. Manuel Baraban
9813 West 100th Terrace
Overland Park, Kansas 66061

Dear Mr. Baraban:

Thank you for your letter and for the essay you wrote regarding legislation to limit the use of personal recognizance in pretrial release and post-trial release pending conviction in criminal cases. I have read your comments with interest.

I am taking the liberty of enclosing for your review a comprehensive bill I introduced on this important issue. Please be assured of my continuing support for legislation to prevent the violent crime which has resulted from the widespread use of personal recognizance as a basis for bail in criminal cases.

Warmest regards,

Nancy

Nancy Landon Kassebaum
United States Senator

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, FIRST SESSION

Vol. 127 WASHINGTON, FRIDAY, FEBRUARY 6, 1981 No. 22

Senate

By Mrs. KASSEBAUM:

S. 440. A bill to make certain amendments to title 18 relating to bail; to the Committee on the Judiciary.

AMENDMENTS TO THE UNITED STATES CODE RELATING TO BAIL

● Mrs. KASSEBAUM. Mr. President, each of us has read news reports of some violent crime committed by repeat offenders who are free pending trial for an earlier crime. We shake our heads, castigate a lax judiciary and sympathize with an outraged constituency. Unfortunately, that is about all we do. It is time we did more.

When an offender first comes in contact with our criminal justice system, it should impress him with its commitment to the preservation of law and order. It is at this point that deterrence from future crime can best be accomplished. It is also at this point that those individuals evidencing a proclivity for further mischief can be identified and detained. Quite frequently, however, it is at this point of first contact that the opportunity for crime prevention is missed and the offender's impression of official weakness is reinforced.

Prior to the passage of the Bail Reform Act of 1966, bail for defendants awaiting trial on Federal criminal charges, and bail for convicted defendants who were appealing their conviction, was committed to the sound discretion of the trial judges, subject to the constitutional mandate of the eighth amendment that the purpose of the bail be to assure the presence of the defendant and that it not be excessive. The exercise of discretion in the fixing of bail was subject to review by appellate courts who were limited to determining only that the lower court did not abuse its discretion.

The Bail Reform Act, however, removed from trial courts the discretion to determine the type and amount of bail which could be imposed and mandated that, in all but the most egregious cases, defendants are to be released from jail on their own signature—personal recognizance. In order to enforce this mandate for personal recognizance, the act requires that any defendants who are not released on their own signature are entitled to a court hearing after 24 hours. The defendant is also entitled to appeal bail determination, and, under the act, the court of appeals, instead of reviewing for abuse of discretion as the law previously permitted, is allowed to make its own independent determination of bail following the act's mandate that personal recognizance be used.

The effect of the act's mandatory personal recognizance provisions has been to straitjacket the trial court's ability to utilize alternative forms of bail, such as sureties and corporate bonds, in questionable cases. The trial courts, although best able to assess the circumstances affecting the defendant's character in the community, law-abiding tendencies, employment, family stability, and other factors properly bearing on the likelihood of reappearance, have been denied discretion to do so in favor of a congressionally imposed, inflexible standard which has permitted release of many defendants who have then committed further criminal activity and often fail to appear, becoming fugitives who must be located and recaptured.

In the last 3 calendar years, 1978 to 1980, there have been 11,164 Federal defendants who were released under the Bail Reform Act who failed to appear and became Federal fugitives. Many are still being sought by law enforcement agencies. As to these fugitives, justice has been thwarted and additional law enforcement resources consumed in efforts to relocate them. This large number of "bail jumpers" is convincing evidence that the Bail Reform Act preoccupation with personal recognizance was misplaced, and that trial judges should be restored their previous discretion to make determination of bail.

Although there is no constitutional right to bail for a convicted felon, the Bail Reform Act has again mandated that these convicted defendants shall be released on their personal recognizance except when the trial court has reason to believe that the defendant will flee or is a danger to the community. As in the pretrial bail situations, the trial court should be permitted broader discretion in the determination of bail on appeal than that permitted under the act, and alternatives to personal recognizance should be permitted rather than discouraged. Use of personal recognizance on appeal bonds should be dis-

allowed or limited only to highly exemplary situations within the trial court's discretion, and appeals should be limited to review of discretion.

Mr. President, in order to correct these abuses of the trial process I am introducing a bill today that would:

First, repeal those provisions of the act (18 U.S.C. 3146) which mandate use of personal recognizance in all but the most egregious cases, in favor of return to the courts of discretion to select the type and amount of bail consistent with constitutional standards.

Second, add a provision that magistrates and courts may in their discretion permit release on personal recognizance only in those cases where the defendant produces convincing evidence of his responsible character, family and community responsibility, lack of prior criminal record, and in cases where the crime charged did not involve acts or threats of violence to persons or property, possession of instrumentalities or substances capable of harming persons or property, trafficking in drugs, extortion or racketeering, and where the crime charged did not carry an aggregate sentence of more than 5 years confinement.

Third, repeal the Bail Reform Act provisions (18 U.S.C. 3147) which permit appellate courts to conduct independent determinations of bail before conviction, and substitution of a provision which provides for expeditious appeal of bail orders thought to be excessive, in which the court of appeals can only reverse the lower court for a clear abuse of its discretion.

Fourth, repeal the Bail Reform Act provision (18 U.S.C. 3148) which mandates release of convicted defendants pending appeal on personad recognizance except when the defendant is proved to be a danger to the community or likely to flee; and restroe the discretion of the trial court to fix bail pending appeal in appropriate cases.

In addition to these reforms, the bill would also address the problems of bail forfeiture. Under current law, when a released defendant fails to appear, his bail is declared forfeited in accordance with 18 U.S.C. 3150, and Federal Rules of Criminal Procedure 46(e)(1). However, the present provision of FRCrP 46(e)(2) permits the court to set aside the forfeiture if it appears that "justice does not require the enforcement of the forfeiture." In practice, courts often set aside the entire forfeiture once the defendant is reapprehened, regardless of the causes of the defendant's fallure to appear or the length of time of his fight. My proposal would amend FRCrP 46(e)(2) to permit setting aside of the entire forfeiture only if the fallure of the defendant to appear, which caused the forfeiture, was not the result of his own conduct. Thus, if a defendant commits a crime while on bond and is arrested or convicted in another place, his own conduct caused his inability to appear. Likewise, intentional flight by the defendant should not permit the forfeiture to be totally excused once the defendant is finally reapprehended.

Mr. President, it is my belief that we can protect ourselves from some criminal activity by improving the deterrent nature of our laws and by isolating, as early as possible, those who appear likely to repeat their offenses. On the basis of that belief, I urge the Senate's attention to this proposal. I ask unanimous consent that the full text of the bill be printed at this point in the RECORD.

THE HARTFORD COURANT
HARTFORD, CONN.
SEPTEMBER 30, 1976

Bond Rule No Bailout

The decision of state judges to allow certain defendants to post only 10 per cent of their bonds is objectionable for several reasons, only one of which is the effective reduction of the bonds.

There is a serious question of the making of judicial rules themselves, an area of increasing conflict between judicial and legislative branches, and of the new procedural complications through which the rule will aggravate the very problem for which it is supposed to compensate: The lack of a speedy trial.

The committee of judges which has instituted the new rule saw an apparent discrepancy between defendants who post their own bonds in full and those who pay fees, usually of about 10 per cent, to professional bondsmen. The equalizer, though, is that the personal bond is refunded if the defendant appears as requires; the bondsman's fee is not.

And the "wisdom" of the rule is indicated by several recent developments: The Common Pleas Court has had such a rule since 1974, but has seldom used it; judges themselves have sharply mixed reactions; and on two separate occasions the state House of Representatives has refused, by large margins, to institute such a program as law.

For a committee of five judges to enact the rule anyway means, in effect, that the committee has overruled the General Assembly. Courts are increasingly claiming their own rule-making authority, and are telling legislators to butt out. Judges can, of course, cite constitutional provisions for a balance of powers, but more sober thought is in order before the courts follow the executive branch's pell-mell rush to transform the rule of law into rule by regulation.

And it is particularly questionable whether the courts should adopt a rule which will only complicate their own problems. It is estimated that Connecticut now has 1,200 criminal suspects in position to petition for bail reductions of 90 per cent. It also has plenty of lawyers who, if they can not have their clients acquitted, can at least delay the day of reckoning, and they now have another procedural gambit with which to do so.

Faced with a petition under this rule, a cautious judge, and the state has many, will review in detail a host of factors, including the defendant's past history and the nature of the charges—in short, the very factors on which bail should be determined in the first place.

The courts will waste a lot of time determining whether, if $1,000 was originally deemed to be the appropriate bail, the proper figure should now be $100.

It would make more sense for the courts in the first instance to set bail according to the offender and the offense, but not according to the method of posting it, and then to stick with that figure short of its being found unconstitutionally excessive.

The problems of those who must wait behind bars for their not-too-speedy trials can best be solved by eliminating sources of procedural delays—such as hearings on questions of bail.

ARTICLES RESEARCHED

During the early 1960's the country's best legal minds waged a national debate over how to cope with the rising crime rates and terror in the streets.

One facet of that debate focused on our criminal court system and how to deal with persons awaiting trial to determine their guilt or innocence. Lawyers, professors, jurists, legislators and police agencies divided into two camps. One side, concerned with over crowded jails and jammed court dockets, called for more liberal pretrial release measures and decreased emphasis on money as a factor in getting out of jail. The other side seeing increased criminal activity by persons who would soon know how easy it would be to get out of jail and no penalties for those fleeing without bail or 10% bail.

Because the attention of the legal community has been drawn to larger public issues in recent months the continuing struggle between the two groups has been obscured. Virtually unnoticed, the liberal reforms have succeeded in implementing their schemes to the detriment of the public interest.

Those who forecast that liberal bail release programs would inevitably faid did, that zeal to eliminate the inequities in the traditional bail bond system would drive the liberal to excesses which would eventually come back to haunt them. The evidence proves that the predictions were correct.

The radical reformer's chief criticism of the surety bail bond system is that it discriminates against the poor because often thay cannot produce the premium, usually 10%, to pay a bondsman to underwrite the total cost of their bond. The liberals ridiculed claims of bondsmen that reducing the third party financial interest in producing defendants for tri

result in raising bond forfeitures. Not at all they said, because most people can be trusted to appear in court without prodding.

In pursuit of their goals, the reformers pursued for increased court reliance on two pretrial release plans. (1) 10% and cash bail in which a percentage of the total bond amount is deposited with the courts, and is refunded in part when the accused appears, and (2) more extensive use of release on recognizance is accepted as his promise to appear. To augment the latter method, the bail reformers stressed tax supported bail agencies to help screen the trustworthy risks.

Using the 1966 Federal Bail Reform Act as a model, some states mandated the jurist to follow a prescribed priority listing of release methods. If surety bondsmen were to be involved in the process at all, it would be only as a last resort, when more permissive measures had failed and the courts needed greater assurance that the defendant would return for trial. This seemed to me a tacit admission that the surety system outperforms all other in achieving the purpose of bail.

In New York, Pennsylvania, Wisconsin, Ohio, and Illinois, the liberal reformers had a chance to prove their case. The bail bondsman had been pushed into a minor role or are out of the picture entirely.

