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## **Legislation: A New Design for Justice Integration**

Paul F. Kendall\*

Anne E. Gardner\*\*

### **I. INTRODUCTION**

Federal crime initiatives play an integral role in supporting state and local criminal justice efforts. The interplay between grant assistance and control, and independent, yet integrated, state and local programs focuses attention on the Federal Government's duty and ability to coordinate information sharing within the criminal justice system.

The information age has mandated a change in the way criminal justice agencies operate. Information sharing technology allows seamless communication between law enforcement, courts, prosecutors, public defenders, corrections departments, probation and parole officers, as well as social welfare agencies. As criminal justice components seek to integrate and share information, intricate statewide plans for information architectures are emerging. These courses of events present Congress with a new opportunity to support and encourage coordination in the criminal justice system.

This Article examines the history of federal funding mechanisms that support state and local crime fighting efforts, discusses the recent integrated information sharing developments among criminal justice components, explains how current federal statutes can be coordinated to support state and local information sharing projects, and explores legislative means by which Congress can improve federal criminal justice assistance for the twenty-first century.

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## II. ROLE OF FEDERAL GOVERNMENT IN CRIMINAL JUSTICE

Since 1968, the Federal Government has endeavored to delineate its role in the fight against crime. Its first organized effort was set forth in the Crime Control and Safe Streets Act of 1968, which created the Law Enforcement Assistance Administration (LEAA) within the United States Department of Justice.<sup>1</sup> In creating the LEAA, Congress recognized that crime control is primarily a state and local effort, but that federal financial support and coordination is necessary.<sup>2</sup> Under the LEAA, the Federal Government formed partnerships with state and local governments, aiding them through grant programs in the reduction of crime and the improvement of the Nation's criminal justice system.<sup>3</sup> Since that time, the Federal Government has maintained financial and coordination assistance for state and local governments through variations of the LEAA.<sup>4</sup> Today, the LEAA exists as the Office of Justice Programs (OJP) and its five component criminal justice Bureaus: the National Institute of Justice (NIJ), the Bureau of Justice Statistics (BJS), the Bureau of Justice Assistance (BJA), the Office of Juvenile Justice and Delinquency Prevention (OJJDP), and the Office for Victims of Crime (OVC).<sup>5</sup> OJP and the five Bureaus continue the crime-fighting mission of the LEAA by providing assistance to state and local governments through grant programs designed to foster partnerships with law enforcement and criminal justice agencies nationwide.<sup>6</sup> The structure of today's OJP is a testament to Congress' endeavors to create an agency for coordinated criminal justice assistance, research, and evaluation while protecting state and local law enforcement autonomy.<sup>7</sup>

Beginning with the Crime Control and Safe Streets Act of 1968, various crime bills have defined OJP and its initiatives in response to the times. For example, the

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1. S. REP. NO. 91-1253 (1970), *reprinted in* 1970 U.S.C.C.A.N. 5804, 5807.

2. Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-351, 1968 U.S.C.C.A.N. (82 Stat. 197) 237.

3. *Id.*; S. REP. NO. 91-1253 (1970), *reprinted in* 1970 U.S.C.C.A.N. 5804, 5805.

4. In 1979, the LEAA was restructured as the Office of Justice Assistance, Research and Statistics (OJARS) with three "Bureaus": the LEAA, the National Institute of Justice (NIJ), and the Bureau of Justice Statistics (BJS). Justice System Improvement Act of 1979, Pub. L. No. 96-157, §§ 101-03, 201-04, 301-05, 801, 1979 U.S.C.C.A.N. (93 Stat. 1167) 2471. In 1984, OJARS was reorganized as today's Office of Justice Programs and its five component Bureaus. Crime Control Act of 1984, Pub. L. No. 98-473, 1984 U.S.C.C.A.N. (98 Stat.) 1837, 2077-2125, 2170-75.

5. Crime Control Act of 1984, Pub. L. No. 98-473, 98 Stat. 1837, 2102 (1984). The Office for Victims of Crime was established by the Victims of Crime Act of 1984, title II, chapter XIV, Pub. L. No. 98-437, 98 Stat. 2170, 2178 (1994) (codified at 42 U.S.C. § 10,605 (1994)).

6. OFFICE OF JUSTICE PROGRAMS, PROGRAM PLANS FOR FISCAL YEAR 1996, preface (1996) (copy on file with the *McGeorge Law Review*).

7. Historically, the purpose of the independent grant making authority of the LEAA was to prevent federal initiatives, through the Attorney General, from overtaking state and local law enforcement efforts. JUSTICE MANAGEMENT DIVISION, DEPARTMENT OF JUSTICE, A MANAGEMENT REVIEW OF THE OFFICE OF JUSTICE PROGRAMS 1 (1990) (copy on file with the *McGeorge Law Review*). The independence of NIJ and BJS was to foster research and statistical integrity through maintaining independent research and statistical arms within the federal criminal justice system. S. REP. NO. 96-142 (1979), *reprinted in* 1979 U.S.C.C.A.N. 2471, 2521, 2524.

original crime act was concerned with the riots and civil uprisings of the mid-1960s.<sup>8</sup> Accordingly, the LEAA was instructed to give special emphasis to programs addressing riots and other civil disorders.<sup>9</sup> By 1974, the federal crime focus turned to juvenile justice with the enactment of the Juvenile Justice and Delinquency Prevention Act.<sup>10</sup> This Act created a specialized juvenile justice bureau within the LEAA.<sup>11</sup> When the LEAA's authorization expired,<sup>12</sup> Congress reevaluated the LEAA's crime initiatives and passed the Justice System Improvement Act of 1979.<sup>13</sup> The Act reorganized the agency in an effort to foster grant program coordination, to streamline the federal crime assistance grant process, and to increase the emphasis on state and local, rather than federal, justice system problems.<sup>14</sup>

Although the LEAA lost favor with the Carter Administration and was terminated in 1982,<sup>15</sup> the need to address a growing national violent crime problem revived the concept of the federal agency in 1984.<sup>16</sup> The Comprehensive Crime Control Act of 1984<sup>17</sup> updated the original 1968 Act with a new set of streamlined and targeted grant processes designed to prevent waste of criminal justice resources and to assure maximum fiscal impact at state and local levels.<sup>18</sup> The 1984 Act specifically targeted corrections, a component of the criminal justice system

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8. S. REP. NO. 1097 (1968), *reprinted in* 1968 U.S.C.C.A.N. 2112, 2120-21.

9. *See* Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-531, 1968 U.S.C.C.A.N. (82 Stat. 197) 237, 242-43 (stating, "In making grants under this part, the Administration and each State planning agency, as the case may be, shall give special emphasis, where appropriate or feasible, to programs and projects dealing with the prevention, detection, and control of organized crime and of riots and other violent civil disorders.").

10. Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. No. 93-415, 1974 U.S.C.C.A.N. (88 Stat. 1109) 1267.

11. The Juvenile Justice Act of 1974 created the Office of Juvenile Justice and Delinquency Prevention within the LEAA to specifically aid state and local governments in conducting effective juvenile justice and delinquency prevention programs. *See id.* at 1268-69 (creating the Office of Juvenile Justice and Delinquency Prevention with the LEAA for the purpose of "increas[ing] the capacity of state and local governments . . . to conduct juvenile justice and delinquency prevention and rehabilitation programs, and to provide research, evaluation, and training services in the field of juvenile delinquency prevention").

12. *See* S. REP. NO. 96-142, at 6 (1979), *reprinted in* 1979 U.S.C.C.A.N. (93 Stat. 1167) 2471, 2477 (stating that "[t]he current authorization for the LEAA expires on September 30, 1979.").

13. Justice System Improvement Act of 1979, Pub. L. No. 96-157, 1979 U.S.C.C.A.N. (93 Stat.) 1167.

14. *Id.* In the 1979 Act, Congress sought to separate the research, evaluation, and programmatic functions of the LEAA from the direct control of the Attorney General by giving the Administrator final authority over all grants and contracts awarded by LEAA, which was then dubbed, "Office of Justice Assistance, Research and Statistics" (OJARS). *Id.* § 101, 1979 U.S.C.C.A.N. (93 Stat.) 1170. The purpose behind creating independent grant authority for the head of OJARS was to increase efficiency and to reduce red tape and delay. S. REP. NO. 96-142, at 6 (1979), *reprinted in* 1979 U.S.C.C.A.N. 2471, 2477. In addition, the focus of the NIJ and BJS was specifically directed toward state and local government initiatives, rather than federal criminal justice problems. *Id.* at 2, *reprinted in* 1979 U.S.C.C.A.N. 2471, 2473.

15. *See* H.R. REP. NO. 98-1030, at 275 (1984), *reprinted in* 1984 U.S.C.C.A.N. 3182, 3456 (noting that the LEAA received no appropriations in 1981 and was terminated on April 15, 1982).

16. *Id.* at 276, *reprinted in* 1984 U.S.C.C.A.N. 3182, 3457.

17. Pub. L. No. 98-473, 1984 U.S.C.C.A.N. (98 Stat. 1837) 3182.

18. *Id.* at 3457, 3460-61.

overlooked in the 1970s.<sup>19</sup> The 1984 Act also added new areas of federal criminal justice involvement by amending the Juvenile Justice and Delinquency Prevention Act of 1974 to include missing children provisions in response to increasing multi-jurisdictional child abductions. The 1984 Act also included new provisions addressing victims' compensation and assistance, known as the Victims of Crime Act of 1984.<sup>20</sup>

By 1988, the national crime focus was on multi-jurisdictional drug crime, as evident in the new crime bill entitled the "Anti-Drug Abuse Act of 1988."<sup>21</sup> Through this Act, Congress provided OJP's Bureaus—BJA, BJS, and OJJDP—with specific authority to encourage state and local governments to target federal resources on programs for the apprehension and prosecution of drug offenders.<sup>22</sup> The 1988 Act also provided ongoing support to crime victims by reauthorizing the Victims of Crime Act of 1984 and by establishing a separate office within OJP to address victims' issues.<sup>23</sup> In 1990, the authority of OJP's Office of Victims of Crime was expanded to include new children's provisions under Title II of the Crime Control Act of 1990, known as the Victims of Child Abuse Act of 1990.<sup>24</sup> The Crime Control Act of 1990 also responded to the growing apprehension of white collar crime initiated by the savings and loan scandals of the late 1980s.<sup>25</sup>

The most recent substantive amendments to OJP and the Bureaus' authorities were the Juvenile Justice Act of 1992 and Violent Crime Control Act of 1994.<sup>26</sup> Through these Acts, Congress enhanced the statutory authority of OJP and its Bureaus in response to increased violence by juvenile offenders, violence against women, and the national desire to return to the traditional concept of law enforcement: returning officers to the community.<sup>27</sup>

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19. See 1984 U.S.C.C.A.N. (98 Stat. 1837) 3182, 3461 (noting that: [W]hile resources to detect, apprehend and prosecute criminals were expanding [in the 1970's], expenditures for convicted and pretrial prisoners continued to decline in real terms. The capacity and efficiency of all criminal justice agencies increased, except corrections, leaving the Nation's last line of defense against crime with too many prisoners in too little space.)

