

# **DEVELOPING AN OJP INITIATIVE ON COURTS AND THE JUSTICE SYSTEM**

## ***REPORT ON A PLANNING GROUP MEETING***

*By*

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“The criminal court is the central, crucial institution in the criminal justice system.”

*From The Challenge of Crime in a Free Society: Report of  
The President’s Commission on Law Enforcement and the  
Administration of Justice (1967), p. 125*

### **Introduction and Overview**

This report outlines key themes and ideas that emerged from discussions at a meeting held in Washington, D.C. in February 2000, to help develop initial plans for a “Courts and the Justice System” initiative. The meeting was jointly sponsored by the Assistant Attorney General for the Office of Justice Programs and the Director of the Bureau of Justice Assistance, and was organized by The Justice Management Institute (JMI).

The idea of a Courts and the Justice System initiative grew out of the recognition, within OJP, that serious attention to the roles and needs of state and local courts is long overdue. Although the 1967 Report of the President’s Crime Commission emphasized the centrality of the courts in the functioning of any jurisdiction’s criminal justice system, courts have rarely had a prominent role in the criminal justice planning and funding work of OJP and its predecessor agencies. An initiative focused on the role of courts in the effective administration of justice would bring needed attention to the work of state and local courts and to areas in which innovation and improvement are needed.

The principal assumptions underlying initial planning for the initiative have been (1) that the courts are a crucial institution of the justice system and of American society; and (2) that, in order to meet the increasing demands and legitimate expectations of society, marked improvements are needed in court operations and performance and in the interrelationships between courts and other institutions involved in and/or affected by the courts.

As outlined in the invitation letter to participants in the February 2000 meeting, the Courts and the Justice System initiative would have four main goals:

- Stimulate state and local innovation focused on key court and justice system issues;
- Develop an agenda for federal support (and possible foundation support) for innovation and high performance by state court systems and local courts;
- Strengthen communication and problem-solving linkages between courts and other institutions and groups that are involved in or affected by the operation of courts and justice systems, including linkages between courts and the Office of Justice Programs; and

- Strengthen state and local-level leadership, including development of “next generation” leaders.

From the outset, those involved in initial planning for the initiative have recognized that other national, state and local efforts focused on court improvement have been underway, notably including follow-up work on the 1999 National Conference on Public Trust and Confidence in the Justice System. It has been anticipated that this initiative would complement and build upon those efforts.

A total of 29 persons, most of them in leadership positions in national organizations involved in court and justice system improvement efforts, participated in the February 2000 meeting. They included judges, court administrators, bar leaders, leaders of non-profit organizations involved in court-related education and technical assistance, researchers, senior officials in OJP bureaus and offices, and representatives of the State Justice Institute and the Open Society Institute.<sup>1</sup>

With only one day to work together as a group, participants in the planning meeting simply did not have enough time to develop an overall plan. However, they were able to make significant progress on three key fronts: (1) identifying top priority areas that should receive particular attention in any national agenda for court and justice system improvement; (2) developing ideas for strategies to pursue in addressing the high priority topical areas; and (3) suggesting possible next steps in developing the initiative. This report, prepared by JMI staff, seeks to summarize the discussions of the meeting participants in all three areas. It is intended to provide a basis for further planning and development of the initiative outlined above.

## **I. Top Priority Areas for Attention in Agenda Development**

At the February planning meeting, a number of topical areas were suggested as ones that warrant attention. No votes were taken at the meeting, and ideas about priorities were phrased in a variety of ways during the course of the day. Some core areas came up repeatedly as ones that should be addressed in shaping an initiative or national agenda for court and justice system improvement. The following is a short list that we believe represents a consensus about top priorities:

1. Discrimination/bias in the justice system
2. Technology
3. Linkages/interrelationships of courts with other institutions
4. Judicial roles, responsibilities, and competencies
5. The high costs of access to justice
6. Unacceptable delays in the resolution of cases
7. The need for a research capacity in and for courts<sup>2</sup>

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<sup>1</sup> See Appendix for list of participants.