What have the results been? Have there been increases in bond jumping under the new system? Because they apparently believe some money should be a condition of obtaining release, the reformers have agreed upon 10% or as low as 8% cash bail plans in several states. In all but Illinois, the traditional bondsmen are still available to the courts, but their role has been minimized.

A check of these states shows that 10% cash bail plan is causing chaos in the courts and, if anything, had made it even more difficult for indigents to obtain their release.

Let's consider the following reports:

Milwaukee: The 1,280 persons who jumped bail in Milwaukee County Courts over the three years of liberal 10% bail owe the county $1,330,800 in forfeited bonds, and there is virtually no hope of collecting the money. 792 of the number that failed to appear were charged with felonies. Several Milwaukee judges say that the upswing in bail jumping can be attributed to the new 10% plan which became effective July, 1970. As a result the Circuit Court Judge, L. Coffey, says he is switching back to surety bonds because he is appalled by the backlog of buildup of bail jumpers.

Cleveland: The Common Pleas Court is in chaos because there are more fugitives than defendants in the system as a result of 10% cash bail system, the number who have failed to appear for trial has reached record proportions. 50.6% of the 2,977 defendants awaiting trial in October, 1977, 1,467 failed to appear and are under arrest warrants for failing to appear.

Bond Commissioner Raymond McCool has called for an end to the "Goofy liberal bonding procedures" and Judge Lloyd O. Brown, presiding criminal court judge, says the increased bond jumping was inevitable because the role of the bondsman in Ohio Courts has been reduced significantly.

Pittsburg: The fact that defendants have fled leaving behind bonds worth over $2,000,000 has created stormy controversy between the Allegheny Courts of Common Pleas and the County Commissioners. Each believe it's the others responsibility to chase down the bail jumpers and collect the forfeiture.

Defendants under the new system in Pittsburg have been released with 8% deposit only as the only tangible assets which the county can collect.

District Attorney Robert W. Duggan earlier had pointed

out that the problems of bringing back defendants would arise because professional bondsmen are not involved.

Lake County, Indiana: A 10% cash bail program in Lake County Criminal Court and Gary City Court has been abandoned as a failure. Judge Anrew V. Girogi of the Criminal Court said the plan wasn't working because the court does not have the staff to go after defendants who jump bail.

Posting of $500.00 cash is just not the equivalent of $5,000.00 surety bond. Judge Girogi says now if someone jumps bail and is not returned we can recover the entire $5,000.00.

Philadelphia: State Supreme Court Justice Robert N.C. Nix, Jr. has publicly stated that the 10% plan adopted in Common Pleas Court has not helped the indigent. The poor man still suffers because he doesn't always have the 10%.

Another criticism has come from Art Peters of the Philadelphia Inquirer who said about the 10% cash bail plan, and I quote: "When the courts first came up with the idea several months ago for refundable bail programs to benefit the poor everyone cheered, including me, because it appeared for once the little man was getting a break from the Judicial System.

The program was designed with the assumption that most arrest persons could raise the initial 10% to pay the court, and few people remembered that most of those who lanquished behind bars are because they have no money in the first place and bad risks in the second place and third a danger to society.

The refundable bail program ironically has benefited organized crime, the numbers bankers and drug wholesaler, who keep slush funds available to bail their arrested flunkies out of jail.

Not is this only the flaws in the City bail program, if the arrested man calls upon friends or relatives to lend him the 10% to gain his freedom, they are unlikely to put up the

money after learning the terms of the deal." If the arrested man fails to show up for trial, the person who posted the 10% forfeits not only the money but is obligated to cough up the entire amount of the bail, if he doesn't pay the court the court executes judgment on the note he signed when he posted the 10%, slaps a lien on his house or property, and sells it to get the balance due.

Peters' critical commentary is especially significant because only one month earlier he had hailed the 10% cash bail plan as a solution to the problems of the poor in criminal courts. Random sampling of experience with 10% cash bail plan shows a common pattern of increased bail jumping and no relief to indigents.

The most dramatic example of failure, however, comes from the State of Illinois, which the bail reformers constantly lift up as a model. It is the only state where professional bondsmen have been outlawed completely, with total reliance on cash bail and release on recognizance.

A recent scholarly study by two Cook County criminal lawyers calls for the return of surety bondsmen to criminal court process because of the soaring rates in bond jumping and failure of the courts to collect on bond forfeitures.

The study of Tyce L. Manit and James W. Reilley shows that forfeiture rates on cash bonds in Chicago today is nearly ~~double~~ the rate under surety bond before the latter system was eliminated in 1970.

The authors document that the forfeiture rate on release on recognizance has averaged a 25% increase each year from 1970 to 1972, the last period for which complete statistics were available. Further, they claim that there has been virtually no prosecution of bail jumpers in Cook County because little effort is made to apprehend the defendants after a warrant is issued.

Another interesting result of the 10% plan in Illinois is a dramatic increase in the jail population. After the system became law there was a sharp rise in bond amounts, with some being increased as much as ten times.

This has worked a hardship on the indigent, who now must produce a larger amount of cash to pay his 10% to the courts. An increasing number of the poor people can't produce the money.

A report by the Illinois Legislative Council shows, for example, that the number of Bridewell Prison increased 149 from 1970 to 1973. In the same period sentenced prisoners decreased 35% while pretrial holdover increased 550%.

Stated another way, pretrial holdovers accounted for only 21% of the prison population prior to the 10% plan, in 1973 they accounted for 77%.

Because of the financial hardship brought on by the 10% plan and the increase in size of bonds, a new illegal industry has developed in Illinois - the unlicensed, unregulated bail loan shark who advances the 10% deposit for exorbitant fees.

Obviously, the liberal proponents of bail reforms did not anticipate poor results their theory would produce. Like many theories, this one simply didn't produce the hoped for results. In fact, it produced exactly the opposite.

The failure of cash bail was inevitable because it removed the third party incentive to produce defendant in court. This issue is well defined in the following statement by Judge Aldo J. Simpson of the Elkhart Circuit Court in Goshen, Indiana:

> "In my humble opinion the system recently adopted in Illinois providing for deposit of 10% of the total amount of the bond is all wrong. It might work for a relative short period of time, but we must fully realize that there is no one connected

with the court interested in returning criminals who default in appearance. When an accused gives a bond by surety company and pays the proper premium and fails to show up in court when required, the surety company is financially interested in having him apprehended and returned and will do so if humanly possible, rather than suffering a loss of 90% of the amount of the bond. After all, a financial interest practically always produces results."

Judge Simpson skepticism is shared by Judge of the District Court in Denver, Colorado. Jurists there are resisting efforts to reinstate a 10% plan which failed a few years ago. The judges point out that Denver County lost over $500,000.00 in forfeitures over a two year period and the vast bulk of that amount is still uncollected, despite efforts by the Marshall and two private collection agencies hired in desperation by the courts, plus the loss of the defendants who failed to appear.

Let it be clearly understood that I am not opposed to release on recognizance. There are many defendants whose ties to the community are so deep that there is little justification for setting a financial condition of release.

But when a tax supported bail agency is created to assist the courts in screening defendants, Parkinson Law about bureaucracy inevitably sets in. Personal needs soar, budget requests climb, and in no time at all the costs outweigh the bail agency's value to the community.

Bail agencies cannot be effective unless an awesome bureaucracy is created to supervise adequately those released under this method. Without costly staffing, bail agencies inevitably degenerate to the current status of the District of Columbia Agency in Washington.

More than 2,500 defendants released on their own recognizance in Washington, D. C. are receiving no supervision because Congress will not approve any additional $500,000 to increase the agency staff from 44 to 65. Lack of supervision is one of the reasons that 15.6% of those parolees were arrested again in 1971 for committing new crimes during their release.

The D. C. Bail Agency has no machinery for tracking down bail jumpers except an overworked police department. This means they don't show up again until they are arrested for a new crime.

Bail agencies simply cannot carry out the work normally handled by bail bond companies without expenditures of huge sums of tax funds.

In summary, the following conclusions stand out:

1. The liberal bail release programs still are using money as a condition of release and because bail schedules have been adjusted upward it often is more difficult today for the indigent to meet the 10% deposit conditions in cash bail programs.

2. In those cities which have experimented with 10% deposits system, bail jumping has skyrocketed and the forfeitures are not being collected.

3. Legislation enacting stiffer criminal penalties for bail jumping has not been an effective deterrent. Defendants recognize that they are unlikely to be prosecuted because of little effort made to locate and apprehend them again.

This impresses me as three good reasons for rejecting the liberal bail programs out of hand. They are costly, ineffective and poor substitutes for private initiative. Bondsmen can do the job more effectively at virtually no cost to the taxpayers. All arguments to the contrary, there simply is no better way. Let the people on bond pay their bondsmen to run them down and get them to court, not the taxpayers.

Frank Niemeir/Staff

Kansas Gov. John Carlin acknowledges the applause of House Speaker Mike Hayden (left) and newly elected Senate President Robert Talkington on Tuesday after Mr. Carlin delivered his budget address to the Kansas Legislature. In his speech, the governor launched his campaign for a tax increase. At right is Secretary of State Jack H. Brier.

Carlin makes pitch for tax plan

Lawmakers urged to look to the future

By Elizabeth Leech
Kansas Correspondent

TOPEKA — Asking legislators to look beyond immediate concerns, Kansas Gov. John Carlin on Tuesday formally launched his campaign for a politically unpopular tax increase that he sees as necessary for long-term progress in key areas such as education.

The Democratic governor has said often that he would not expect the Republican-led Legislature to embrace straightaway his $3.57 billion budget, particularly the proposed $87 million sales tax increase. He hopes, however, that members will eventually warm up to the tax when they understand the forward-looking programs he recommends.

"This session is not just about the budget or legislation or taxes," Mr. Carlin said in his budget message before a joint session of the Legislature. "This session is not just about one year in Kansas legislative history.

"Rather, it is a session about our state's survival in a world that is moving very fast. What we do this session will impact our state in many ways beyond 1985, and beyond my tenure in office, and yours."

He asked the Legislature to see the budget allocations as investment instead of as spending.

Judging from legislative reaction, Mr. Carlin has been right in saying that his tax plans will not gain converts quickly.

"Naturally, at this point I don't feel we need a tax increase," said House Majority Leader James Braden, a Clay Center Republican.

House Speaker Mike Hayden, a Republican from Atwood, said, "I do not like, nor do I support, a tax increase."

Senate President Robert Talkington, an Iola Republican, said that at the moment he saw a tax increase as a last resort.

But Mr. Braden conceded that it was hard to argue with Mr. Carlin's general points of how the state could benefit from the extra money, and he said he thinks Mr. Carlin is counting on lawmakers' inability to say no to the programs.

The Republicans, who control both houses of the Legislature, indicated that they were more disposed to hold down spending rather than raise taxes. And the Democrats did not commit themselves to Mr. Carlin's sales tax increase, either.

Legislators and the governor agree that it could be two months

See STATE'S, Page A-6, Col. 1

1-19-83 KCS.

Law-and-order group believes it's winning over legislators

By Mark J. Weinstein
staff writer

Kansas lawmakers are listening more closely to citizens' views on behalf of law and order, said the vice president of a Johnson County group working to improve the criminal justice system.