20. Comprehensive Crime Control Act of 1984, Pub. L. No. 98-473, 1984 U.S.C.C.A.N. (98 Stat. 1837) 2125, 2170. Chapter XIV of the Comprehensive Crime Control Act of 1984 is cited as the Victims of Crime Act of 1984. *Id.* at 2170.

21. See Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, 102 Stat. 4181, 4328, 4339, 4450-51, 1988 U.S.C.C.A.N. (102 Stat.) 4181.

22. *Id.*

23. See *id.* at 4419-20 (reauthorizing the Victims of Crime Act and establishing the Office for Victims of Crime within OJP).

24. Pub. L. No. 101-647, 1990 U.S.C.C.A.N. (102 Stat. 4789) 4792-93.

25. H.R. REP. NO. 101-681(I), at 69 (1990), *reprinted in* 1990 U.S.C.C.A.N. 6472, 6473.

26. Juvenile Justice and Delinquency Prevention Amendments, Pub. L. No. 102-586, 1992 U.S.C.C.A.N. (106 Stat.) 4982; Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 1994 U.S.C.C.A.N. (108 Stat.) 1796.

27. See Juvenile Justice and Delinquency Prevention Amendments, Pub. L. No. 102-586, 106 Stat. 4982, 1992 U.S.C.C.A.N. (106 Stat.) 4982 (noting the upsurge in arrests of juveniles for murder, assault, and weapon use, and that the small number of youth committing serious offenses is becoming more violent); Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 1994 U.S.C.C.A.N. (108 Stat.) 1796, 1807-15, 1902-55;

As in the past, changes in the social and political climate continue to call for Congressional response. Today, the criminal justice system faces new issues related to the explosion in advanced information technology and communications systems. In the criminal justice arena, technology has enabled once ordinary, localized crimes to take on a sophisticated, multi-jurisdictional significance.<sup>28</sup> Criminal sophistication, in combination with the large numbers of crimes committed nationwide, necessitates information sharing and calls for OJP to fund programs enabling state and local criminal justice agencies to use new technology to their advantage in addressing criminal justice problems of the "information age." Capabilities of new information sharing technology present Congress with an opportunity to respond to new problems by enabling OJP to assist state and local criminal justice agencies through legislation coordinating the implementation of information technology.

A. *Why Information Sharing is Necessary to Success in Today's Criminal Justice System*

Traditionally, it was law enforcement's response to organized crime that focused attention on manual or automated systems for gathering, storing, and disseminating information.<sup>29</sup> National networks of criminals communicating within sophisticated organizational structures created the need for law enforcement to share information across state and local lines.<sup>30</sup> Today, information sharing is necessary to deal not only with traditionally multi-jurisdictional crimes, but also with a new kind of criminal sophistication.

Advances in technology have created new kinds of crimes and criminals who keep pace with, if not out-run, new crime fighting tools.<sup>31</sup> It is estimated that by the

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H.R. REP. NO. 103-324, at 1 (1994), *reprinted in* 1994 U.S.C.C.A.N. 1802-05 (asserting the desire to return to the traditional method of community policing).

28. Chris Googans, *A Message from the Other Side*, GOV'T TECH., Mar. 1996, at 66 (reprinted with permission from *Computer Crime* (O'Reilly & Assoc. 1995)).

29. See Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-351, 1968 U.S.C.C.A.N. (82 Stat. 197) 239 (stating that state plans should include "developing systems for collecting, storing, and disseminating information relating to the control of organized crime"); see also Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, 1988 U.S.C.C.A.N. (102 Stat. 4181) 4340 (adding specific statutory authorization for automated criminal intelligence systems grants under the Regional Information Sharing System, helping law enforcement address multi-jurisdictional criminal offenses and conspiracies).

30. S. REP. NO. 1097 (1968), *reprinted in* 1968 U.S.C.C.A.N. 2112, 2119-20.

31. See Marc D. Goodman, *Why the Police Don't Care About Computer Crime*, 10 HARV. J.L. & TECH. 465, 467 (1997) (explaining:

As the number of computers expands globally, there will be a concomitant rise in both the good and bad purposes for which they are put to use. Greater numbers of cheap, networked computers available to the general public also means greater numbers of cheap, networked computers available to the criminal elements of society.);

*id.* at 480-81 (noting that historically, police have been slow to adopt new technology, which is not true of criminals); see also Attorney General Frankie Sue Del Papa, *High Tech Crimes Task Force*, NEV. LAW. 10, Oct.

year 2000, a vast majority of criminals may be computer literate.<sup>32</sup> Computer literacy among a criminal element begets new opportunities for crime directly related to computer systems, such as software piracy and theft of intangible property, and enables criminals to perpetrate traditional crimes such as theft, embezzlement, gambling, drug trafficking, child molestation, and child pornography on a wider scale.<sup>33</sup> Super-sophisticated criminals have even turned technology against law enforcement by using computers, cellular phones and other devices to gather counter-intelligence on law enforcement operations.<sup>34</sup>

In addition, the increase in criminal sophistication is exacerbating the chronic problems of today's criminal justice system.<sup>35</sup> Too often, law enforcement officers are frustrated by cumbersome paperwork, lack of automation, and an inability to communicate with neighboring jurisdictions and federal law enforcement.<sup>36</sup> Corrections officials face problems of overcrowding and officer safety.<sup>37</sup> Courts and prosecutors juggle full dockets and struggle to efficiently communicate with law

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1997 (describing Nevada law enforcement's need to develop a response to high tech computer criminals).

32. Goodman, *supra* note 31, at 470-71 (citing Richard S. Groover, *Overcoming Obstacles: Preparing for Computer-Related Crime*, FBI L. ENFORCEMENT BULL., Aug. 1996, at 8). It has been noted that society is about to feel the impact of the first generation of children that have grown up in the computer age. *Id.* at 470. In addition to computer savvy youth, ever-increasing numbers of adults have the opportunity and ability to learn computer skills and to use them to criminal ends. *Id.* at 470-71.

33. See, e.g., Goodman, *supra* note 31, at 472; Stephen P. Heymann, *Legislating Computer Crime*, 34 HARV. J. ON LEGIS. 373, 380-81 (1997) (noting that computers beget new crimes in which the computer or data it contains is the target, as well as providing the opportunity for criminals to further other traditional criminal acts); *FBI Investigators Want OK to Decode Computer Transmissions*, Dow Jones News Serv., July 9, 1997, available in Westlaw, DJNS File. Computers not only facilitate traditional crimes, but elevate small crimes not meriting criminal liability into substantial criminal offenses. See Heymann, *supra*, at 382-83 (explaining that once insignificant copyright violations take on new criminal proportions when copyrighted material is made available to thousands of people over the Internet). The element of danger has also increased as, in many cases, financial crimes are getting more sophisticated, and the criminals committing these high-tech crimes are arming themselves, unlike previous financial criminals. Joe Hughes, *Fraud Task Force Makes Major Arrest*, SAN DIEGO UNION-TRIB., Mar. 19, 1997, at B3:7- 8, B2:6.

34. See Goodman, *supra* note 31, at 474 (noting that Colombian drug dealers monitored national telephone service using IBM mainframes in an effort to determine which Colombian citizens were cooperating with the United States Drug Enforcement Administration).

35. See Justine Kavanaugh-Brown, *To Track and Prosecute*, GOV'T TECH., Oct. 1997, at 42 (quoting Neil Baron of Sybase: "[C]riminals change their name, date of birth, appearance, etc. It takes a state-of-the-art criminal justice system to track and prosecute the modern criminal.").

36. See Ray Dussault, *L.A. Cops Get Wired*, GOV'T TECH., Dec. 1997, at 40 (explaining that in Los Angeles, until two years ago, over 4 million incident reports were filed by hand each year, keeping officers off the streets); Blake Harris, *Goin' Mobile*, GOV'T TECH., Aug. 1997, at 1, 42 (explaining that while the Lakewood, Colorado police have been described as one of the best urban forces in the country, the communication manager for the department acknowledges that one-half an officer's time is spent printing reports by hand).

37. See Milford Sprecher, *Fulton County and Atlanta Integrate Criminal Justice Information*, GOV'T TECH., Aug. 1997, at 38 (describing Fulton County's overcrowding problem, Stephen Kinnard, Chief Circuit Mediator for the U.S. Court of Appeals for the 11th Circuit, states that "the county can't build its way out of the jail overcrowding problem. Jail overcrowding is a symptom of other problems [within the criminal justice system]."); Meghan Cotter, *Technology Eases Corrections Crowding*, GOV'T TECH., June 1997, at 56 (noting that, even though crime rates are down, "three strikes" laws and mandatory sentencing mandates are contributing to a nearly unmanageable prison population which is between 14 and 25 percent above capacity).

enforcement and with each other.<sup>38</sup> Probation and parole officers battle unreasonable caseloads without an effective means of communicating with social service agencies.<sup>39</sup> In response to these ongoing obstacles, OJP has funded various grant programs, enabling state and local governments to attack systemic problems with technology.<sup>40</sup> Criminal justice system components<sup>41</sup> have individually responded by applying technology to improve their operations and to apprehend increasingly sophisticated criminals.<sup>42</sup>

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38. See Dennis Patterson, *Improving Court System Costly, Mitchell Tells Panel*, NEWS & OBSERVER (Raleigh, N.C.), Dec. 13, 1997, at A3 (reporting state Supreme Court Chief Justice Burley Mitchell's statement to the North Carolina Courts Commission that "[j]ust to return the court case loads to their level of 13 or 14 years ago would require hundreds of additional judges, clerks and prosecutors. . . . We are functioning about as well as we can with our lack of personnel and outdated technology.""). But see *Unisys Wins \$22M Contract from Broward County for Integrated Justice Information System*, M2 PRESSWIRE, May 4, 1998 (describing Broward County's plans to implement an integrated court technology system that will improve communications with law enforcement and corrections, as well as improve civil case management).

39. See *Woman's Death Was Preventable*, INDEPENDENT (London), May 30, 1997, at 2 (citing an example of the communication failure between British probation officers and social service agencies in the death of a woman at the hands of her estranged husband); Julie Sullivan, *City of Second Chances: Overburdened Community Corrections Officers Wrestling Large Case Loads and a Balky Computer System are at a Distinct Disadvantage in Trying to Supervise Offenders Who Are on the Street*, SPOKESMAN REV., June 19, 1998 (noting that in Spokane County, Washington, about 50 parole officers supervise 12,000 offenders. In addition, their jobs are hampered by a lack of equipment and an outdated computer tracking system); *Court Counselors Seek Resources the System for Tracking Troubled Young People Is Not Working, Juvenile Probation Officers Say*, GREENSBORO NEWS & REC., Aug. 2, 1998, at B2 (stating that probation officers in Greensboro, North Carolina are frustrated over "gargantuan case loads," as court counselors average 43 cases each at any one time, while the state prefers limiting case loads to no more than 30).

40. For example, in 1996 BJS awarded the Arizona Criminal Justice Commission funds in excess of \$500,000 for prosecutor automation, court disposition backlog reduction, livescan fingerprint units, and the automated storage and retrieval of protection and stalking orders. Bureau of Justice Statistics Grant No. 95RURXK043 (copy on file with the *Office of Justice Programs*). The Bureau of Justice Assistance awarded the San Francisco Police Department \$500,000 in 1996 for a communication and identification enhancement project to provide an electronic identification system to police. Bureau of Justice Assistance Grant No. 96IAVX0002 (copy on file with the *Office of Justice Programs*). In 1997, OJP's Violence Against Women Program Office awarded the Delmar, Delaware Police Department \$80,000 to develop a computerized tracking system accessible by law enforcement, prosecutors, parole and probation agents, and social services workers to combat domestic violence and sexual assault. Office of Justice Programs Violence Against Women Program Office Grant No. 97WEVX0055 (copy on file with the *Office of Justice Programs*). Throughout the late 1980s, and especially since the Crime Control Act of 1994, OJP and the Bureaus awarded many similar technology grants in response to specific criminal justice problems.

41. "Criminal justice system components" or "the components" as used in this Article, refer to state, local, and federal law enforcement, courts, corrections, probation and parole officers, prosecutors and public defenders.

42. See, e.g., John Wescott, *New Crime Suppression Team Goes Into Action Next Month*, ORANGE COUNTY REG., Jan. 2, 1997, at 3 (noting that state funds provided money to purchase patrol car laptop computers, a night-viewing scope, video cameras, and other equipment); Matt Lait, *Parks Calls Cutting Crime Key Test of Success as Chief of Law Enforcement*, L.A. TIMES, Aug. 7, 1997, at A1 (stating that the new chief's mission is to implement new technology to track and prosecute criminals and put an end to gang warfare); Bill Rams, *Anaheim Police 1st in State to Use Speedy Fingerprint, ID Tool*, ORANGE COUNTY REG., Sept. 19, 1997, at B5 (announcing that the Anaheim police department is implementing automated fingerprinting which cuts the identification waiting period from hours or days to four minutes); Robin Mohr, *Police Cars to Get Laptop Computers*, CHI. TRIB., Sept. 5, 1997, at 3 (discussing how laptop computers are being installed to relieve officers of the drudgery of endless paperwork); Justine Kavanaugh-Brown, *Technology News: North Carolina Police Going Wireless*, GOV'T TECH., Oct. 1997,



Although the rewards from implementing technology have been substantial in many cases,<sup>43</sup> criminal justice system components realize that technology alone is not the answer.<sup>44</sup> Technology of the 1980s and early 1990s, applied for technology's sake, did not fix many of the coordination problems within the criminal justice system. Today, the idea is to improve crime fighting efforts by returning to the "basics" of law enforcement and criminal justice (encouraging communication and interaction of law enforcement within communities) and by encouraging cooperation and integration of all criminal justice components.<sup>45</sup> The goals include freeing law enforcement from burdensome paperwork and returning officers to neighborhoods,<sup>46</sup> improving speed and accuracy of the judicial process,<sup>47</sup> and

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at 14 (stating that the Charlotte, North Carolina police force is implementing laptop computer technology to alleviate paperwork and provide field officers with access to automated records systems); Eric B. Schoch, *Photo Process for Crime-Solving Begins Journey to Courtroom*, INDIANAPOLIS STAR, May 30, 1997, at B1 (noting that the Institute for Forensic Imaging is installing forensic imaging equipment at the Indiana State Police lab and is working with the Indiana University School of Law to develop procedures that will make manipulated imagery acceptable as evidence); Andrew Buchanan, *Return to Suspect Monitors Proposed, Waukegan Murder Ended System in '92*, CHI. TRIB., Sept. 21, 1997, at 1 (noting that Lake County, Illinois officials are instituting a new electronic monitoring system consisting of voice-identification, bracelets, anklets, and computer technology to monitor non-violent offenders in an effort to relieve overcrowding at the county jail); Cotter, *supra* note 37, at 36 (noting that "a growing number of corrections officials are turning to information technology to provide the framework [for solutions to overcrowding]"); John D. Woodward, *Biometric Scanning, Law & Policy: Identifying the Concerns-Drafting the Biometric Blueprint*, 59 U. PITT. L. REV. 97, 109-10 (1997) (noting that the Cook County, Illinois Sheriff's Department has implemented retinal scanning in the prison system to track and identify inmates. Retinal scanning saves resources by decreasing the time needed to identify a suspect to one minute per search.).

43. See Harris, *supra* note 36, at 61 (stating that, in some police departments, the installation of mobile access computers resulted in immediate and dramatic results. For example, the Jefferson Borough, Pennsylvania Police Department reported that during the first two weeks of operation, the computer system helped identify and capture several wanted persons and recover a number of stolen vehicles).

44. See *id.* at 43, 61 (explaining that the installation of mobile data computers, alone, is not going to produce the desired results. Rather, the information accessible by computers must be communicated to the officers on the street and shared throughout the public safety enterprise); Bill McGarigle, *Crime Profilers Gain New Weapons*, GOV'T TECH., Dec. 1997, at 29 (noting that experts caution that computerized geographic profiling systems used to track serial killers do not hold all the answers; rather, they are a way of managing information. Experts agree that geographic profiling systems are most effective when used in conjunction with psychological profiling and linkage analysis systems that share information nationwide).

45. See H.R. REP. NO. 103-324, at 6, *reprinted in* 1994 U.S.C.C.A.N. 1801, 1803 (showing Congress' intent to return to the basics of law enforcement through the Cops on the Beat program, added as part Q to the Omnibus Crime Control and Safe Streets Act of 1968 by the Violent Crime Control Act of 1994); Justine Kavanaugh, *Community Oriented Policing and Technology*, GOV'T TECH., Mar. 1996, at 14 (noting that community oriented policing is a rapidly growing trend in law enforcement); see also Martin Lind, *Justice Integration Briefing*, GOV'T TECH., Apr. 1998, at 28 (showing that justice agencies recognize the benefits of integrating disparate information systems and no longer see other criminal and civil justice agencies as having entirely different information needs).

46. H.R. REP. NO. 103-324, at 6, *reprinted in* 1994 U.S.C.C.A.N. 1801, 1803.

47. Accurate and accessible information from various sources is required for successful crime control because it enables police officers, prosecutors, court personnel, corrections and probation officers, and others to work efficiently and collaboratively within the criminal justice system. See *Computers and the War on Crime*, GOVERNING MAG., July 1, 1997, at 53 (stating that:

Before computers [were] utilized against crime, many criminals went unpunished because law enforcement officials were not able to collate the information. . . . There is a growing awareness that

reducing the rate of recidivism.<sup>48</sup> To achieve these goals in the new information age, agencies are focusing on the heart of the criminal justice system: information management.<sup>49</sup>

### B. *Information Sharing for the Twenty-First Century—Development of Integrated Criminal Justice Information Architectures*

Advances in information sharing technology make “high-tech” sharing capabilities a reality, even to small criminal justice agencies. Such advances enable the entire criminal justice system to benefit from quick criminal identification, increased officer safety, cost savings in processing offenders, increased efficiency in record keeping and administration, enlightened sentencing, and increased public awareness, among other benefits.<sup>50</sup> In developing information sharing capabilities, criminal justice components are recognizing that interagency communication and

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public safety may well depend on [the transmission of information]. Many states are now developing and testing data networks which integrate law enforcement and criminal justice information.)

48. Recidivism is an age-old criminal justice problem that remains at the forefront of criminal justice prevention efforts. New technology, however, may be helping law enforcement to reduce criminal recidivism through the use of tracking devices. *See High Tech Check Could Help Keep Parolees in Line*, GREENSBORO NEWS & REC. (N.C.), Apr. 2, 1996, at B3 (discussing South Carolina’s recidivism problem and new satellite tracking capabilities). Other new criminal justice approaches, such as restorative justice, are also being applied to this historical problem. *See Wendy Costa, Another Alternative to Incarceration*, SAN DIEGO UNION-TRIB., Mar. 13, 1998, at B9 (discussing the Victim Offender Reconciliation Program, which is hoped to prevent recidivism and provide restitution to victims).

49. *See Stacy Downs, Police Plan to Improve Information Arsenal*, KANSAS CITY STAR, Jan. 4, 1997, at 3 (stating that the Olathe Police Department’s 1997 New Year’s resolution was to “arm its officers with information” by replacing manual criminal history checks with laptop computer checks and access to federal, state, and local databases); Cotter, *supra* note 37, (revealing that “the most far-reaching trend in today’s corrections market is the move toward information systems which integrate department communications, security, and computerization” including information systems that will integrate law enforcement and detention requirements); Kevin Jackson, *JUSTNET*, CORRECTIONS TODAY, Aug. 1, 1997, at 108 (noting that “[p]ractitioners from across the country . . . came together and realized that they [all] shared the same wish: They wanted a real-time information network that would enable them to trade information with fellow correctional practitioners across the country.”).

50. *See Harris, supra* note 36, at 1 (observing that first generation mobile access systems of the 1970s were large and costly, often beyond the reach of small and medium-sized agencies. Today’s technology, however, allows even small departments to arm officers with notebook computers, radio modems, and off-the-shelf software rather inexpensively); Wilkinson & Richie-Matsumoto, *infra* note 51, at 64 (explaining that, although crime rates are actually in decline, the demand for law enforcement technology is growing. This is due in part to better technology available at lower cost.). *See, e.g., Cotter, supra* note 37 (stating that advanced technologies such as biometric imaging, smart cards, and video conferencing enable corrections departments to improve inmate tracking, case management, and medical care); Justine Kavanaugh, *Technology A Parolee’s Worst Enemy?*, GOV’T TECH., June 1997, at 14-15 (explaining that California’s 900-number hotline allows the public to check on sex offenders, and California’s LEADS tracking system, which makes a wide variety of information on parolees available to law enforcement, is helping to locate parolees who have committed subsequent crimes. These technologies help the public become aware of dangerous people around them and help law enforcement find the most dangerous offenders more quickly).

sharing are essential to success.<sup>51</sup> The desire, therefore, is to develop integrated criminal justice information architectures that connect all components, rather than stand alone systems.

Information architectures, as often described in technical terms, are individualized plans for storing, maintaining, and manipulating information resources.<sup>52</sup> An integrated criminal justice information architecture is somewhat broader in scope. It is a plan for gathering, storing, maintaining, and analyzing information across a varied technological landscape comprised of criminal justice components' existing information systems, whether automated or manual. This information architecture combines the strategies for using information sharing to further criminal justice with the development of information flows, operational uses, connectivity, and system interoperability.