'Legislators are coming around to the side of law and order and will listen to us if they think we represent the general public," said Dale Shockey, chapter vice president of Kansans for Effective Criminal Justice, a statewide organization.

"I'm more than just a little bit frustrated when I see the perpetrator of crimes, often violent crimes, out on the streets before the victim is out of the hospital."

Legislation adopted by the state that was supported by the non-profit organization included a tougher drunken-driving law and minimum training for law enforcement officers, Mr. Shockey said.

"We're victims, victim survivors and concerned citizens speaking out on behalf of the victim because we're disappointed with the way the system now operates," said Carol Dolan, the chapter's president. Her husband's son, Aaron, was killed by a drunken driver in early 1979. Mrs. Dolan received a degree in administration of justice from Johnson County Community College last month.

The local chapter plans to monitor restitution to victims from persons placed on probation and watch the activities of the parole board in the county. In addition, they plan to provide support to crime victims and witnesses, said Marilyn Logan of Overland Park, a member of the chapter and the group's state board.

The local chapter has 100 members, said Ms. Logan, 9601 Outlook Drive. The county group held its second meeting last week at the community college.

Persons attending the meeting included a former police officer, a woman who said her home had been burglarized, a former social worker in Wyandotte County, Roeland Park Police Chief Kenneth Carpenter and Scott Teeselink, a special agent in crime prevention for the Kansas Bureau of Investigation.

Mr. Teeselink said the KBI and other law enforcement agencies conducted five crime prevention seminars last year for the organization, which has chapters in other Kansas communities. He will speak to the group on crime prevention at a future meeting.

Membership information is available by writing P.O. Box 2424, Shawnee Mission, Kan. 66201.

Child molester gets life sentence

A 30-year-old Johnson County man who prosecutors said abducted and sexually molested young boys was sentenced to up to life in prison Wednesday on guilty pleas of three counts of aggravated sodomy and one count of enticement of a child.

Ralph Howard Darding was sentenced by Johnson County Associate District Judge Earle Jones, who also recommended Darding receive mental treatment while in prison.

Prosecutors agreed to drop three other related charges, including kidnapping, in return for Darding's plea. Judge Jones assessed concurrent prison terms of from one to 20 years imprisonment on two aggravated sodomy charges and the enticement charge. After completing those sentences, however, Darding will have to serve 10 years to life imprisonment for the remaining aggravated sodomy charge.

Darding underwent presentence evaluation at Osawatomie State Hospital.

The former service station attendant and Merriam resident was jailed in March after three Johnson County 9-year-old boys were picked up, taken to a trailer and molested. A fourth boy ran away after he was allegedly approached by Darding.

William R. Coffee, Darding's attorney, could not be reached for comment.

Kin of slain sisters lose court plea

By Brant Houston
staff writer

A Wyandotte County judge today denied pleas by the family of two slaying victims that bail for the accused killer be increased.

Judge Matthew G. Podrebarac said he would not change the amount of bail for Donald Houghton, a suspended Kansas City, Kan., police officer, who has been free on $100,000 bond since Dec. 27.

Officer Houghton has been charged with two counts of first-degree murder in the shooting deaths Christmas Eve of his wife and sister-in-law at the Kansas City, Kan., home of their parents. The family has said Officer Houghton made threats against his wife and the family weeks before the shootings.

"We still feel terrified," Porter Donn, brother-in-law of the victims, told the judge today. "We can't sleep. We never know if this man is going to kill us or what."

The judge also turned down a request by the district attorney's office that the bond be changed to $100,000 surety bond, which might raise the amount of money or property Officer Houghton would use as collateral.

Judge Robert Foster, who presided over the Dec. 27 bail hearing, had split the bond into two parts: a $50,000 surety bond and $50,000 signature bond.

On a signature bond the defendant is released after signing the bond and is not required to put up cash or collateral, although the defendant is responsible for the amount of the bond.

Judge Podrebarac said the circumstances had not changed since the hearing before Judge Foster, noting the threats had been made before the shootings. He also doubted that changing the bond would make a difference because he believed Mr. Houghton would be able to put up that amount.

Judge Podrebarac told Officer Houghton at the hearing "to stay completely away" from the relatives of the victims. He also asked Officer Houghton if he understood and the officer replied yes. A preliminary hearing was set for Jan. 20.

Officer Houghton surrendered at police headquarters in City Hall two hours after the shooting.

The family said they did not know of the Dec. 27 bail hearing in advance and did not realize Officer Houghton would be freed.

State Sen. Jack Steineger of Kansas City, Kan., said today he has prefiled legislation that would require 24 hours notice given to victims and their immediate families when bond hearings are to be held for persons charged with committing violent crimes.

Mr. Steineger said the district attorney's office and two judges who set the initial bond all said they were not aware that threats had been made.

Mr. Donn told the judge that Officer Houghton had "little regard for life."

Officer Houghton's attorney, Dennis Harris, said he had reviewed the district attorney's file on the case and found no evidence that demonstrated the bail should be raised.

After the hearing today the mother of the two sisters was led away weeping by her husband, James Reed.

Mr. Reed said, "I wanted the bail raised, but the law is the law. We respect the law."

$50,000 bond set for man accused of shooting four youths on subway

The Associated Press

NEW YORK — Bernhard Goetz shot four youths on a subway train as they tried to run away and told authorities that he "intended to kill" them, a prosecutor said Thursday as a judge set his bond at $50,000 on attempted murder charges.

"He stopped shooting only because he ran out of ammunition," Assistant District Attorney Susan Braver said in Manhattan Criminal Court. "By his own admission, he intended to kill each one of them."

Ms. Braver said that after the youths approached Mr. Goetz and asked him for money, he shot two of them as they fled, turned and shot the others as they ran the other way, then walked back to the first two and fired a fifth shot at one of them but missed.

She said Mr. Goetz, 37, gave a videotaped confession after surrendering Monday to police in Concord, N.H., in which he acknowledged that he was the widely sought gunman who had shot the four teen-agers Dec. 22.

Mr. Goetz, whose case incited a controversy over whether the shootings were justified, waived an extradition hearing and was returned Thursday to New York under heavy police guard.

He was booked at police headquarters and then arraigned as more than 15 court officers watched in the crowded courtroom.

Mr. Goetz, who did not speak at his arraignment, was taken to the city jail at Rikers Island, where he was to be held in seclusion in an area set aside for controversial inmates, said Correction Department spokesman Edward Hershey.

"If there's one thing Western civilization has taught us, it is that we cannot tolerate individuals taking the law and justice into their own hands," Judge Leslie Snyder said at the arraignment.

She scheduled a Jan. 9 hearing for Mr. Goetz to plead to four counts of attempted murder and one count of possessing a weapon.

The judge rejected a request by Mr. Goetz's lawyer, Frank Brenner, to release him on his recognizance. The $50,000 bond was suggested by Ms. Braver, who said she would present the case to a grand jury.

"The people do not view the statements" Mr. Goetz has made about the incident "as being exculpatory," or absolving him of blame, Ms. Braver said. For at least one youth, and probably for all, there was "no legal justification" for the shooting.

In his comments to authorities, Mr. Goetz "did express a wish to leave New York, expressed a great distaste for this city," Ms. Braver said. "He also said he wished to change his name." He had left New York twice since Dec. 22 "solely because of this shooting."

Police have said Mr. Goetz traveled to New Hampshire immediately after the shooting, returned to New York and then drove north again and surrendered Monday afternoon at the Concord, N.H., police station. Detectives had been seeking him since Dec. 26 on the basis of a telephone tip.

Mr. Goetz, a self-employed electronics specialist, appeared drained after turning himself in, said Thomas Barton, a guard at the Merrimack County Jail. "His direct statement was, 'What happened had to be done, but I'm sorry it happened.' "

The shooting occurred on an express train headed south into the Chambers Street station in Manhattan. Four teen-agers approached a passenger and asked for a match, then for the time and finally for $5, police say.

"I have $5 for each of you," the man reportedly said. He then drew a .38-caliber revolver and shot the four, striking two in the chest and two in the back, according to police accounts.

Police said three of the youths were carrying screwdrivers in their jacket pockets and all had arrest records. One is paralyzed from the waist down and in critical condition, one is in satisfactory condition and two have been released from the hospital.

STAR FORUM

U.S. sowing seeds of own destruction

Milton Eisenhower warns of dangers of uninformed public and pressure groups

Following are excerpts from an interview conducted by Bill Buzenberg, reporter for National Public Radio, Washington, with Milton S. Eisenhower, president emeritus of Johns Hopkins University.

Q: You have written about De Tocqueville's citation that democracy contains the seeds of its own destruction. I'd like to begin with that idea.

A: Yes, there are two great difficulties in the United States today. One is that the problems we face are sufficiently complex that most citizens do not understand.

And yet, Jefferson, who originally had said that we could keep democracy only as long as we were a rural nation, or he felt that there was an affinity between the freedom on the land and the freedom of the spirit throughout the nation, had come to see the beginning of the growth of cities and even the specialization of urban living, so he wrote the charter of the University of Virginia, in 1813, and pointed out in his judgment that we could keep freedom and democracy so long as there was an ever-rising level of education and understanding among people.

Now that understanding does not exist today. I would venture to suggest that probably one out of a thousand knows the total causes of inflation, or the causes of our losing over $100 billion this year in international payments, or why we put up with and why there exists a great unfair trade with Japan or what a multiple of maybe a dozen causes of crime are in this country, of crime so serious that it is changing the very character of life, how science and technology have changed how we live, think, work and have even become the dominant force in our foreign relations.

But note that the mere fact that people do not have that totality of information, which they ought to have in order to make representative government work, nonetheless have views and those views can be pretty sharply expressed at times and most likely those views come from the pressure group to which they belong. We have 2,500 pressure groups ranging all the way from the National Association of Manufacturers, the American Medical Association, and labor, and even the national association for alfalfa driers.

Now a view of a specialized agency is by definition a selfish view. It seeks results and benefits for itself and not for others and that's evident in our day.

Now the second big problem we face is . . . that members of Congress seek a sort of electoral immortality. Re-election has become more important to them than voting for what is right for the country. If they must make a choice they will vote for what will re-elect, not for what is right. They even put off questions where they know they are not going to solve it later.

For example, right now we have this enormous deficit problem, that I would say to you in another four years will be so big that it may threaten the future. And I mean this seriously, I mean really threaten us. It may lead to repudiation, or printing paper money or it could even lead to a dictatorship. It's as bad as that in my judgment.

Now the first president of the United States to recognize this possibility was Andrew Jackson; I'd never thought of Andrew Jackson really as a student of public affairs but then I began to read him and he said that a president once he's in office should not be under any temptation to do anything but work for the welfare of the country because only when the whole country is well-to-do could any group within it be so.

Since then 16 presidents have advocated a single six-year term and I'm now one of four co-chairmen, the other three being former Cabinet members, of a nationwide agency seeking that as reform No. 1. We want to limit the terms of congressmen and senators. And they'll never do that themselves just as they won't now pass an amendment requiring a balanced budget.

Here's where a famous remark by Edmund Burke is very apt. He was speaking to his constituency, his electors as they (the British) call them, and he said your representative owes you more than a reflection of your views, important as that is; he also owes you his judgment and he betrays rather than serves you if he forgets this great fact.