Integrated criminal justice information architectures are beginning to form within state and local criminal justice systems. Many architectures entail city and county cooperation or county and state cooperation, and some entail cooperation at all levels of state and local government.<sup>53</sup> Architectures vary in inclusiveness, some connecting only law enforcement agencies, courts, or corrections departments, and some connecting all the criminal justice components at once.<sup>54</sup> Variances in the levels of integration can be attributed to the fact that architecture development often requires more than just technical solutions. A successful integrated architecture

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51. See James Evans, *Justice Agency "Berlin Wall" Pulled Down*, GOV'T TECH., June 1997, at 26 (describing the Ventura County Integrated Justice Information System, a representative from the Sheriff's Office explains that the integrated county system linking the district attorney, sheriff, public defender, corrections department, probation officers, and the courts will cost less than each agency buying its own system, will save time and prevent errors by eliminating redundant data entry, and should eliminate scheduling conflicts between the jail, sheriff, and the courts); Rob Johnson, *Mayors Tout Coordinated Campaign to Fight Crime, Signing Launches Formation of Memphis-Shelby Commission*, COM. APPEAL, Apr. 22, 1997, at B1 (noting that the mayors of the City of Memphis and Shelby County set up a commission that they anticipate will search the country for the best crime fighting strategy and technology, thus enabling the city and county to work together in crime control); Rams, *supra* note 42, at B5 (stating that Anaheim authorities hope other California departments will join them in purchasing the live-scan technology, so each could tap into the other's files for criminal history information). See generally Reginald A. Wilkinson & Peggy Richie-Matsumoto, *Collaborations and Applications*, CORRECTIONS TODAY, July 1, 1997, at 64 (explaining the benefits of agency corporation when using criminal justice information systems).

52. Curt A. Canfield, *Alternative Pricing: Wave of the Future*, PRACTICING L. INST., COMMERCIAL LAW AND PRACTICE COURSE HANDBOOK SERIES (Mar. 1995), available in Westlaw, 712 PLI/Comm 29.

53. See, e.g., Evans, *supra* note 51, at 26 (discussing the Ventura County Integrated Justice Information System); Bruce Gavin, *High-Tech Law Enforcement Heads for the Hills*, GOV'T TECH., Aug. 1997, at 28 (noting that the regional intranet system connects over 25 Virginia law enforcement agencies and magistrates in several counties across more than 100 miles); Blake Harris, *Building a Seamless Law Enforcement and Criminal Justice Network*, GOV'T TECH., Mar. 1997, at 1, 42-46 (examining Massachusetts' state-wide law enforcement and public safety integrated network); Johnson, *supra* note 51, at B1 (describing the City of Memphis and Shelby County crime fighting commission); Justine Kavanaugh-Brown, *Illinois State and County Partner in New Dispatch System*, GOV'T TECH., Nov. 1997, at 10 (examining the cooperation between the Illinois State Police and Cook County in implementing a new automated 911 system).

54. See Jackson, *supra* note 49, at 108 (discussing the JUSTNET system for corrections departments); *supra* note 53 and accompanying text (describing the variance in information architectures).

requires that all components communicate and agree on a human level before technology is applied.<sup>55</sup> Certain states have successfully overcome interpersonal, or “turf,” obstacles by applying creative, strategic, and technological solutions. States that have achieved degrees of inter-governmental coordination include Colorado,<sup>56</sup> Ohio,<sup>57</sup> and Pennsylvania,<sup>58</sup> among others.<sup>59</sup>

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55. See Evans, *supra* note 51, at 26 (noting that getting the computers “talking” could not begin until staff and executives from competing and sometimes combative agencies, such as prosecutors and public defenders, could talk and come to an agreement. In addition, law enforcement agencies often resist sharing criminal information with non-law enforcement agencies).

56. Kavanaugh-Brown, *supra* note 35, at 42. After years of disorganization and non-cooperation in the criminal justice system, the frustrated Colorado State Legislature passed a bill requiring its five public safety agencies—the Department of Corrections, the Department of Public Safety, the Department of Human Services, the Judicial Branch, and the District Attorneys’ Council—to develop a plan for information sharing. *Id.* The Colorado Integrated Criminal Justice Information System (CICJIS) Task Force was formed to lead all the agencies into a mode of cooperation and information sharing. *Id.* The Task Force developed an information architectural plan to achieve several goals, including reducing the duplication of data, improving the quality of information, and improving access to and speed of information exchange between all criminal justice components. *Id.*

The challenges faced by the Task Force involved the traditional reticence of the components to communicate and the existence of fairly new, isolated information systems used by each component. *Id.*; see Joe Wilcox, *Nec Connects Five Law Agencies*, GOV’T COMPUTER NEWS/STATE & LOCAL, May 1997 (noting that Colorado’s crime information center’s four Digital Electric Corp. VAXes were barely three years old, and that to get a reasonable return on this technological investment, the state needed to maximize the life span of this technology and other new technology being used by the components). Rather than scrapping the existing systems and forcing the components to develop a common, integrated database, the Task Force developed a solution using “middleware” technology. Kavanaugh-Brown, *supra* note 35, at 42.

Middleware technology allows employees of each component to continue to use the systems with which they are familiar, while simultaneously accessing information from other agencies’ systems. *Id.* Middleware essentially translates information from “languages” used by other agencies’ systems into the accessing agency’s system language. Interview with Patrick Ahlstrom, Executive Director of the Colorado Department of Public Safety, in Denver, Co. (Oct. 23, 1997); see Kavanaugh-Brown, *supra* note 35, at 42 (quoting David Usery, Colorado’s Chief Information Officer, explaining that “[middleware] translates data to what the other agency can accept and places in into their system”). Perhaps the greatest advantage of the middleware system is that it “pushes” data through the system, rather than depending upon components to enter and access the information on a central database. Wilcox, *supra*; see Kavanaugh-Brown, *supra* note 35, at 42 (noting that the middleware system “not only allows officials to query for information, it actually pushes data from one system to the next as an offender moves from one agency to another”). For example, as soon as someone at the court pushes “enter” to input a sentencing order into the court’s database, the information is available to law enforcement, corrections, and probation on their systems. By creating an architecture that does not require components to change their existing systems, retrain employees, or access a single database, the CICJIS Task Force was able to achieve a level of cooperation, system integration, and information sharing not previously attainable in Colorado. See Wilcox, *supra* (noting that because middleware allows employees to enter data as they always have done, middleware enhances existing functionality without requiring additional training).

57. The State of Ohio began a comprehensive, integration-planning initiative in response to difficulties arising from many outdated and disparate criminal justice applications at state and local levels. See ECG Management Consultants, State of Ohio Criminal Justice Information System Improvement Plan at Executive Summary 1 (Dec. 16, 1996) (unpublished strategic planning document) (copy on file with the *Office of Justice Programs*). In 1992, Ohio’s Governor Voinovich, Attorney General Montgomery, and Chief Justice Moyer created a CJIS governance structure to closely monitor the development of Ohio’s criminal justice systems, to develop policy regarding automated criminal justice systems, and to provide advice on planning, implementation, and management of an automated criminal justice system network. *Id.* at 3.

The CJIS governance structure is three-tiered. The first tier is an Executive Board consisting of the Governor, Chief Justice, Attorney General, and the presidents of state associations, such as the Chiefs of Police, Sheriffs, and

Prosecutors. Interview with Melissa J. Winesberg, Assistant Chief of Information, CJIS Project Manager, Ohio Office of Criminal Justice Services, in Columbus, Ohio (July 17, 1998) (copy on file with the *Office of Justice Programs*). The second tier is a Policy Group consisting of state and local criminal justice leaders from a variety of critical areas, including law enforcement, court administration, the judiciary, probation, the Department of Youth Services, the Department of Public Safety, the Office of the Governor, the Department of Administrative Services, and the Office of Criminal Justice Services. *Id.*; see ECG MANAGEMENT CONSULTANTS, STATE OF OHIO CRIMINAL JUSTICE INFORMATION SYSTEM IMPROVEMENT PLAN A-2. The third tier consists of four Regional Working Groups of local criminal justice leaders from all components of the criminal justice system. *Id.* at C-1-C-6.

In 1992, the CJIS Policy Group was tasked with developing policy and strategy for an integrated criminal justice system. See ECG MANAGEMENT CONSULTANTS, STATE OF OHIO CRIMINAL JUSTICE INFORMATION SYSTEM IMPROVEMENT PLAN, at Executive Summary 1. To develop this planning document, the CJIS Policy Group instituted a bottom up approach by tapping Regional Working Groups of local government criminal justice leaders from around the State to provide feedback to their strategic planning decisions. *Id.* at Executive Summary 2. These community-wide efforts resulted in the 1995 Criminal Justice System Improvement Plan. *Id.* at 1. Throughout the development and implementation of the Plan, the Regional Working Groups have continued to provide feedback to the Policy Group through commencement of quarterly meetings at the local level to discuss policy decisions on projects, and through the participation of the four Regional Working Group chairpersons at bi-monthly CJIS Policy Group meetings. Interview with Melissa J. Winesberg, Assistant Chief of Information, CJIS Project Manager, Ohio Office of Criminal Justice Services, in Columbus, Ohio (July 17, 1998).

The tiered governance structure has been successful in enticing local jurisdictions to coordinate with their state-level counterparts. The State allowed counties to compete for start-up grants in the amounts of \$100,000. *Id.* Response was very favorable, due, in part, to local governments jurisdictions' input into the initial planning process. Additionally, requirements under the integration grants are general, allowing local governments to develop systems meeting individual needs, as long as they meet the goals of the State CJIS plan. *Id.* At this time, nearly 20 agencies make up the integrated effort within Ohio, and 17 counties have been funded to undertake integration projects. *Id.*

58. The Commonwealth of Pennsylvania's Justice Network (JNET) is the product of a ten-state agency committee (the "Steering Committee") dedicated to developing and maintaining an integrated information technology system for collecting and sharing criminal justice information. Interview with Lt. Col. George P. March, Deputy Commissioner, Pennsylvania State Police, in Harrisburg, Pa. (Dec. 10, 1997) (describing JNET PROJECT OFFICE IN PARTNERSHIP WITH KPMG, JNET COMMONWEALTH OF PENNSYLVANIA (1997)). The Steering Committee consists of representatives from the Administrative Office of Pennsylvania Courts, the Board of Pardons, the Department of Corrections, the Department of Public Welfare, the Juvenile Court Judges' Commission, the Office of the Attorney General, the Pennsylvania Board of Probation and Parole, the Pennsylvania Commission on Crime and Delinquency, the Pennsylvania Department of Transportation, and the Pennsylvania State Police. *Id.*

JNET uses Internet/World Wide Web technology and standards to link diverse hardware and software platforms of the criminal justice components. *Id.* JNET is designed to allow for voluntary participation, and each participating agency controls what information it shares and who can access this information. *Id.* The initial JNET connections, scheduled to begin in 1998, will link the ten agencies of the Steering Committee. *Id.*

The Steering Committee recognizes that county and local participation is necessary for a successful integrated information architecture. See JNET PROJECT OFFICE IN PARTNERSHIP WITH KPMG, JNET COMMONWEALTH OF PENNSYLVANIA (1997) (noting that "[b]ecause the criminal justice process begins and ends in our communities, county and local authorities ultimately must become the foundation as well as the beneficiaries of the Pennsylvania Justice Network"). Participation in JNET is mandatory for all agencies under the jurisdiction of the Governor, and, therefore, eight of the ten participating Steering Committee agencies are required to participate in the JNET system. See Interview with Lt. Col. George P. March, *supra* (describing the JNET PROJECT OFFICE IN PARTNERSHIP WITH KPMG, *supra* (in partnership with KPMG) 1997). Although participation is voluntary for agencies at the local level, the breadth of information offered by integrating the varied agencies of the Steering Committee is hoped to encourage county and local criminal justice components to join the network. *Id.* In addition, the Steering Committee is actively working with counties to develop systems that are compatible with JNET standards. *Id.* Participation needed for full integration is strongly encouraged by the Steering Committee, and may also be encouraged through the Pennsylvania Commission on Crime and Delinquency's grants for information systems at the county and local levels. *Id.* By placing technical and operating parameters on grants to build and maintain local information systems, county and local governments can be encouraged to develop systems that interface with JNET and contribute

information to the JNET system. *Id.*

59. The State of Michigan has begun an integrated criminal justice initiative under the February 10, 1998 Exec. Order of Michigan's Governor Engler, No. 1998-1 (1998) (copy on file with the *McGeorge Law Review*). This Executive Order consolidated existing law enforcement advisory councils and expanded their advisory responsibilities to statewide integration initiatives. *Id.* The new council's membership includes the Attorney General, Secretary of State, Director of the Department of State Police, Director of the Department of Corrections, Chief of Detroit Police Department, Michigan Sheriff's Association, Prosecuting Attorneys Association of Michigan, Michigan District Judges Association, Michigan Association of Chiefs of Police, State Court Administrator, an individual employed in private security, and an individual representing human services. *Id.* This restructured Michigan Criminal Justice Information Systems Advisory Council has been charged with developing a comprehensive plan for integration in Michigan, including integrated criminal history records processing, automated booking, consolidated disposition reporting, interfaced communications between prosecutors and law enforcement, and integrated public safety systems between local and state agencies and with the Federal Government. Doug Zimmer, Center for Information Management, Address at the Inter-governmental Information Sharing Meeting, Washington, D.C. (Mar. 5, 1998).

The State of California has embarked on a statewide integration initiative through the formation of an Intergovernmental Coordinating Council, which is part of the Governmental Affairs Program at McGeorge School of Law, the University of the Pacific. Letter from J. Clark Kelso, Director, Institute for Legislative Practice, McGeorge School of Law, to Janet Reno, United States Attorney General 2 (Dec. 24, 1997) (copy on file with the *McGeorge Law Review*). The Intergovernmental Coordinating Council consists of representatives from major California State and local justice agencies who join in facilitating the integration of otherwise-disbursed governmental powers. *Id.* The Coordinating Council's plans include facilitating discussion of integration issues between California's varying jurisdictions by hosting an integration conference in 1998. *Id.*

The State of Washington has been successful in creating an integrated governance structure and has achieved an exceptional level of interagency and intergovernmental coordination through a multi-jurisdictional partnering concept instituted in the 1980s. Office of Financial Management Information Services, Forecasting, and Management Services Division, Justice Information Network Project Definition 59 (Nov. 16, 1994) (unpublished report, copy on file with the *Office of Justice Programs*). In 1992, the Justice Information Committee (JIC) was formed by the Washington Information Services Board, the state entity that has statutory authority over all state-level information systems. *Id.* at 7. The JIC is comprised of cabinet-level agency heads and local justice officials, and its policy determinations are supported by technical staff from the Office of Financial Management and by the staffs of each of the participating agencies. *Id.* at 59.

In 1994, plans were developed for the Justice Information Network (JIN), a multi-agency, multi-jurisdictional criminal justice information project. *Id.* at 59. The plans included input from all components of the project, including the Washington State Patrol, Department of Licensing, the Office of Administrator for the Courts, Office of Financial Management, the Department of Corrections, and the Washington Association of Sheriffs and Police Chiefs. *Id.* at 59. As designs were being undertaken for the JIN, Internet technology was becoming a new and viable information-sharing tool. Washington State began to harness this technology in the Intergovernmental Network (IGN), an intranet that connects city and county governments with each other and county departments with corresponding State agencies. Brian Backus, Deputy Director, Information Services Division, Office of the Administrator for the Courts, Presentation at the Washington State Justice Information Network Conference, (Aug. 4, 1998). To date, 38 of Washington's 39 counties are accessing IGN. *Id.* The Washington State Department of Information Services has since worked to make IGN a network for use by other governmental agencies. *Id.* The JIC's goal is to utilize and expand the Justice Information System (JIS) developed by the courts to act as the infrastructure for the JIN and the link to the IGN intranet. *Id.*

Throughout the changes in planning and design necessary to respond to changing technologies, the project management remained committed to the partnerships established among justice agencies and jurisdictions. In 1998, the participating criminal justice agencies agreed to fund a full-time position within the Department of Information Services to facilitate the integration of all the criminal justice components. Interview with Dennis Hausman, JIN Project Coordinator, Washington State Department of Information Services, Olympia, Washington (Aug. 31, 1998). The JIN Project Coordinator position has enhanced the already cooperative atmosphere and is widely supported by state and local agencies. Each agency contributes to the JIN Project Coordinator's salary and, therefore, has a stake in the success of the position. *Id.*

As state and local governments forge ahead with the development of information sharing architectures, OJP and its Bureaus are presented with an unparalleled opportunity, through the efficient, coordinated, and targeted use of grant funds, to form partnerships to assist state and local governments in the future integration of the criminal justice enterprise.<sup>60</sup> Presently, the statutory authority of OJP and its Bureaus allows for information technology grants, training, and technical assistance in support of information sharing projects.<sup>61</sup> Such statutory authority, however, is programmatically isolated and is scattered throughout the controlling statutes.<sup>62</sup> Although it is possible for OJP and its Bureaus to piece

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In addition to exceptional partnering and communication within the justice system, Washington's citizenry is actively involved in justice policy through The Washington State Law and Justice Advisory Council, formed in 1994. *Backus, supra*. Of the 35 members on the Council, seven are citizens interested in promoting efficiency and effectiveness in the statewide law and justice system. *Id.*

States have also been successful in the first steps toward integrated architectures by integrating individual pieces of the criminal justice system. For example, Indiana has created the Integrated Law Enforcement Council (ILEC), composed of the major law enforcement groups in Indiana. Melvin J. Carraway & Lester C. Miller, *Integrated Law Enforcement, "You Mean They Are Not Doing it Now?," 2 IN-ROADS, J. SYCAMORE INST. 11 (1998)*. The members of ILEC include the Indiana Sheriff's Association, Indiana Association of Chiefs of Police, Indiana Fraternal Order of Police, Indiana State Police Alliance, Indiana Black Troopers Association, Indiana Troopers Association, Indiana Prosecuting Attorneys Council, Indiana State Police, Law Enforcement Training Board, and the Federal Bureau of Investigation. *Id.* As often noted, the human barriers to integration are the hardest to overcome. *See Evans, supra* note 51, at 26 (stating that "law enforcement agencies traditionally keep their cards close to the vest"). Through dedicated leadership and building personal relationships, this group has made great strides in fostering cooperation and erasing turf battles at all levels of law enforcement in Indiana. *See Carraway & Miller, supra*, at 13 (arguing that "[law enforcement] egos must be put to one side" and that officers must recognize that "no one person or agency can handle the challenges of law enforcement alone"). With this type of personal cooperation underway, the State of Indiana, with assistance from an independent strategic planning company, has initiated state-wide planning for an integrated information architecture. Howard Goodman, CEO, The Warner Group, Address at the Governor's Summit on Integrated Law Enforcement (Dec. 9, 1997). The State of Indiana is working with The Warner Group, a strategic planning consultant that has designed architectures for a number of states, including Colorado and Utah, to design its state-wide information architecture. *Id.*

60. To aid state and local governments in the efficient implementation of information sharing technologies, OJP has created an Information Technology Executive Council to develop a program funding strategy. The Information Technology Executive Council is comprised of the presidentially appointed administrators and directors of each OJP Bureau and the directors of OJP's program offices.

61. Compilation of Statutory Authority, *infra app.*

62. For example, 42 U.S.C. § 3796cc(a) provides for grants to coordinate criminal interstate child support enforcement efforts. The statute specifically delineates the use of funds:

(b) Uses of funds. Funds distributed under this subchapter shall be used to—

(1) develop a comprehensive assessment of existing criminal interstate child support enforcement efforts, including the identification of gaps in, and barriers to, the enforcement of such efforts;

(2) plan and implement comprehensive long-range strategies for criminal interstate child support enforcement;

(3) reach an agreement within the State regarding the priorities of such State in the enforcement of criminal interstate child support legislation;

(4) develop a plan to implement such priorities; and

(5) coordinate criminal interstate child support enforcement efforts.

42 U.S.C. § 3796cc(b) (1994).

In today's world, enforcement of "interstate" child support necessitates the use of information technology. Therefore, grants for information technology development and implementation would be allowed within the purpose of the Criminal Child Support statute. Funds awarded under this statute, however, may not be used for information

together various statutes to target and coordinate information technology funding, there is no legislation mandating that the agency operate in this manner. A Congressional directive expressly permitting, encouraging, and administratively enabling coordinated information technology grants could substantially increase OJP's effective assistance to state and local governments in this area.

### III. OJP'S ROLE IN ENCOURAGING DEVELOPMENT OF INFORMATION ARCHITECTURES

As a result of funding independent technology projects over the past few years, state and local governments commonly have different computer systems serving the various criminal justice components. These systems were funded by different sources, sometimes by various federal grants, and they are limited to singular purposes. Many of these "stove pipe" systems are incapable of sharing information perpetuate, rather than alleviate, the inefficiency of the criminal justice enterprise. Because current technology permits a level of information sharing that is capable of serving the collective needs of many criminal justice components, it is imperative that the Federal Government uses its funding capabilities to encourage state and local governments to build integrated systems rather than repetitive, overlapping, and non-interoperable systems.<sup>63</sup>

To encourage and support the creation of state and local integrated criminal justice systems, OJP and its Bureaus have begun to develop an internal, coordinated grant funding strategy.<sup>64</sup> Additionally, to ensure the success in implementation and

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technology which has no relation to the goals of this provision.

Many of the information technology grants allowed by statute are similarly tied to specific programmatic purposes, e.g., juvenile justice, gangs, domestic violence, and drug control. Compilation of Statutory Authority, *infra* app.

63. OJP's grant coordination could not only promote integrated information architectures, but could also increase efficiency with which state and local law enforcement and criminal justice agencies spend federal grant dollars on these architectures. By guiding state and local governments in the more efficient use of federal grant funds to implement technology, there is an increased likelihood that, in the long run, greater amounts of funds will be available for more technology or for other programmatic purposes.