(Editor's note: From Mencken's *A*

See Democracy, pg. 4E, col. 1

Kansas State ties

This interview with Milton S. Eisenhower was conducted in May in Mr. Eisenhower's Baltimore office at the request of the Department of Journalism and Mass Communications, Kansas State University, as part of the 75th anniversary observance of the department.

The department is making the interview public on the 85th anniversary of Mr. Eisenhower's birth in Abilene, Kan., Sept. 15, 1899. Mr. Eisenhower, who was president of Kansas State University from 1943 to 1950, is honorary chairman of the department's anniversary observance.

what it means just to the press. The reason I'm for freedom of the press is that I want the press to fulfill my right to know. That's what the amendment means to me and should mean to every citizen.

Democracy

continued from pg. 1E

New Dictionary of Quotations, "Your representative owes you, not his industry only, but his judgment, and he betrays instead of serving you if he sacrifices it to your opinion."—Edmund Burke to his constituents at Bristol, 1774.)

Well, here we are, the people not adequately informed, the Congress even though better informed because of research and hearings and all, seeking public office and hoping to retire and enjoy that golden bowl at the time of retirement, and our problems getting worse and no solutions in sight.

I think our forefathers foresaw this kind of thing happening. And so they wrote Article V of the Constitution and assumed at that time that the Constitution often would be amended as conditions changed. They said they would not give Congress the exclusive right to amend the Constitution for fear that their selfish interest would prevent them from doing so. And therefore they provided that the states could call a Constitutional Convention in which case the Congress would be compelled to submit the issue to the states. Now 32 states have called for a convention and we only need two more and, boy, I'm telling you Congress is fighting it to beat the band.

So, democracy contains the seeds of its own destruction. I read that when I was very young, maybe in high school or in college, but I think now I know what he may have had in mind.

Q: What you're saying, for all the level of education we feel like we have in our society, is it the press that has not kept people informed of these problems, is that one of the areas and do you feel that a greater level of education in fact needs to be done?

A: Let me not put it only on the press but on all mass communication. The First Amendment is important because free information is certainly better than controlled communication. But it's not perfect. Mass communication, and I think this is particularly true of the press, is interested in conflict, confrontation, murder, the dramatic. Time after time when I am seriously interested in a problem I will read to the end of a story that ends on page 37 and I've read all about who's opposed to what but I never read what the issue is they're fighting about.

Let me give a couple of examples: There was a great truck strike in Pittsburgh a few years back, and the independents kept on running, and the workers who belonged to the union overturned and burned the trucks and killed some of the drivers. Never could I read an article about what the strike was about.

One that drove home the point to me, since I was ambassador to Latin America for eight years and was terribly interested: A hundred thousand students at the University of Mexico were breaking windows in public buildings, overturning cars, burning them and all; and I read, and read, and read—you can imagine, every article clear to the end, and never a word about what they were fighting about, until in that left-hand column of *The Wall Street Journal*, which isn't a general newspaper at all, I read an explanation—they'd raised the tariff on bus fares. This was the protest.

The First Amendment to the citizen may mean something different from what it means just to the press. The reason I'm for freedom of the press is that I want the press to fulfill my right to [illegible] what the amendment

Q: When we began you said some very serious things about an inflationary spiral ... that can in fact do away with our democracy ...

A: Let me point out that in one administration President Reagan will have added 50 percent to the debt of the United States, accumulated from the beginning of our history, down to his administration, which brings the debt up to a trillion and a half.

Now another four years, it (the deficit) can't go below $200 billion unless he's drastically changed his mind, and may go higher because some of these laws, unless they tear them to pieces, have built-in increases. So, certainly at the end of another term it may be $2.5 trillion.

Assuming that interest rates would behave as that kind of a debt would indicate, I would say that the cost of interest alone on the debt would be well above $300 billion a year. This would soak up an awful lot of the tax take by the federal government. And we'd still have to have enough money to run on and to pay all these bills. Now where is he going to get the money?

The savings of the people are not enough to pay this each year. So the alternatives are: repudiation, which would close every bank in America because they are stuffed with government bonds and do most of us under who are self-supporting; another (alternative) is to call on the Federal Reserve Board to print paper money, and 100 percent inflation is not impossible. They've got better than that in Israel; they've got many more times than that down in some of the Latin American countries.

And the other (alternative) is a dictatorship. After all, the president is the commander in chief of the armed forces and if things got so disorganized that we began taking paper money in a wheelbarrow as in (post-World War I) Germany to buy a loaf of bread, anything could happen. And there are many people who think that could lead to serious trouble. Now I haven't carried it on to what happens after Mr. Reagan's next term. What's the next man to do?

I'm afraid that at the moment the recovery which we are having, which is a false recovery, is a temporary recovery because we've done nothing to correct the serious errors. When we brought down inflation it was like giving strychnine for a headache. We corrected inflation by throwing 12.5 million people out of work, by causing 25,000 bankruptcies, by raising the internal trade deficit to about $75 billion at that time. Well, that's a nice way to correct inflation, but it isn't fundamental because that isn't the way you do it.

I'm going to give you a very tiny example, but I think it exemplifies what I believe could be true with all the people of the United States if you dealt with them honestly and they knew you were dealing with them honestly. I left Johns Hopkins University in 1967 in as good condition as any university in the country. Every bill was paid, the endowment had been doubled, the income trebled, our salaries were the fourth highest in the United States, and I left millions in reserve. In three and a half years the reserves had all been spent; they were running a $5.1 million deficit; they didn't have the money to pay salaries; all salaries were frozen; the faculty was up in arms, and so the president left.

The poor trustees came running back to me and said, you're the only person who understands the university. Well, I said, what do you want me to do, come back in a wheelchair? And I, for a moment, had selfish views. I knew I had left a great record. You can't do things like I did over 11 years and not be proud of it. And I figured that anyone who took the job now would ruin his reputation, because you were going to have to do awful things—fire people right and left.

But I had to convince myself that the university was far more important than Milton Eisenhower. So I went back and within 10 days I called the faculty and students together into the auditorium, and without a note, for 50 minutes I told them precisely what we had to do and why. The mean things—I emphasized the why more than what we had to do.

And when I finished, I stood and looked at them for maybe 10 seconds, and turned and walked off the stage, and suddenly I turned around and here was the greatest standing ovation I ever received in my life. I got many of them because I was a public speaker all over the country.

Now what was the cause of this? At last they believed that someone was telling them the truth and knew how to get the job done and needed their help in getting it done. I didn't have a student confrontation when I closed up the student cafeteria and put in food machines because we were losing $150,000. I had the cooperation of the faculty, the alumni, the students, the trustees—why, the trustees gave me $1.5 million and said do with it what you want to. And in a year we solved the problem ...

Q: What you were talking about is a lower level of public figures in American political life today than we have had in the past or is it the fact that it's the pressure groups that they do not buck makes them lower in stature, in ability to control and get on top of our problems and anticipate the international debt crisis that's coming, for example.

A: I think you've said it. I think that for the time being we've got a lower level of candidates and I think that the pressure groups have to accept their share of the responsibility. And I think mass communications has to accept some of the responsibility. I think we all do.

From the Kansas Legislature

GOP leaders say Carlin—prison plan not fast enough

By John Petterson
and Richard Tapscott
Of the Mid-America Staff

TOPEKA — The plan Gov. John Carlin proposed last Friday to deal with prison crowding falls short of providing an acceptable immediate solution, Republican legislative leaders said Monday.

The GOP leaders stopped short of rejecting the plan outright but said Mr. Carlin should have coupled his call for a permanent statewide property tax for corrections with an interim tax levy to allow the state to begin collecting prison building money in 1985.

The Senate and House did act on several bills Monday. But a solution to the state's prison crowding crisis was one of a handful of major issues remaining as the Legislature moved into its final week before taking a two-week recess.

The state's prison population already is more than 100 inmates in excess of its maxiumum recommended capacity.

Mr. Carlin called for a constitutional amendment creating a permanent prison building fund. Similar constitutional authority now exists for property taxes to raise money for university and mental hospital construction.

"A constitutional amendment provides no money next year when the real crisis hits," said House Speaker Mike Hayden, an Atwood Republican. "We're waiting for him to come forward with additional proposals."

There was a similar sentiment in the Senate, where Majority Leader Robert Talkington, an Iola Republican, said, "When you start putting it on the ballot, you're talking about down the road."

A 1-mill property tax levy, meaning $1 on each $1,000 of assessed property value, would raise about $13 million annually.

With Republican leaders cool to the governor's corrections package, the Carlin administration now plans to ask one of the Ways and Means committees to introduce bills implementing the plan.

Michael Swenson, Mr. Carlin's press secretary, said the House Ways and Means Committee probably would be asked to sponsor the legislation because "there's more chance of bipartisan support in the House."

Mr. Swenson also said the governor sees little bipartisan support for imposing a statutory property tax until voters indicate their position on a constitutionally authorized tax.

State law allows the Legislature to impose a statewide property tax, but only for one year at a time. Legislation would have to be enacted annually to continue it. With constitutional backing, the tax would be permanent until repealed by the Legislature.

"I don't know why they continue to try to back the governor into a corner," Mr. Swenson said. "He's just trying to deal with them up front."

Mr. Hayden said GOP leaders were not rejecting Mr. Carlin's proposals but, "if he's really serious, he needs to condition it with funding of his own in the next couple of years."

He said the governor has been asked to provide additional proposals, but if he does not, "We've got a proposal of our own."

He declined to say what that proposal would entail.

In addition to the constitutional amendment, Mr. Carlin's corrections plan includes reduction of some minimum sentences to reduce the number of people sent to prison, planning for conversion of a state facility to a prison for mentally ill inmates, planning for a new women's prison and remodeling this summer of existing space at two prisons to house 192 inmates.

There was a flurry of action in the Senate and House.

More Kansas legislative news is on Page B-8

Senate action

The Senate sent to the governor a bill putting teeth in existing legislation requiring small children to be buckled into safety seats when they ride in passenger cars.

Parents or guardians of children under age 4 who fail to restrain their children properly could be fined $10. Violation of the current law carries no fine.

The measure drew opposition from several senators who argued that it infringed on their freedoms.

"Let parents be parents and let them be responsible," said Sen. Paul Hess, a Wichita Republican.

But Sen. Ron Hein, a Topeka Republican, said: "You cannot hold a child in your arms and protect him in an auto accident. There's only one way you can protect him and that's with a child restraint seat."

Also passed by the Senate and sent to the governor were bills that would:

- Change the name of the Kansas Adult Authority to the Kansas Parole Board and reduce its membership from five to three members.
- Strengthen the existing law against dogfighting.

The Senate also passed and sent to the House legislation that would:

- Require different colored backgrounds on driver's licenses issued to persons under 21 years of age so that it would be more difficult for minors to buy liquor illegally.
- Prohibit so-called high-rider trucks and cars if the distance from the bodies to the ground was more than 36 inches.
- Provide a $6,000-a-year raise for Kansas Supreme Court justices and add one seat to the Kansas Court of Appeals.
- Appropriate $50,000 to Keith E. Carl, who was imprisoned from Oct. 13, 1980, to July 13, 1982, for a crime he did not commit.