64. The Office of Justice Programs' development of an internal grant funding strategy and guidance to state and local grantees for the coordinated use of information technology funding is based on the results of two Inter-governmental Information Sharing Meetings. The first Meeting, held in March 1998, brought together teams of state and local criminal justice leaders from eight states. See United States Department of Justice, Office of Justice Programs, *Report of the Inter-governmental Information Sharing Focus Group*, Feb. 24, 1998 and Conference of States, Mar. 5-6, 1998, at 34-37 (Apr. 7, 1998) (copy on file with the *McGeorge Law Review*). These state and local participants identified integration issues and barriers their jurisdictions face in planning, funding, and implementing integrated criminal justice systems at the state and local level. *Id.* at 17-30. At the conclusion of the event, the participants offered recommendations to OJP as to what impediments need to be overcome to achieve integrated justice. *Id.* at 30-31.

The second Meeting, held in July, brought together a representative from each of the participating March states, as well as teams of state and local criminal justice leaders from eight new states. See United States Department of Justice, Office of Justice Programs, *Report of the Inter-governmental Information Sharing Conference of States*, July 30-31, 1998, app. at 1-6 (Sept. 25, 1998) (copy on file with the *McGeorge Law Review*).



use of the information architectures, OJP and its Bureaus must hasten development of a strategy for coordinated training and technical assistance.<sup>65</sup>

*A. Examples of Statutory Authority for Funding Coordination*

OJP's generalized basis for a coordinated grant funding strategy is found in over forty of its current statutory provisions that expressly or impliedly authorize the purchase of information technology.<sup>66</sup> Each of these statutes provides for and encourages the development of information sharing systems to further the fight against crime.<sup>67</sup>

Coordination possibilities can be found in many of the OJP and the Bureaus' grant programs that contain complementary purpose areas, especially in providing for and encouraging information sharing.<sup>68</sup> For example, under the Bureau of Justice Assistance's Byrne grant program,<sup>69</sup> grants are awarded to states and units of local government to improve the criminal justice system by providing "personnel, equipment, training, technical assistance and information systems for the more widespread apprehension, prosecution, adjudication, and detention and rehabilitation of persons[,] and to assist the victims of such crimes."<sup>70</sup> Specifically, states may use funds to develop criminal justice information systems to assist police, prosecutors, courts and corrections facilities.<sup>71</sup> Similarly, OJP, through its Violence Against Women Grant Office, awards grants for programs that "provide personnel, training, technical assistance, data collection and other equipment for the more widespread apprehension, prosecution, and adjudication of persons committing violent crimes against women."<sup>72</sup> Specifically, state and local governments may use funds for "developing, installing, or expanding data collection and communication systems, including computerized systems, linking police, prosecutors, and courts or for the purpose of identifying and tracking arrests, protection orders, . . . prosecutions, and convictions for violent crimes against women."<sup>73</sup> Moreover, Office of Juvenile Justice and Delinquency Prevention formula grants can be used for programs that assist in the design of technology

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The July participants used the recommendations from the March conference to identify specific actions, solutions, and models for overcoming integration barriers. *Id.* at 17-34. Specific actions included OJP's development of grant guidance language to encourage the coordinated use of information technology funding, the development of integration planning grants, an increase in training and technical assistance for information technology, and the creation of a national clearinghouse for integration resources. *Id.* at 1-4.

65. *See id.* at 1-4 (relating to development of training and technical assistance).

66. Compilation of Statutory Authority, *infra* app.

67. *Id.*

68. *Id.*

69. 42 U.S.C. § 3751 (1994).

70. *Id.* § 3751(b) (1994).

71. *Id.* § 3751(b)(15)(B) (1994).

72. *Id.* § 3796gg(b) (1994).

73. *Id.* § 3796gg(b)(4) (1994).

transfer systems to get risk assessments to state juvenile justice personnel to aid them "in determining appropriate sanctions for delinquent behavior."<sup>74</sup>

Each of these grant programs, although generally separate and distinct in its overall purpose area,<sup>75</sup> has a common information technology component that allows the creation of an information sharing system between police, courts, prosecutors, and corrections departments. Because there is no express statutory connection between these provisions, OJP and its Bureaus are challenged with developing an internal programmatic strategy whereby the common elements from various grants are used efficiently to permit broad information sharing that benefits all the grantees, rather than restricting grant funds to single purpose systems that are more expensive to build and maintain and that do not facilitate information sharing within the criminal justice enterprise.

Even though grant programs have varied purpose areas, OJP's and the Bureaus' development of a strategy to internally coordinate information technology grants is not expressly prohibited. In fact, precedent for the coordination of federal funding streams exists. For example, BJA's Byrne program requires states, as part of their applications, to submit plans for coordinating the Byrne program funds with their other federally funded programs.<sup>76</sup> Such federal funding coordination is also required by the Residential Substance Abuse Treatment for State Prisoners grant applications where all applications must include a description of how the funds "will be coordinated with Federal assistance for substance abuse treatment . . . currently provided by the Department of Health and Human Services" (HHS).<sup>77</sup>

In some instances, the Bureaus' coordination with each other, with OJP, and with other federal agencies is mandated. For example, NIJ, BJS, and OJJDP are required to coordinate efforts in "developing and implementing programs in the juvenile justice and delinquency prevention field."<sup>78</sup> OJJDP is required to implement a strategic plan that provides for coordination of joint funding and administrative activities with other federal juvenile delinquency programs, including those funded by HHS.<sup>79</sup> Furthermore, one of OJP's primary functions is the overall coordination of the Bureaus' activities.<sup>80</sup>

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74. *Id.* § 5633(a)(10)(M)(ii) (1994). Additionally, although not appropriated, OJP's Community Based Justice Grants for Prosecutors requires the cooperation and coordination of prosecutors, police, probation officers, and social service professionals in an effort to reduce the incidence of young violent offenders. *Id.* § 13,862(1)-(4) (1994).

75. *Id.* §§ 3751(a), 3796gg(a), (b), 5631(a) (1994).

76. *Id.* § 3753(a)(1)(G) (1994).

77. *Id.* § 3796ff-1(d) (1994). Additionally, although never appropriated or implemented, coordination is encouraged in the language of the Model Intensive Grant Programs where priority is given to proposals that "coordinate crime prevention . . . programs with other existing Federal programs to address the overall needs of communities" benefitting from such grants. *Id.* § 13,771(b)(3) (1994).

78. *Id.* § 3789i (1994).

79. *Id.* § 5614(a)(2)(A)(ii), (h) (1994).

80. *Id.* § 3712(a)(5) (1994).

The complementarity existing among statutory objectives offers OJP and the Bureaus a unique opportunity to reorganize organic processes to coordinate and combine the information technology components of various grant programs. OJP's opportunity, however, may be a defining opportunity for Congress to link systematically these grant capabilities throughout the governing crime statutes and other federal programs. In availing itself of this opportunity to design new grant strategies, Congress can greatly contribute to developing nationwide information architectures that will provide substantial and lasting benefits to the criminal justice enterprise.

*B. Strategy for Technical Assistance and Training*

In addition to a coordinated funding strategy, the successful implementation and use of information sharing technology at state and local levels will depend on technical assistance and training. Many state and local governments have sophisticated information networks serving their jurisdictions, while other state and local governments are in more elementary stages of automation.<sup>81</sup> No matter what level of integration and automation has been achieved within the criminal justice system to date, future success of an integrated criminal justice enterprise requires trained personnel to develop ongoing strategies and to maintain and adapt the technical systems.<sup>82</sup> Technical assistance and training should accompany federal technology grants, so that funds are available not only to create efficient and productive systems, but to ensure their ongoing compatibility with other state, local, and federal systems.

*C. Statutory Authority to Provide Computer Equipment, Technical Assistance and Training*

Currently, OJP and its Bureaus can fund computer systems, technical assistance, and training at the state and local levels through statutory language providing for computer systems equipment, technical assistance, and general sharing of information.<sup>83</sup>

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81. See *supra* notes 53-59 (describing various state information architectures and individual projects).

82. See Laura Yuen, *Computers Keep Cops a Step Ahead*, ORANGE COUNTY REG., Oct. 12, 1997, at A01 (noting that “[t]echnology tends to outpace personnel. Implementing new systems in a traditional workplace often confounds employees. . . . The turn toward technology has put a premium on training.”); see also Dussault, *supra* note 36, at 41 (explaining that the implementation of technology in the Los Angeles Police Department has not been easy, and that officers need more formal training on the system, rather than a “learn as you go” approach); Goodman, *supra* note 31, at 479-80 (discussing that inherent fear of technology, which occurs in 55% of the population, in conjunction with insufficient personnel training, compounds the problems of achieving successful implementation and maintenance of advanced technology within law enforcement).

83. Compilation of Statutory Authority, *infra* app.

Some statutory language clearly provides for the purchase of computer systems equipment. For example, the Omnibus Crime Control and Safe Streets Act, Grants to Combat Violent Crimes Against Women, states that grant funds may be used for “developing, installing, or expanding data collection and communication systems, including computerized systems.”<sup>84</sup> Other statutory language provides for “technical assistance.” For example, the Victims of Child Abuse Act states that grants may be given to “national organizations to provide technical assistance and training to attorneys and others instrumental to the criminal prosecution of child abuse cases . . . for the purpose of improving the quality of criminal prosecution of such cases.”<sup>85</sup> Still, other statutory language implies, through its purpose, the need for general information sharing. For example, under the Omnibus Crime Control and Safe Streets Act, Drug Courts grants may be made to state and local governments for programs that offer continuing judicial supervision of non-violent offenders and for the “integrated administration of other sanctions and services.”<sup>86</sup>

Where the statutes clearly indicate that grant funds can be used to purchase equipment or provide technical assistance and training, these grants may be used to provide necessary support to state and local governments in their development and maintenance of compatible information sharing systems.<sup>87</sup> To facilitate effective coordination of the remaining funding streams, however, the “necessary expense doctrine” is the only available method to provide computer systems equipment, technical assistance, or training where it is not authorized by specific statutory language.

The “necessary expense doctrine” embodies the concept that a spending agency has reasonable discretion in determining how to carry out the objects of appropriated funds.<sup>88</sup> The rule, as applied, means that where an appropriation is made for a particular purpose, a grantee may incur expenses that are necessary, proper, or incident to the objective of the grant program.<sup>89</sup> Technical assistance and training is necessary and logically related to encouraging the development and implementation of integrated information sharing capabilities as directed by a statute. To carry out the object of the statute, grants awarded thereunder may employ the necessary expense doctrine to include training of personnel and technical assistance to the party implementing information sharing technology and

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84. 42 U.S.C. § 3796gg(b)(4) (1994).

85. *Id.* §§ 13,003, 13,023(a) (1994).

86. *Id.* § 3796ii(1)-(2) (1994).