House action

In a seven-hour session, the House of Representatives voted on more than three-dozen lesser-publicized bills as the last-week drive began Monday.

The House, on a 100-24 vote, approved and returned to the Senate a measure extending for five years a minimum competency testing program for students in the second, fourth, sixth, eighth and 10th grades.

The testing program already had been approved in the Senate, but the Senate now will have to decide if it goes along with House amendments.

Under one change proposed by Rep. Gary Blumenthal, a Merriam Democrat, results of the tests must be made available to students and teachers.

The tests, costing about $250,000 a year, are to help identify students who have not mastered minimum skills in reading and mathematics. The law would apply to students in public schools and state-accredited private schools.

Also Monday, the House sent the Senate a bill expanding the power of the Kansas Commission on Civil Rights.

The measure, approved 120-3, would let the commission order damage awards of up to $2,000 when it finds that an employer discriminated against a worker.

The bill follows a 1982 Kansas Supreme Court decision that the commission has no authority to award damages for pain, suffering and humiliation.

House members refused to concur with Senate amendments to a bill increasing from $500 to $1,500 the so-called threshold in no-fault automobile insurance.

In a House-Senate conference committee, members will try to work out a compromise on the bill.

Couple's release spurs protest

By Elaine Adams
staff writer

Johnson County prosecutors are incensed about a judge's release this week of a Kansas City, Kan., couple convicted of drug charges.

"That is the kind of a case that makes the man in the street sometimes believe the criminal justice system is a joke," said Paul J. Morrison, the assistant district attorney who prosecuted Mr. and Mrs. Robert Carroll Bly and their daughter earlier this year. The couple had served about five months in prison.

Johnson County District Court Judge James H. Bradley, who on Monday ordered probation for the couple, declined comment.

But the attorney for the Blys contended the decision was justified because diagnostic reports showed his clients, who ran a lawn and garden business, could function in society and were unlikely to repeat their crime.

Mr. Bly, his wife and daughter all entered guilty pleas in the drug case and were sentenced to prison by Associate Judge Robert G. Jones of the Johnson County District Court.

In April Mr. Bly, 41, was given two four- to 12-year prison terms on two counts of selling cocaine. His wife, Marion Elizabeth Bly, 37, was sentenced to a four- to 12-year term on one count of selling cocaine. The daughter, Kathy L. Bly, 19, was sentenced to one to two years for conspiracy to sell cocaine.

Mr. Morrison said prosecutors did not object when earlier this year Judge Jones released the daughter on probation. Officials called her a victim of her parents. But the release of Mr. and Mrs. Bly spurred protests.

"I believe the public would expect that persons convicted of their (the Blys') crimes should serve a longer sentence," said District Attorney Dennis W. Moore.

Mr. Morrison said a tape-recorded conversation clearly shows Mrs. Bly telling an undercover officer that the Bly children got their drugs from their parents.

"We're talking about particularly reprehensible acts in this case," Mr. Morrison said. "No. 1, because we think they're particularly significant cocaine dealers and No. 2, because they involved their children in the business."

Bill Grimshaw, attorney for the Blys, doesn't see his clients as reprehensible at all.

"They can yell at (Judge) Bradley as much as they want, but they can't change the facts," Mr. Grimshaw said. "And the facts are that . . . the reports that came in on those people were positive and favorable.

"No. 1, it's a first offense and if you look at the Blys overall you don't find any blemishes in their record that would mitigate against their probation . . . Why is it so important to put the Blys in jail?"

Mr. Grimshaw, who said it costs as much as $14,000 to maintain a prisoner at the state penitentiary for a year, asked why prisons should not be reserved for violent criminals.

"These are the issues they (prosecutors) don't address and those are among the biggest problems facing the criminal justice system," Mr. Grimshaw said.

Law alters face of criminal justice system

Minimum sentences, new bail requirements create turmoil

By Joe Henderson
staff writer

New legislation, regarded as the greatest overhaul of federal criminal laws this century, has drawn praise from federal prosecutors, concern from defense lawyers and a wait-and-see attitude from the judges who must interpret it.

The 635-page bill, signed recently by President Reagan, "is the most comprehensive and singularly significant piece of legislation in the area of federal criminal law since the turn of the century," says Robert G. Ulrich, U.S. attorney for the Western District of Missouri.

"It has a lot of good things and some very debatable ones," says senior U.S. District Judge Elmo B. Hunter, a state court judge for 13 years and a federal district judge since 1965.

The bill touches many areas. It even gives federal authorities jurisdiction in crimes committed in Antarctica and on the moon.

The most controversial changes allow:

- A judge to hold a defendant without bail if the judge considers the defendant a danger to the community.
- A seven-member sentencing commission to establish guidelines providing for mandatory minimum and maximum sentences for federal crimes without parole. The commission will include at least three active federal judges.
- Abolishment within five years of the U.S. Parole Commission, which now establishes guidelines determining how long an inmate must serve before being paroled.

Many defense attorneys believe placing stringent requirements on a defendant's right to post bond, either before or after his trial, undermines fundamental constitutional liberties. In effect, it places the burden on the defendant to prove his right to bail rather than on the prosecution, as it has been, to show why bail should be denied.

Philip F. Cardarella, a lawyer and former president of the American Civil Liberties Union in Kansas City, does not like the bill, particularly the bail provisions.

"The purpose of bail is to ensure the defendant's return to court when ordered and that's all," he said.

Charles E. Atwell, a former federal prosecutor now in private practice in Kansas City, says, "I think it will create some substantial problems both for defendants and the criminal justice system.

"There is a question in my mind whether the bail provisions are constitutional."

The tightening of bail requirements also concerns the district's chief judge, Russell G. Clark.

"It could well be we'll have to have an additional hearing just to determine if a defendant is entitled to bail, if he is apt to flee, whether he is a danger to the community and his likelihood of success on appeal," he says.

U.S. attorney Ulrich and many federal law enforcement agents say the provision authorizing the denial of bail if the defendant is a potential risk to the community will have a significant effect in violent crime cases, particularly if a witness's safety is involved.

The sentencing commission, which will be appointed within six months, will establish guidelines for mandatory sentences without parole. The guidelines would become effective by October 1986.

The U.S. Parole Commission now has guidelines determining how long a defendant will serve before being paroled despite the length of the sentence imposed by the judge. Some federal judges resent this denigration of their

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sentences and refer to the commission's guidelines as a second sentencing.

Under the new law a defendant sentenced to 15 years can expect to serve it all except for "good time" credit—usually a maximum of 54 days a year. No longer can a defendant expect to be paroled after serving one-third, or sometimes less, of the sentence.

Should a judge decide to impose a term longer or less than is provided by the commission's guidelines that judge must explain why in the court record. If the defendant believes the sentence is too harsh or if the government feels it is too lenient either may appeal to the U.S. Circuit Court of Appeals.

"It's an effort to minimize disparity in sentences which is laudable. But whether that can be achieved by requiring sentences to be narrowly bracketed between mandatory minimum and maximum terms remains to be seen," Judge Hunter says.

"This takes away a great deal of the discretion judges have had in the past. The law abolishes the present parole system so defendants probably will remain in custody longer, which could lead to overcrowding in the prison system," he says.

U.S. District Judge Scott O. Wright says the new legislation "has made some dramatic changes, especially relating to bail and mandatory sentences, but overall I think it's a poor idea, I really do."

"What they are trying to do is get uniformity in sentencing but in my opinion the sentencing judge is in a much better position to determine what type of sentence a defendant should get than a sentencing commission is," Judge Wright says.

Ray Conrad, head of the Federal Public Defender's office in Kansas City, which represents 65 to 70 percent of all federal court criminal defendants, agrees with Judge Wright.

"I've always been in favor of judges having discretion . . . ," Mr. Conrad says. "I feel he is in the best position to determine an appropriate sentence because of the information available to him."

Mr. Conrad finds some aspects of the new law "contradictory" and predicts interpretations by the court will be necessary before the law is fully implemented.

to be considered now in a sentence of confinement are punishment for the offense, a deterrence to others and to protect society from future offenses by the defendant.

Judge Wright opposes abolishing the parole commission.

'Always a gamble'

The timing of the act's passage upsets Judge Hunter.

"It's the feeling of those who have watched the efforts of the Congress over the last 10 years to obtain reforms of our criminal laws that the bill was passed in the heat of a political campaign and contains much material that would have been worked out more satisfactorily if the process had not been so hurried," he says.

"Everyone seems reluctant during a political campaign to oppose a crime bill because it might give the impression they were against reform of the criminal laws so it will be an added burden on the courts to interpret this legislation," the judge says.

"A change in the system always is a gamble but you feel it is worth the risk to get rid of the failures of the old system. The new law will go a long way toward preventing the unreasonable, and dangerous, early release of some offenders."

Robert B. Davenport, agent in charge of the FBI in Kansas City, says "bail and sentencing reform amendments have long been needed and should be highly effective in reducing repeat criminal activities."

The crime bill will directly affect the FBI and will increase the bureau's jurisdiction in areas such as murder-for-hire, labor racketeering, computer fraud and anti-terrorism, he said.

"In the area of narcotics and organized crime the law enables the government to attack criminals economically by expanding the provisions for forfeiture of property, profits and proceeds from illegal activity," Mr. Davenport said.

The act requires federal judges to impose a special monetary assessment on defendants convicted of federal offenses. The money will be deposited in a crime victims fund maintained by the U.S. Treasury Department.

An individual convicted of a felony will be assessed $50; a corporation or other non-individual entity will be assessed $200 for a felony. The assessments are half that for misdemeanor convictions. Fines, with certain exceptions, also will be deposited in the fund.

Other provisions in the bill:

- A section regarding defendants using insanity as a defense. It puts a greater burden on them "to establish their defense by clear and convincing evidence." Such a defense is limited "to those who are unable to appreciate the nature or wrongfulness of their acts."
- An expanded scope of cases in which murder can become a federal offense.
- A new minimum mandatory five-year term for using a firearm or armor-piercing bullets in the commission of a federal crime. For example, a man sentenced to 20 years for bank robbery can be given two additional five-year terms to run consecutively to the 20 years if he used a firearm loaded with armor-piercing bullets in the robbery.

10-11-84
K.C. TIMES

Career thief tells panel that short sentences fostered life of crime

By Brad Kava
A Member of the Staff

A man who spent 35 years as a professional jewel thief told a special Missouri panel on criminal justice Wednesday that he would have chosen another profession if he had been given a longer jail sentence when he was younger.

The man, identified only as Jack, age 63, said he was a career criminal and was not affected by a number of two- and three-year sentences he received. In fact, he said, while serving two or three years, he would turn down chances to get out of prison several months early on parole because being monitored by parole officers would interfere with a return to his chosen profession.

Jack was one of several federal, state and city witnesses who testified Wednesday morning in Kansas City before the Governor's Commission on Crime, Special Subcommittee on the Criminal Justice System in a hearing at Penn Valley Community College. The subcommittee is studying ways to alleviate crowding in state prisons.

Most of those who addressed the subcommittee, including Kansas City Police Chief Larry Joiner, Jackson County Prosecutor Albert A. Reiderer and U.S. Marshal Lee Koury, addressed the failure of the justice system to deal with career criminals.

Jack said he was an example of that failure. During his career he kept his burglar tools in a locked attache case in the trunk of his car and $8,000 hidden in a jar at home so that if he got caught he could pay a good attorney who could "call on favors from prosecutors." He said he had avoided a burglary prosecution through a legal technicality and had worked successful plea bargain deals other times.

He said he stayed successful in his trade by robbing houses in small towns and selling his goods at estate sales in cities hundreds of miles from

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Career criminal says sentences were too short

Continued from Page B-1

his home. Finally a 17-year prison sentence helped turn him around.

"When I was younger, if I had gotten a 10- or 15-year sentence, I know I wouldn't have done it again," he said. "Instead, the 30 most productive years of my life I flushed down the drain. I could have been whatever I wanted to be in life if I had devoted the same energy to it. I could have been a doctor or lawyer or whatever I wanted."

Despite suggestions from law enforcement officers that the state find more space to keep repeat offenders off the streets, state Sen. Thomas McCarthy, a St. Louis County Republican who is the committee's chairman, said Missouri lacked money and locations for new prisons.

Lee Roy Black, director of the Department of Corrections and Human Resources, said a 17 percent budget increase last year has helped chip away at the problem. But, he said, the problem is a big one. A year and a half ago the state was 47th in spending on corrections but had the 18th-largest prison population. The state system had 8,600 inmates, more than 2,300 over capacity, and the number was increasing by about 50 prisoners a month.

"We're afraid we have to come up with something before a federal judge orders us to start releasing prisoners whose names start with the letter A," Mr. McCarthy said.

Chief Joiner and Marshal Koury noted the frustrations of law enforcement officials at seeing criminals who received lengthy sentences from a judge released by probation officials after a relatively short time.

11-6-84-
K.C. Times

Crime control

Good bipartisan effort, good law

WASHINGTON — During the closing days of its session last month, to the astonishment of a great many observers, Congress suddenly agreed to a comprehensive crime control act. The act is so comprehensive that it defies brief analysis, but it can be said with confidence that this is a good piece of legislation.

One part of the massive measure deals with the sentencing of convicted defendants in federal

JAMES J. KILPATRICK

courts. The aim is to achieve some sort of rough uniformity, so that an auto thief won't get 10 years in California but only two years in South Carolina for substantially identical crimes.

Over the next 18 months a blue-ribbon commission of seven members, including three active judges, will develop guidelines. Two years hence, if all goes on schedule, federal judges will have to impose sentences within those guidelines or write opinions explaining why not.

It's a constructive provision. In time it should relieve the worst of the discrepancies between hanging judges on the one hand and weep-easies on the other.

Another major provision goes at last to the matter of bail reform. Back in 1966 Congress laid down the rules for federal judges. Unless it could be shown that a defendant was likely to skip town and not show up for trial, minimum bail under minimum conditions had to be granted.

Was the defendant likely to commit new crimes? Was he a danger to the community? Those questions could not be examined, and the lamentable result was the revolving door. Our hypothetical auto thief stole one car, got arrested, made bail and went out and stole another car. Then he got arrested, made bail, and so on, ad infinitum.

Such lunacies have not been unusual. A Senate committee heard that in one recent study of release practices in eight jurisdictions, one out of every six defendants in the sample was rearrested during the pretrial period. Some were arrested as many as four times. Among defendants arrested on surety bonds, the rate of pretrial arrest reached 25 percent.

The thinking behind the 1966 law was both reasoned and compassionate. To deny bail to an accused person is a serious matter. The defendant, if he has a job, loses his job; his family suffers accordingly; he cannot consult effectively with his lawyer in building his defense. The wealthy defendant can make a high cash bond; the poor man can't. For all these reasons, the 1966 law commanded wide support.

In practice it hasn't worked. Some judges, forbidden to speculate on a defendant's potential for new crimes, have evaded the law by fixing astronomical bonds. Most federal judges have gone along — and career criminals have thumbed their noses as they went out the revolving door.

Under the new 1984 act, a measure of sanity returns. Judges now may consider "the safety of any other person or the community." On the basis of "clear and convincing evidence," presented at a detention hearing at which the defendant's rights are protected, a judge may find probable cause to believe that the accused is a dangerous person. If so, into the slammer with him, where he will remain until trial.

The new procedure makes sense to me. Pretrial detention may be imposed only for serious federal crimes — bank robbery, for example, or dealing in narcotics. No one is likely to be held without bail unless there is evidence of a prior criminal history, or there is evidence that the accused is almost certainly guilty of a crime of violence.

I like it. The new law restores an element of balance where balance was needed badly.

It will take many months before we can get a fair reading on how these complex and voluminous provisions are working. They look promising. Meanwhile thanks are owed to Sens. Strom Thurmond, Edward Kennedy and Joseph Biden, and especially to Rep. Dan Lungren of California. He turned things around in the House.

Former judge indicted on drug, tax charges

By The Associated Press

St. Louis—A former circuit judge from Sikeston, Mo., has been indicted on federal charges of conspiring to sell cocaine and marijuana and three federal income tax violations.

Lloyd G. Briggs . . . removed from bench in 1980

Named in indictments returned Friday by a grand jury in U.S. District Court was Lloyd G. Briggs, 56, who could face up to 26 years in prison and fines of up to $75,000 if he is convicted on all four counts.

The indictment Friday supersedes one returned by the grand jury in April in which Mr. Briggs' wife, Juanita, and two sons, Paul and Kevin, and seven other persons were charged with drug trafficking. Mr. Briggs was not named in that indictment.

The new indictment accuses Mr. Briggs of conspiring to sell drugs in 10 states as early as late 1977, when he was a circuit judge for Mississippi and Scott counties.

He was removed from the bench by the Missouri Supreme Court in 1980 amid charges that he had violated court rules prohibiting political activity by a judge. He was accused of making political contributions and handling patronage in the Bootheel for former Gov. Joseph P. Teasdale.

The latest indictment increases the number of charges against Mrs. Briggs from seven to 10. If convicted, she would face a maximum prison sentence of 96 years and fines of up to $185,000.

The indictment says Mr. Briggs, his wife, and his late son, Lloyd Gerald Briggs Jr., 29, who committed suicide April 17, conspired to defraud the Internal Revenue Service and launder the cash they received from drugs through a series of bank accounts. Lloyd Gerald Briggs Jr. was not named in the April indictment.

U.S. Attorney Thomas E. Dittmeier said an investigation by several federal, state and local agencies showed that the drug-trafficking operation distributed or attempted to distribute thousands of pounds of marijuana, multipound quantities of cocaine and thousands of methaqualone pills.

The indictment Friday charges Paul Briggs, 28, with five counts of drug trafficking, and Kevin Briggs, 25, with two counts.

Mr. Dittmeier said the Briggses had moved from Sikeston since the April indictment and were living in Aurora, Ky., where Mrs. Briggs operates a restaurant.

Four persons from Florida and Ella Sumlin, an associate of the Briggses in Sikeston, also were charged with drug trafficking. Two others have pleaded guilty to conspiring to violate federal drug laws and are awaiting sentencing.

Attorney General Paul Douglas

Convicted Nebraska attorney general quits

From the Times Staff and the Associated Press

LINCOLN, Neb. — Nebraska Attorney General Paul Douglas, convicted of perjury two weeks ago for lying about his business dealings with a savings company, resigned Wednesday.

Mr. Douglas said his resignation, which takes effect Jan. 1, was linked to his concerns about his family and about the "image of this office."

"I'm very proud of it, and I do not want to do anything that would do harm to it," said Mr. Douglas, who was first elected in 1974 and is midway through his third term.

Mr. Douglas, 57, said he would deliver his letter of resignation to Gov. Bob Kerrey today. He said he began noon in something other than the legal profession.

Mr. Douglas' license to practice law in Nebraska was suspended by the state Supreme Court last week. The suspension has "drastically limited my options," he said.

Mr. Kerrey, on a holiday skiing vacation in the Rocky Mountains, said in a press release Wednesday that he immediately would begin to search for someone to serve out Mr. Douglas' remaining two years. The governor said he wanted a person who would "re-establish public confidence in the attorney general's office."

Mr. Kerrey said the resignation

K.C. STAR Dec 23-1984

Undercover judge tells of courtroom corruption

The Associated Press

CARBONDALE, Ill. — A rural Illinois judge who went undercover in an FBI probe of corruption in the Chicago area says that "for the right price, you could take care of any case" in the Cook County courts.

In a copyright interview with the *Southern Illinoisan* newspaper, Judge Brocton Lockwood said he took part in "Operation Greylord" while he was a visiting judge in the Cook County court system.

"Maybe one judge in eight is crooked," Judge Lockwood said in the interview published Wednesday. "They don't consider a judge crooked if you do favors only for political or friendship reasons."

He also said most dishonest judges were "political hacks and about as smart as a box of rocks."

U.S. Attorney Dan K. Webb has confirmed that a federal grand jury received evidence from the investigation, named Greylord after the wigs worn by British judges. Published reports have said that as many as 10 Cook County judges, 25 lawyers, and several court officials and Chicago police officers are targets.

Earlier published reports said a southern Illinois judge penetrated the court system as part of the inquiry, but the reports did not identify him.

Judge Lockwood, a Williamson County associate judge, said he tucked a tape recorder into his cowboy boots and wore a microphone under his robes and draped over his shoulder while gathering evidence.

He said he used his "ignorant hillbilly" image — projected with an easy smile and a drawl — and developed a reputation as a cash-short racehorse owner to gain access to corrupt court officials.

He said he disclosed his Greylord role in the hope that it would generate interest in correcting problems in the courts. Judge Lockwood said federal officials did not give him approval to discuss the case.

Agent Bob Long in the FBI's Chicago office declined comment Thursday on Judge Lockwood's statements.

The judge, 39, told the newspaper that normal practice in cases of court corruption is for the fix to occur early — with a judge accepting payment to rule that there is no probable cause for a suspect to be tried.

He said he was appalled not only that some judges and court officials were for sale, but that they sold themselves so cheaply.

Judge Lockwood told the *Southern Illinoisan* that for the right price, cases ranging from traffic violations to divorces to murder can be fixed.

However, when asked by The Associated Press if the corruption indeed extended to murder cases, Judge Lockwood said Wednesday that the statement was a "generalization."

The cost of altering the outcome of a Cook County drunken driving case could be as low as $700, including attorney's fees, Judge Lockwood said, noting that in southern Illinois, attorney's fees alone might be $700.

Judge Lockwood said he approached the U.S. Justice Department during the fall of 1980 after he became aware of the extent of corruption during an obligatory stint in the Cook County system to help reduce its backlog.

He met with FBI Director William H. Webster in Washington in October 1981 and eventually agreed to pose as a dishonest judge, he said.

Judge Lockwood also admitted some concern about his safety and said the FBI had taken steps to ensure it. He would not elaborate.

Court system in Chicago is FBI target

By The Associated Press

Chicago—At least 30 people, including judges and lawyers, may be indicted as a result of a three-year FBI undercover investigation of illegal payoffs and bribes in the Cook County court system, according to published reports.

Evidence from the investigation—dubbed Operation Gray Lord after the wigs worn in the British judiciary system—has been presented to a federal grand jury, and the first indictments are expected within two months, according to reports published Saturday in the *Chicago Sun-Times* and *Chicago Tribune*.