87. To foster overall coordination under a strategic information technology funding plan, such grants should undertake technical assistance and training in support of *all* participants in the integrated criminal justice system, not just the primary recipients of the grant dollars. Without clear legislative direction on this issue, however, OJP and the Bureaus are forced to find alternative means to justify training of “secondary” users, such as the “necessary expense doctrine” explained below. For example, if federal grant funds are used to build a law enforcement system that can interface with court systems, funds must be available to train law enforcement officers and court personnel in its integrated use.

88. 1 GENERAL ACCOUNTING OFFICE, PRINCIPLES OF FEDERAL APPROPRIATIONS LAW 4-15 (2d ed. 1991).

89. *Id.* (citing 6 Comp. Gen. 619, 621 (1927)).

to all other parties who are anticipated to participate in the new information sharing capability.

Like the strategy to coordinate funding, discussed above, implementation of training and technical assistance in support of information sharing requires OJP and its Bureaus to combine creatively statutory authority and apply vague statutory principles, such as the necessary expense doctrine. One might ask why such statutory contortions should be required. The concept of encouraging coordination within the criminal justice system through coordinating grants to criminal justice components is not new. In fact, coordination within and coordinated assistance to state and local law enforcement was articulated in the 1968 Act.<sup>90</sup> Present statutory authority and the Conference Report to the 1998 Appropriations Act<sup>91</sup> support the underlying concept of program coordination mandated by the 1968 Act.<sup>92</sup> The means of encouraging coordination at state and local levels, however, has grown in a way not contemplated by current legislation. As it developed and its use became practical in the criminal justice system, provisions for information technology were added to the criminal justice statutes in a piecemeal fashion.<sup>93</sup> Therefore, although current statutes for funding information sharing technology, training, and technical assistance can be pieced together to promote state and local coordination, Congress needs to provide a better map, plan, and funding initiative to move coordinated information technology efforts into the twenty-first century.

#### IV. LEGISLATIVE GUIDANCE TO COORDINATE INFORMATION TECHNOLOGY, TRAINING, AND TECHNICAL ASSISTANCE GRANTS IN THE TWENTY-FIRST CENTURY

Throughout OJP's history, each crime bill has tackled current criminal justice problems by heeding the directive of coordinating crime fighting efforts at all levels

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90. See Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-351, 1968 U.S.C.C.A.N. (82 Stat. 197) 237, 237-38 (stating that "[t]o prevent crime and to insure the greater safety of the people, law enforcement efforts must be better coordinated, intensified, and made more effective at all levels of government"). Furthermore, the 1968 Act required state planning agencies to "define, develop, and correlate programs and projects for the State and units of local government in the State or combinations of States or units. . . ." *Id.*, 1968 U.S.C.C.A.N. 237, 238.

91. Pub. L. No. 105-119, 1997 U.S.C.C.A.N. (111 Stat.) 2440.

92. See *supra* note 60 (describing the coordination initiatives of OJP and its Bureaus); CONF. REP. NO. 105-405, Joint Explanatory Statement of the Committee of the Conference, at 114 (1998) (stating: Since 1995, funding for grant programs administered by the Office of Justice Programs will have grown by 213%. . . . In order to ensure careful stewardship of these resources, . . . the Assistant Attorney General for [OJP is expected to] submit a report which outlines the steps OJP has taken and which recommends additional actions that will ensure coordination and reduce the possibility of duplication and overlap among the various OJP divisions.).

93. See *supra* Part II.A-B (describing the inclusion of information sharing systems and technology in the crime bills).

of government and by employing available technology.<sup>94</sup> Information exchange to facilitate coordination in 1968, however, was generally limited to paper transfers and telephone communications.<sup>95</sup> Ten years later, in 1979, the first specific reference to "automation" was made in the Conference Report regarding court automation through the "PROMIS" system.<sup>96</sup> In the agency's 1984 statutory reorganization, information sharing systems language appeared in the BJA and BJS statutes.<sup>97</sup> As reflected in these provisions, computer technology was coming of age and was beginning to be implemented as a tool to improve the criminal justice system.

By 1988, technology had improved to the point that it could effectively aid law enforcement in its efforts against drug crimes that mandated increased inter-jurisdictional criminal tracking and law enforcement cooperation. Recognizing this fact, Congress' 1988 legislation gave specific statutory authority to the Bureau of Justice Assistance to make grants for automated regional information sharing systems.<sup>98</sup> The Juvenile Justice Amendments of 1992<sup>99</sup> introduced grants for information sharing technology into the juvenile justice statutes, and by 1994, grants furthering information sharing technology pervaded nearly every program area.<sup>100</sup>

New criminal justice problems ensuing from the explosion of information and communications technology, and from the chronic communication problems intensified by such technology, oblige Congress to revisit and reevaluate the needs of the criminal justice system and the capabilities current technology affords

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94. See Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. No. 90-531, 1968 U.S.C.C.A.N. (82 Stat. 197) 237 (espousing the concept of coordinated law enforcement at all levels of government).

95. *Id.* § 301(b)(5), 1968 U.S.C.C.A.N. 239. Although the Act addresses "developing systems for collecting, storing, and disseminating information relating to the control of organized crime," no reference is made to automation. Although some basic automation was employed in setting up regional criminal intelligence databases, widespread development of automated systems at the state and local government levels was implausible in 1968.

96. See S. REP. NO. 96-142, at 12, *reprinted in* 1979 U.S.C.C.A.N. 2471, 2483-84 (describing the Prosecutor's Management Information System, PROMIS, which "identifi[ed] high priority cases, alert[ed] officials to multiple offenders, develop[ed] statistical reports illustrating court and prosecutorial problems and needs, and aggregat[ed] data about court processes, crime trends, and social-legal problems.").

97. Comprehensive Crime Control Act of 1984, Pub. L. No. 98-473, *reprinted in* 1984 U.S.C.C.A.N. (98 Stat. 1873) 2079-80, 2082.

98. Anti-Drug Abuse Act of 1988, Pub. L. No. 100-690, 1988 U.S.C.C.A.N. (102 Stat. 4181) 4340-41. The first major federally funded automated criminal intelligence sharing system, the R.I.S.S., was established as a LEAA grant program in the early 1970s. R.I.S.S. continued to be funded and eventually received a Congressional line-item appropriation in the mid-1970s. The 1988 Act provided specific authorization for funding to this and similar criminal intelligence information systems to track organized crime across jurisdictions. *Id.*; see Office of Justice Programs, Office of the Comptroller, Regional Information System Grant History (1975-1997) appropriation chart (Apr. 1998) (copy on file with the *Office of Justice Programs*).

99. See Juvenile Justice and Delinquency Prevention Amendments, Pub. L. No. 102-586, 1992 U.S.C.C.A.N. (106 Stat. 4982) 4995 (noting the inclusion of the Administrator's authority to provide technical assistance, including technology transfer, to states).

100. See generally Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 1994 U.S.C.C.A.N. (108 Stat.) 1796.

criminal justice efforts. Just as LEAA and OJARS needed reorganization to better serve state and local efforts,<sup>101</sup> OJP's current information technology, training, and technical assistance grants require coordination to eliminate redundancy and duplication of information systems and to foster state and local interoperability nationwide.

*A. Enhancing Coordination Through Legislation*

Congress can enhance coordination through legislative measures. For example, any hesitance OJP and the Bureaus feel toward participating in internal funding coordination can be eliminated by providing OJP and its Bureaus with express authority to coordinate information sharing technology grants across programmatic lines. By providing express coordination authority, grants for information sharing systems given by OJP's Violence Against Women Grant Office can be used by state and locals in conjunction with BJA's Byrne Grant information technology funding and technology funding from the Office for Victims of Crime to build an integrated system. This integrated system will allow many criminal justice components to interface, while also maintaining information for their programs' distinct purposes.

Through legislation, Congress can create a centralized coordination mechanism, the primary purpose of which is to coordinate federal information technology grants. This mechanism could also coordinate training and technical assistance packages and develop a clearinghouse for information technology resources for state and local criminal justice components. In creating a coordination mechanism, it must be noted that federal agencies other than OJP have information technology grant authority relating to criminal justice purposes. Ultimately, the success of a fully integrated criminal justice enterprise requires total legislative coordination of these various agencies' grant programs.

Furthermore, Congress can increase the statutory ability of OJP and the Bureaus to encourage integrated systems by appropriating funding for existing statutes which, at this time, remain unfunded. For example, part H, subtitle Q of the Violent Crime Control and Law Enforcement Act provides for community justice grants to encourage the cooperation between and the coordination of resources of prosecutors, school officials, probation officers, youth and social service professionals, and community members.<sup>102</sup> Although appropriation is authorized in the amount of \$11,000,000 in 1999,<sup>103</sup> Congress has made no appropriation for this subtitle.

Lastly, Congress can ensure the coordinated application of funding by requiring state and local grantees to identify other criminal justice information technology efforts implemented in their jurisdiction, or neighboring jurisdictions, and to

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101. *See supra* note 4 (describing the agency reorganizations of 1979 and 1984).

102. 42 U.S.C. §§ 13,861-68 (1994).

103. *Id.* § 13,867 (1994).

describe their projects' abilities to interface with these efforts and within an integrated architecture. Recently, state and local officials have suggested a return to statewide strategic planning requirements for information technology grant applications.<sup>104</sup> Before such state planning requirements are implemented, however, Congress should review the reasoning behind OJARS' 1984 restructuring to streamline the federal grant process by eliminating over-burdensome state planning requirements.<sup>105</sup> To ensure the timely receipt of grant funds, new legislation should seek to balance effective planning and efficient grant administration.

### B. *Language of Future Information Technology Legislation*

Future legislation in support of information technology for criminal justice agencies is essential to the ability of state and local governments to develop, implement, and maintain integrated criminal justice systems. New legislation, however, must avoid becoming another piece of the legislative puzzle OJP is seeking to complete. Legislation that funds information technology without language that specifically speaks to overall architectural planning at the state, local, and regional levels, and to the necessity to use funding in a coordinated fashion at these levels of government, is likely to perpetuate the stove pipe approach to criminal justice technology.

Future legislation should include precise language leading to coordinated funding of information technology and efficient spending of these dollars. It must acknowledge other information technology funding sources and permit recipients to combine funding for greater utility. It must avoid federal mandates while strongly encouraging state, local, and regional governments to engage in criminal justice integration planning and the development of open architectures. It must openly support interoperability among existing federal, state, and local systems, and strongly discourage development of isolated, yet "locally" integrated, networks. By incorporating these ideas in future legislation, Congress can facilitate new integration, increase the successes of ongoing state and local integration initiatives, and ensure the judicious use of federal dollars in the information technology arena.<sup>106</sup>

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104. United States Department of Justice, Office of Justice Programs, Report of the Inter-governmental Information Sharing Focus Group, February 24, 1998, and Conference of States, March 5-6, 1998, at 6-7, 31 (Apr. 7, 1998) (copy on file with the *McGeorge Law Review*).