The FBI agents who infiltrated the Cook County legal system were licensed attorneys from out of town, the *Tribune* said.

The investigations focused on illegal payoffs between lawyers and police officers and bribe-taking among circuit court judges, the newspapers reported.

$P-7-83$
K.F. Lansky
Times

The Kansas City Times B-11
Thursday, October 25, 1984

White-collar crime called severe threat

By Brad Kava
A Member of the Staff

FBI Director William H. Webster told the Kansas City Crime Commission on Wednesday that although the overall national crime rate is down 7 percent, white-collar crime severely threatens the quality of American life.


Mr. Webster

The FBI is focusing on white-collar crime, particularly computer crime, industrial espionage and corruption of public officials, Mr. Webster said.

Although the FBI is uncertain of the scope of white-collar crime, he said, one estimate puts the loss at $200 billion a year.

"These are losses, as taxpayers and as citizens, we all suffer," Mr. Webster said.

Public corruption represents one of the worst aspects of white-collar crime, Mr. Webster said. Corrupt public officials not only raise costs for taxpayers, he said, but they also undermine public confidence in the government and its leaders, "which is perhaps the most erosive consequence of all."

Referring to a number of recent arrests of public officials, Mr. Webster said his agency was making progress in its fight against corruption, thanks in large part to help from honest citizens who report the crimes. He discussed the arrest of a group of Georgia law enforcement officials who were allegedly protecting drug dealers.

"It's hard when you have a $9,000-a-year deputy who can make $50,000 for just looking away for a few minutes," Mr. Webster said.

Files on suspects

An FBI panel OKs testing of a computerized file providing information on white-collar crime suspects. Page A-5.

Court probe raises ethical issues

By The Associated Press

Chicago—A city attorney and a judge dine together. The attorney thinks they're buddies, but the judge is secretly recording his words.

An ambitious young lawyer wheels and deals his way through the courts. Colleagues confide in him, not knowing he's an undercover FBI agent.

Electronic bugs are concealed in a judge's chamber. "Moles" infiltrate the courthouse. Make-believe crimes are concocted with phony criminals. Undercover agents pose as crooked attorneys.

It was all part of Operation Greylord, the Abscam-style investigation of corruption in Cook County's courts. The investigation has been described by the government as the most ambitious of its kind in U.S. history.

But only days after the indictment last week of 10 persons, including three current or former judges, the tactics used in Greylord have sparked legal and ethical controversy and have provided ammunition for lawyers who will defend those indicted.

Some attorneys and legal experts are arguing that the use of deception, microphones and even an electronic "bug" on the wall of a judge's chamber—believed to be a first in the nation—is disturbing and, perhaps, illegal.

"It's one thing to do as the FBI did in Abscam and go and speak to a congressman in a hotel," said Al Hofeld, president of the Illinois State Bar Association. "You're not really harming a system."

But with Greylord, in which as many as 100 phony cases were created to snare crooked lawyers, judges and others, "you're really tampering with a real institution," Mr. Hofeld said. "You're harming everybody."

The government argues that stealth and deception—such as the use of a visiting judge who wore a microphone in his robes and a tape recorder in his cowboy boots—are the only ways to ferret out judicial corruption because there are no other witnesses to the crimes.

"I don't think these concerns can deter you if you have the moral belief that corruption is taking place," said former U.S. Attorney Thomas P. Sullivan. "You just have to say, 'Go ahead,' and face the consequences. You can't do nothing."

Added G. Robert Blakey, a law professor at the University of Notre Dame: "If you give me a clean way to investigate judicial corruption without any fallout, I would take it. But there are only three ways to find and prove it—bug a witness, be a witness or turn a witness."

Chicago-area FBI chief Edward Hegarty, seated, and U.S. Attorney Dan K. Webb listen to questions about Operation Greylord, an investigation of corruption in the Cook County, Ill., court system. (Associated Press)

In announcing the indictments, which include charges ranging from racketeering to mail fraud, U.S. Attorney Dan K. Webb defended the methods used in the 3½-year investigation.

"There is no doubt in my mind we left no stone unturned in making certain that what was done was completely legal and completely ethical," he said.

FBI Director William Webster said the tactics passed muster during two reviews by bureau officials and there was ample evidence that those indicted were willing to engage in corruption even before undercover agents approached them.

But Mr. Webb said he expects many FBI techniques to be the subject of defense challenges.

Among the probable arguments by defense attorneys are that the FBI improperly obtained warrants for wiretaps and violated constitutional rights to privacy.

Mr. Webb noted some of the same arguments were made in Abscam, in which FBI agents posed as Arab sheiks. But those convictions were upheld.

Another ethical question posed by Greylord is the behavior of undercover agents who are licensed attorneys. An Illinois Supreme Court justice and the president of the Chicago Bar Association said these agents might be disciplined if they lied in court or violated certain legal canons during the investigation.

First Assistant State's Attorney William Kunkle defended the use of bugs in a judge's chamber, where the judge and an attorney allegedly discussed kickbacks of bond money and other illegal practices.

"It's done in narcotics cases," he said. "It's done in gambling. It's done in organized crime. It's done every day in this country. It makes no difference (if it is) judges."

"You will hear a great deal of discussion about the privacy of judges and lawyers being intruded upon," said Jon Waltz, a Northwestern University law professor. "You might ask yourself how much privacy they're entitled to. Most ethical lawyers will probably say, 'None.' "

KPS - 1-19-95


WHAT IS YOUR WORST PROBLEM?
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CRIME!
CRIME!
CRIME
VIGILANTES!
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LISTING OF ALL MESSAGES ON FILE

CRT	TP	DPT	DATE	CASE	DEFENDANT	REMARKS
8	03	K	01/11/85	K0040948	HAYES	BENCH WARRANT RECALLED
8	09	K	01/11/85	K0040948	HAYES	CASE TERMINATED
8	03	K	01/11/85	K0040951	SCHNAKENBERG	BENCH WARRANT RECALLED
8	09	K	01/11/85	K0040951	SCHNAKENBERG	CASE TERMINATED
8	03	K	01/11/85	K0041020	COBB	BENCH WARRANT RECALLED
8	09	K	01/11/85	K0041020	COBB	CASE TERMINATED
8	03	K	01/11/85	K0041022	STRICKER	BENCH WARRANT RECALLED
8	09	K	01/11/85	K0041022	STRICKER	CASE TERMINATED
8	03	K	01/11/85	K0041057	LEVINE	BENCH WARRANT RECALLED
8	09	K	01/11/85	K0041057	LEVINE	CASE TERMINATED
8	03	K	01/11/85	K0041127	REEVES	BENCH WARRANT RECALLED
8	09	K	01/11/85	K0041127	REEVES	CASE TERMINATED
8	03	K	01/11/85	K0041128	TRIPLETT	BENCH WARRANT RECALLED
8	09	K	01/11/85	K0041128	TRIPLETT	CASE TERMINATED
8	03	K	01/11/85	K0041130	WEBER	BENCH WARRANT RECALLED
8	09	K	01/11/85	K0041130	WEBER	CASE TERMINATED
8	03	K	01/11/85	K0041131	JOHNSON	BENCH WARRANT RECALLED
8	09	K	01/11/85	K0041131	JOHNSON	CASE TERMINATED
8	03	K	01/11/85	K0041158	GREGORY	BENCH WARRANT RECALLED
8	09	K	01/11/85	K0041158	GREGORY	CASE TERMINATED
8	03	K	01/11/85	K0041226	WOTEN	BENCH WARRANT RECALLED
8	09	K	01/11/85	K0041226	WOTEN	CASE TERMINATED
8	03	K	01/11/85	K0041227	LONG	BENCH WARRANT RECALLED
8	09	K	01/11/85	K0041227	LONG	CASE TERMINATED
8	03	K	01/11/85	K0041228	COOPER	BENCH WARRANT RECALLED
8	09	K	01/11/85	K0041228	COOPER	CASE TERMINATED
8	03	K	01/11/85	K0041250	REYNOLDS	BENCH WARRANT RECALLED
8	09	K	01/11/85	K0041250	REYNOLDS	CASE TERMINATED
8	03	K	01/11/85	K0041252	SPERLING	BENCH WARRANT RECALLED
8	09	K	01/11/85	K0041252	SPERLING	CASE TERMINATED
8	03	K	01/11/85	K0041253	HUPMAN	BENCH WARRANT RECALLED
8	09	K	01/11/85	K0041253	HUPMAN	CASE TERMINATED
8	03	K	01/11/85	K0041347	FUEL	BENCH WARRANT RECALLED
8	09	K	01/11/85	K0041347	FUEL	CASE TERMINATED
8	03	K	01/11/85	K0041351	ROSE	BENCH WARRANT RECALLED
8	09	K	01/11/85	K0041351	ROSE	CASE TERMINATED
2	54	K	01/14/85	K0047920	WAKEFIELD	COUNCIL APPOINTED -- BLUME GREGORY
2	09	K	01/11/85	K0047049	HEFLIN	CASE TERMINATED
4	01	K	01/14/85	K0048052	VAUGHAN	BOND SET AT 1500.00
4	01	K	01/14/85	K0048050	HOGAN	BOND SET AT 0000500.00
4	01	K	01/14/85	K0048051	GIBBS	BOND SET AT 0001000.00
4	01	K	01/14/85	K0048053	KEITH	BOND SET AT 2500.00
2	01	K	01/11/85	K0042707	JOHNSON	REMINDER THAT BENCH WARRANT IS TO
2	01	K	01/11/85	K0042707	JOHNSON	BOND SET AT 0003500.00
2	09	K	01/11/85	K0047239	EDMINSTER	CASE TERMINATED-
2	09	K	01/11/85	K0047564	COLLINS	CASE TERMINATED-

END OF ALL MESSAGES ON FILE

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Mannie's Bonding Co.
302 East Santa Fe
Olathe, KS 66061

July 26, 1984

Dear Manager;

I am addressing several of these letters to top bonding agencies, such as yours, throughout the nation.

My purpose is simply to introduce myself to you, and to announce the formation, and start-up in business, of our little organization. I am a former investigator, and asst. supervisor, for the Illinois Dept. of Corrections, Apprehension Unit. My partner's name is, Lamont Knazze, he is currently senior investigator, with the same unit. He is eagerly anticipateing a break with the State of Illinois, and taking an early retirement, if we can generate a little business.

Mr. Knazze, and myself, have a combined total of about 30 years experience in law enforcement, and most of that spent in locating and apprehending fugitives, around the country, for the State of Illinois, and earlier, Knazze with the Chicago Police Dept.. We sat down once and figured up, that either together or independantly, we have been responsible for the pick-up and return to custody of about 2000 subjects, over the years. We are a salt and pepper team, we have contacts nationwide, and we feel we may just be the best in the business. We also have several other professionals available, as needed. By the way, we have never seriously injured, or lost a subject.

You can check us out by calling the, Illinois Dept. of Corrections, Apprehension Unit, State of Ill. Building, 160 N. LaSalle St., Room 1640, Chicago, Ill. 60601, 312/793-2698. Then call us in confidence with your most urgent needs. You will find us quiet and efficient, yet fast and dependable, the complete professionals. You will also find our rates pleasantly competitive. We our available 24 hours and 7 days a week at our number, shown in the letterhead.