105. H.R. REP. NO. 98-1030, at 276 (1984), reprinted in 1984 U.S.C.C.A.N. 3182, 3457.

106. On October 8, 1998, Congress passed the Crime Identification and Technology Act of 1998. See 144 CONG. REC. H9987-H9993 (daily ed. Oct. 7, 1998). The bill was signed into law on October 9, 1998. Pub. L. No. 105-251, 112 Stat. 1870. Although it was not appropriated in 1999, the law incorporates many of the ideas suggested in this article. For example, the law allows for grants to state and local governments to be used for:  
programs to establish, develop, update, or upgrade—

(1) State centralized, automated, adult and juvenile criminal history record information systems, including arrest and disposition reporting; . . .

....



(7) integrated criminal justice information systems to manage and communicate criminal justice information among law enforcement agencies, courts, prosecutors, and corrections agencies; . . .

....

(9) court-based criminal justice information systems that promote—

(A) reporting of dispositions to central State repositories and the Federal Bureau of Investigation; and

(B) compatibility with, and integration of, court systems with other criminal justice information systems; . . .

....

(16) multijurisdictional communications systems among the States to share routine and emergency information among Federal, State, and local law enforcement agencies.

Crime Identification Technology Act of 1998, Pub. L. No. 105-251, § 102(b), 112 Stat. 1870, 1871 (1998).

In addition, the law speaks to requiring grant recipients to work within their jurisdictions to plan for integration and to use federal funding in a coordinated manner to support integrated information sharing. For example, to be eligible for a grant under the law, a state must provide assurances to the Attorney General, including:

[A] provision that ensures that a statewide strategy for information sharing systems is underway, or will be initiated, to improve the functioning of the criminal justice system, with an emphasis on integration of all criminal justice components, law enforcement, courts, prosecution, corrections, and probation and parole.

*Id.* § 102(c)(2), 112 Stat. at 1872.

This requirement also addresses the need for state and local jurisdictions to work together in the planning process by stating: “The strategy shall be prepared after consultation with State and local officials with emphasis on the recommendation of officials whose duty it is to oversee, plan, and implement integrated information technology systems . . .” *Id.* § 102, 112 Stat. at 1872-73.

Another key section of the law is the requirement that the assurances include: “[A] plan for coordinating the programs funded under this title with other federally funded information technology programs, including directly funded local programs such [sic] the Local Law Enforcement Block Grant program . . . and the [COPS] M.O.R.E. program. . .” *Id.* § 102, 112 Stat. at 1873.

The Crime Identification Technology Act of 1998 is the first step toward the more coordinated and efficient use of federal funding to support state and local integrated criminal justice. Some shortfalls remain, however. First, the Act provides states with a loophole for avoiding necessary coordination by allowing a state to assure only that a statewide strategy for information systems “will be initiated” rather than requiring a strategy to be underway. *See Id.* § 102, 112 Stat. at 1872. The Act allows states that are already utilizing integration plans to use funding to continue their integration efforts, but it does not effectively push states that have not planned for integration into the process. Additionally, at first blush, the assurances language appears to provide states that are planning for integration with a method of coordinating information technology funding at the state level with direct local funding under the Local Law Enforcement Block Grant (LLEBG) program and the COPS M.O.R.E. program. *See id.* Realistically, however, the legislation does not give state level planners any more leverage or control over direct local funding, as locals are not required to abide by a state level planning document in order to receive the LLEBG or M.O.R.E. funding.

Second, the Act refers to “integration of all criminal justice components,” but neglects to include public defense in its listing of these agencies. *See id.* (listing law enforcement, courts, prosecution, corrections, and probation and parole). Truly integrated justice systems must recognize public defense as a component agency in order to streamline court scheduling and filing processes, as well as communications between prosecutor and defender.

Third, it appears that the focus of criminal justice integration is on the states’ abilities to utilize federal information and identification systems. *See* 144 CONG. REC. at H9991 (daily ed. Oct. 7, 1998) (statement of Rep. McCollum). Although increasing states’ abilities to utilize the federal systems is an important aspect to achieving integrated criminal justice, there needs to be a recognition that improving integrated criminal justice at the local level and between localities and state government is at the heart of achieving integrated criminal justice. The language of the Act allows states and localities to use funds to support their intra-jurisdictional integrated systems. Hopefully, grant programs under the Act will fund state and local integration initiatives at the same level and frequency as state and federal information sharing improvements.

## V. CONCLUSION

Information and communications technology has changed the face of the criminal justice system. Increases in criminal sophistication require criminal justice components to implement improved information sharing systems capable of multi-jurisdictional communication. In response to the needs of law enforcement, courts, prosecution, defense, corrections, and probation and parole, many states and localities are developing information architectures to facilitate accurate and accessible information sharing across the criminal justice enterprise.

The recent developments in information sharing technologies provide OJP and its Bureaus with an unparalleled opportunity to increase effective state and local crime fighting efforts through grants for integrated information sharing systems. OJP's ability to assist state and local governments in their criminal justice efforts is impeded, however, by the lack of internal coordination and appropriation of integrated information technology training and technical assistance statutes.

The opportunity technology has created for OJP may be a defining opportunity for Congress as well. Through legislation, Congress can systematically link federal grant making capabilities, create a point of contact to coordinate information technology grant funding, and encourage state and local architectural planning of information sharing systems. By undertaking such legislation, Congress can contribute to developing a nationwide information architecture that will provide substantial and lasting benefits to the criminal justice enterprise.

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Finally, general comments to the bill acknowledge that the intention of the Act is to consolidate and coordinate currently existing grant programs that provide technology assistance to states. *Id.* (statement of Representative McCollum noting that "[i]t is the intention of the bill to consolidate currently existing grant programs which provide technology assistance to the States"); *see also* 144 CONG. REC. S12,036 at 12,041 (daily ed. Oct. 8, 1998) (statement of Senator DeWine noting that:

[T]he Department of Justice [OJP] administers several justice assistance programs which can be used for important, criminal justice identification, information and communications purposes. None of these programs are repealed, and funding should and will continue under these programs. Accordingly, coordination is important and OJP is expected to provide that coordination.).

Although these statements provide some support for OJP's Executive Council's coordinated funding strategy, Congress has yet to specifically address the need for statutory authority that allows for coordination and creates an administrative mechanism to support the coordination of federal funding for information technology.

**APPENDIX  
INFORMATION TECHNOLOGY MAP**

Note: All cites refer to title 42 of the United States Code, 42 U.S.C. § \_\_\_ (1994). Some of the authorizations listed below may not be appropriated. The Executive Council's development of a strategy for coordinated information technology funding, however, presents a rationale for requesting that Congress fund any non-appropriated statutes listed below.

<b>GRANTS TO SHARE INFORMATION BY LINKING STATE AND LOCAL POLICE, COURTS, PROSECUTION, AND CORRECTIONS</b>					
	<b>Law Enforcement</b>	<b>Courts</b>	<b>Prosecution</b>	<b>Public Defenders</b>	<b>Corrections</b>
General Crime Control	Byrne: 3751(b)(2)(6), 3751(b)(15)(B);	Byrne: 3751(b)(2)(6), 3751(b)(10), (15)(B);	Byrne: 3751(b), 3751(b)(10), (15)(B);	Byrne: 3751(b)(10)	Byrne: 3751(b), 3751(b)(15)(B);
BJA OJPVAWA	Community Based Justice Grants for Prosecutors: 13,862 (1)-(4)	Violent Crime Control - Education for Judges and Court Personnel: 14001(c)	Community Based Justice Grants for Prosecutors: 13,862 (1)-(4)		Community Based Justice Grants for Prosecutors: 13862 (1)-(4) (probation)
Juvenile	Criminal Child Support: 3796cc(a);	OJJD: 5633(a)(10)(M); NIJJ: 5653(a)(3)(ii);	OJJD 5633(a)(10)(M) NIJJ: 5653(a)(3)(ii);	Victims of Child Abuse: 13023 (b)(2)(C)	Correctional Options Grants: 3762a(a)(2)(C)
BJA OJJD	Rural Domestic Violence and Child Abuse: 13971(a)	Victims of Child Abuse: 13003, 13023(a), 13023(b)(2)(C);  Rural Domestic Violence and Child Abuse: 13971(a)	Victims of Child Abuse: 13003, 13023(a), 13023(b)(2)(C);  Rural Domestic Violence and Child Abuse: 13971(a)		
Violence against Women and Domestic Violence	VAWA: 3796gg(b), 3796gg(b)(4);  Grants to Encourage Arrest Policies: 3796hh(a), 3796hh(b)(3)&(4);	VAWA: 3796gg(b), 3796gg(b)(4);  Grants to Encourage Arrest Policies: 3796hh(a), 3796hh(b)(3)&(4);	VAWA: 3796gg(b), 3796gg(b)(4);  Grants to Encourage Arrest Policies: 3796hh(a), 3796hh(b)(3)&(4);		
OJP VAWA	Rural Domestic Violence and Child Abuse: 13971(a)	Rural Domestic Violence and Child Abuse: 13971(a);  Violent Crime Control - National Stalker and Domestic Violence Reduction: 14037	Rural Domestic Violence and Child Abuse: 13971(a)		

<b>GRANTS FOR INFORMATION SYSTEM DEVELOPMENT AND ENCOURAGED SHARING OF INFORMATION</b>	
General Crime Control BJA BJS OJP FBI	BJS: 3731(d)(5); Byrne (NCHIP): 3759; RISS: 3796h(b); Drug Courts: 3796ii-8; DNA Identification (BJA): 3796kk-3(c); Violent Crime Control: 13771(a)(1)(A); DNA Identification (FBI): 14132(a); Improved Training and Tech Automation: 14151(a), 14151(b)(1)(B), 14151(b)(3); Missing Alzheimer's Alert: 14181; LLEBG: 101(a)(2)(A)(iii), (D), (F), (I)
Gangs Treasury OJJDP FBI	Violent Crime Control: 13751(a)(2)(A), (G), (L); Violent Crime Control: 13921; Criminal Street Gangs: 14062(a), 14062(b)
Juvenile OJJDP	OJJDP/NIJ 5651(d)(1), OJJDP 5773(b)(2)(D), OJJDP 5780(2); Victims of Child Abuse: 13001b(b)(1)(C), 13001b(b)(2)(B), 13001b(c)(6), 13022(1), 13023; Wetterling: 14071
Domestic Violence OJP	Violent Crime Control: 13962; National Stalker and Domestic Violence Reduction: 14031(a), 14035, 14038
Drug Control BJA OJP	Byrne: 3751(b)(2)(6); Violent Crime Control: 13751(a)(2)(A), (G), (L); Violent Crime Control: 14035(g)
Specific Allocations for Equipment  COPS VAWA OJJDP OJP	COPS: 3796dd(4), (5), (9); Violence Against Women: 3796gg(b); OJJDP: 5751(a)(4)(F); Violent Crime Control (corrections): 13708(b)(3)(D)