I Am Sincerely Yours,

Jerry O'Byrne

JO/jo

STAR FORUM
Sunday, November 29, 1981 Page 1B

Which approach in the crime war—or is it too late?

Social programs haven't had desired effect

By Roger Freeman

For decades we have been told by dozens of experts and official commissions that the appalling growth of crime is a result of neglect of the disadvantaged and oppressed in our society, and that the nation has only itself to blame for the consequences of its stinginess in the treatment of the unfortunate.

Here is the record: Over the past quarter century, government outlays for income support through dozens of public assistance and other social welfare programs multiplied eightfold in constant dollars, and tripled as a percentage of GNP; the percentage of persons officially classified as having a cash income below the poverty level—not counting food stamps and other in-kind benefits—was cut in half; and several civil rights laws were enacted and are being enforced.

What did those efforts produce? A fivefold multiplication in the number of serious crimes ("index crimes") over the past two decades, during which the country's population grew only 28 percent. Predatory street crime is rampant, fear stalks our cities and few feel safe in their homes.

By the rules of statistics, that adds up to a high correlation between feeding multibillion amounts into social programs and an explosion in the crime rate. That is not exactly what the programs' supporters intended, promised or expected. Nor does it necessarily prove a causal relationship. But it does suggest a high probability of this being no mere coincidence; the dominant idea of its time, the egalitarian spirit of the welfare state run amok, could be behind both runaway social spending and multiplying crime.

Traditional alibis for the failure of governmental programs—inadequate appropriations and stinginess in resource allocation—are hard to document in law enforcement. Expenditures for police protection (federal, state, local) jumped from $1.1 billion in 1952 to $12.9 billion in 1978, quintupling in constant dollars and doubling as a percentage of GNP. Police employment nearly tripled.

The failure of the various anticrime campaigns actually is quite easy to explain. Most of today's offenders do not steal bread in order to feed their families. Nor are they the products of dilapidated and underfinanced schools. Many are professionals who did their research well, who learned that crime offers a lucrative career with moderate risks.

Relating the number of reported "index" crimes, now 11 million annually, to the average of 130,000 persons entering federal and state prisons each year, the prospect of not going to prison for committing a serious offense averages almost 99 percent. Sending a criminal to prison seems to be going out of style.

The main cause of our low—and declining—arrest rates are the rules with which the courts, and especially the U.S. Supreme Court, have blindfolded and handcuffed our police. The "exclusionary rule"—to which the United States certainly has an exclusive claim—under which many criminals, proven guilty be-

See Programs, pg. 4B, col. 1

Roger Freeman is senior fellow emeritus at the Hoover Institution, Stanford University. This article is an excerpt from his forthcoming book, The Wayward Welfare State.

continued from pg. 1B

crime being no proof of guilt of another). It ignores the fact that criminals with significant prior records are prosecuted and convicted twice as quickly as first offenders. It also ignores that those constitutional prohibitions are more a protection for a democratic society from the dangers of authorized official brutality than a right whose loss injures only the individual.

If the task force or administration proposals will not succeed, what will? There are no glib answers, but there are progressive alternatives that can work without destroying the Constitution.

● Swift, sure, short punishment. Deterrence lies in how fast and how often criminals are caught and punished, not how long they might languish in prison. Long paper sentences—without the police, courts and prisons to enforce them—is a bluff that has already been called.

A better approach is the kind of cooperative effort by prosecutors, judges, management consultants and computer systems in Washington that is cutting case backlog in half and reducing trial delays from months to weeks.

● Prison alternatives. Recognizing [illegible] and more expensive and saner alternatives. In Minnesota, offenders can pay their "debt" by victim restitution and community service; in Vermont, they can hold on to their jobs by serving time on weekends; in New York, young offenders can be diverted from the institutional cycle into a United Auto Workers' training program that turns them into skilled union mechanics.

● Poverty and crime. It is neither slander nor alibi to suggest that in times of economic dislocation, some will find it necessary or expedient to make ends meet in predatory ways. A study done for the Joint Economic Committee shows that a 1 percent increase in unemployment is associated with a 4.3 percent increase in robbery, burglary, narcotics offenses and homicides. As federal Judge David Bazelon has argued, crime could ultimately be reduced by reducing the poverty, prejudice and poor housing and health that help produce it.

● Gun control/drug control. Crime control must include gun control, which can at least reduce the incidence of deadly crime; after Massachusetts imposed a mandatory one-year sentence for carrying an unlicensed gun, there were fewer gun-related offenses, and homicides fell dicts do; funding for rehabilitation programs will prevent addicts from being thrown back in the streets and into crime.

● Special anti-crime units. Community efforts—such as block watches and citizen patrols—are a valuable and necessary aid, but there is no substitute for an effective police force. The most efficient use of police resources depends on training and funding the specialized units that are able to: target "career criminals," who commit 3.5 times the number of crimes as amateurs and take half the time to prosecute; apprehend the most violent criminals, like the gangs that Los Angeles' CRASH unit busts for committing half the murders citywide; and train police in the techniques that enable 5 percent of officers to produce 50 percent of a precinct's convictions for serious crimes.

Simply spending more money is not the answer to the problem of crime, but fewer cops, prosecutors and services are not either. As New York Lt. Gov. Mario Cuomo pointed out, the issue is one of priorities. "You have to ask yourself, 'What's more important: a convention center, or protecting yourself? Raises, or protecting yourself? Highways, or protecting

'You can't do this — I'm a liberal! I don't agree with Justice Burger! I think we should keep the streets safe for criminals! I don't mind if you clutter up the justice system! Wait . . . '

Wichita Beacon-Eagle
Jan. 28, 1985

Study Cites Bail, Crime Statistics

Defendants Find Pretrial Trouble

Los Angeles Times/
Washington Post Service

WASHINGTON — About 10 percent of all criminal defendants and more than a third of those with serious criminal records who are conditionally released by federal courts before they are brought to trial get into new trouble before their cases are heard, according to a Department of Justice study made public Sunday.

The report showed that about 35 percent of defendants with records of three or more felony convictions and one or more previous instances of failure to appear in court had been arrested for a new crime or failed to appear for trial within 120 days after their release on bail. About 20 percent of offenders with fewer than three felony convictions were arrested for new crimes or failure to appear within the 120-day bail period, the report said, while only 8 percent of first offenders similarly violated the conditions of their bail.

The report found that the likelihood of misconduct while on bail increases in proportion to the time defendants are free, with a 10 percent probability for defendants on bail for 90 days and a 17 percent probability if the bail runs to nine months.

The data, compiled by the Bureau of Justice Statistics from 1979 records in 13 of the nation's busiest federal court districts, give statistical support to the administration's case in advocating Congress' passing of bail reform legislation last year, Attorney General William French Smith said in a statement released Sunday.

"THERE IS unconscionable looseness in the system, which manifests itself in countless preventable murders, rapes and muggings," Smith said. Noting that the bail reform statute establishes a hearing procedure permitting judges to forbid pretrial release of federal defendants if their release would present a danger to the public, Smith said the report "makes it clear that many defendants posing just such a threat have been routinely released to prey on the community."

Since the bail reform act took effect last October, federal courts have granted more than 200 prosecutors' motions for pretrial detention of defendants deemed dangerous, according to Steven Schlesinger, director of the Bureau of Justice Statistics.

Associated Press contributed to this report.

Attachment #3
House Judiciary Committee
January 29, 1985

NATIONLINE

FROM USA TODAY'S NATIONAL NEWS NETWORK

'Loose' bail adds to crimes

WASHINGTON — About 35 percent of federal defendants with serious criminal records who are free on bail get into more trouble with the law, a Justice Department study said Sunday. They are arrested for new crimes, violate release conditions or fail to appear for trial, said the study by the Bureau of Justice Statistics. Attorney General William French Smith said the figures show an "unconscionable looseness" in the system. Men, non-whites and the young are most likely to get into trouble after being released until trial, the report said.

'Guest workers' unwelcome

AP

BONILLA: No protection for workers

CORPUS CHRISTI, Texas — Proposed immigration changes to make it easier for farmers to hire foreign laborers "would create a form of government-sanctioned slavery," the chairman of National Hispanic Leadership Conference said Sunday. Tony Bonilla vowed his group would prepare a legal fight if the Immigration and Naturalization Service tries to expand the "guest worker" program — under which up to 20,000 foreign workers enter the USA legally each year to pick fruit and vegetables. "There is no way these workers can be guaranteed any protection," Bonilla said, "considering the plight of our own American citizens who are farm workers and are still struggling for their rights."

Vietnamese student tried

LOS ANGELES — With theories of assassination, a suicide plot and international intrigue likely to confront the jury, the murder trial of Vietnamese immigrant Minh Van Lam, 21, starts today. He's accused of shooting Edward Lee Cooperman, 48, a California State University at Fullerton physics professor with ties to the communist government of Vietnam. Lam, a student at Fullerton, became Cooperman's friend and protege, says Alan May, Lam's attorney. But some of Cooperman's friends say right-wing Vietnamese "gangsters" may have ordered Lam to kill the professor. Others say a suicidal Cooperman may have tricked Lam into the "accidental" shooting.

Safety seat misuse probed

WASHINGTON — Auto makers, safety experts, and government officials today begin investigating why safety seats for children are so often misused. Although 49 states require safety seats for small children, the devices are used only about half the time — and then often improperly — says the National Transportation Safety Board, sponsoring

t Worth edgy

nissing

AP photos

MISSING: Angela Ewert

record investigation — ing about 40 officers g cases as far back as has resulted in the ar- two men. But both were d for lack of evidence.

Victims previously found: Sarah Kashka, 15, found stabbed to death Jan. 1; Cindy Heller, 23, found strangled Jan. 5; and Lisa Griffin, 20, found shot to death Jan. 9.

Angela Ewert, 21, has been missing since Dec. 11.

"There's always that slight hope," said her father, Gary. "But we're intelligent enough to know that the longer it goes the slimmer the hope is."

And family members must bear the constant pain of being in the spotlight. "For the last three weeks, you can't turn on the TV without seeing a picture of her," said Kashka's brother, James, 19.

Even worse, he says, is "knowing that someone is out there who did it. I just wish they would catch somebody."

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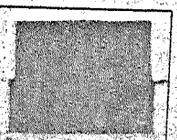

By Michael Mecham
USA TODAY

SPACE CENTER, Houston — America's first military space shuttle mission ended with a perfect afternoon touchdown Sunday — under the same strict secrecy with which it began.

With two sonic booms, the 100-ton spaceship Discovery dropped out of blue skies and landed at Kennedy Space Center, Fla., at 4:23 EST.

Left in space was its cargo — reportedly a spy satellite to eavesdrop on Soviet missile tests and military communications.

A major accomplishment — announced early Sunday — was the success of a $50 million booster rocket critical for this year's civilian shuttle missions.

The booster — used to propel satellites into orbit — failed on its only previous shuttle use.

NASA, adhering to the mission's secrecy, didn't say when the satellite will begin functioning. A newly launched satellite normally begins operating after up to a month of testing.

Landing time was kept secret until 12:23 a.m. EST when officials, as promised, gave 16