<sup>2</sup> This list of top priority areas is similar (though not identical) in content to the lists of key issues developed at the May 1999 National Conference on Public Trust and Confidence in the Justice System and at the 2000 and 2001 midyear conferences of the National Association for Court Management (NACM), both of which focused on public trust and confidence in the courts.

**1. *Discrimination/bias in the justice system.*** Several participants at the planning meeting noted that public opinion survey data consistently showed widespread perceptions that the justice system discriminates against the poor and in favor of the affluent; against racial and ethnic minorities and in favor of white majorities. The data from a survey conducted in connection with the 1999 National Conference on Public Trust and Confidence in the Justice System was especially striking in pointing to a widespread sense that the poor and minorities are disadvantaged in their dealings with the justice system and to a sense among African-Americans, in particular, of discrimination against minorities in the operation of the justice system. The survey data, coupled with other data showing that minorities are significantly over represented in the populations of prisons and jails, suggest both a perception and a reality of bias and “unequal justice.” Since equality before the law is a touchstone of the American legal system, a number of the participants felt that discrimination and bias in the justice system is the most important issue to be addressed in developing a national initiative focused on courts and the justice system.

**2. *Technology.*** There was broad agreement about technology as a high priority topic, with three main themes emerging. First, there was a widespread sense that American courts do not do a good job of making use of technology to achieve effective performance of many basic court functions. Second, there was recognition that few courts have worked effectively with other institutions and agencies to develop integrated justice information systems that eliminate duplicate data entry and enable the rapid sharing of information needed for individual case decision-making and for systemic planning. Third, and perhaps most seriously, several participants commented on what they saw as a failure of courts--and court leaders--to recognize how technology (especially modern communications technology) is transforming society and the expectations that members of society have of all of their institutions. They spoke of a need to develop a vision of effective courts that reflects dramatically improved court performance and of using technology to help re-design court processes to achieve that vision while still preserving core values.

**3. *Linkages/interrelationships of courts with other institutions.*** Several participants spoke of what they saw as both a perception and a reality that courts are largely isolated from the communities they serve. There was general recognition that this is a very complicated area, but one that needs serious attention. One participant noted that there is a sense in which court leaders want to have it both ways: they want support (including resources) but often seem unwilling to reach out to other sectors of society in ways that could help develop understanding and support. Other participants noted that some of the recent justice system innovations--including community courts and drug courts--necessarily brought courts into greater contact with other institutions and other sectors of society, but that these innovations had generally had a somewhat mixed reception from judges and court administrators.

**4. *Judicial roles, responsibilities, and competencies.*** A number of the comments at the February meeting touched on various aspects of the roles and responsibilities of judges as society's demands and expectations of the courts seem to be going through major changes. Development of educational programs to strengthen judges' understanding of their roles and responsibilities--and their competency in fulfilling them--is obviously a major aspect of any potential programmatic response in this area. Particular topics mentioned included:

- The need for judges to understand their responsibilities to the court as an institution.
- The need for judges to learn how to interact with communities and with other stakeholders without compromising their roles as neutrals in the adjudication of cases.
- The need for judicial leadership development, including education about leadership strategies and skills, the institutional responsibilities of judges who have formal and informal leadership roles, and judges' roles in justice *system* improvement.
- The need for judges to develop managerial skills that will help them in working with court staff, other participants in court processes and overall management of caseloads.
- The need for judges to work effectively with non-judicial personnel in the courts (e.g., court administrators); desirability of further development of the "executive component of the court" concept.

Participants at the meeting noted that the recent development of problem-solving courts such as drug courts and community courts has created new roles for the judges sitting in those courts and implicitly involves a different (and broader) concept of courts as a societal institution. There was a general sense that the problem-solving orientation is sound for some categories of cases, but also concerns that (a) many judges are neither trained to handle cases using the problem-solving approach and techniques nor temperamentally suited to doing so; and (b) an over-emphasis on this approach may have the effect of skewing resources and undermining the court's capacity to perform its core adjudicatory functions. At a minimum, the emergence of the problem-solving courts suggests the need for re-examining traditional notions of the purposes of courts, the role of a judge, the nature of the judicial process, and the array of skills and abilities needed to function effectively as a judge in a modern court.

**5. *The high costs of access to justice.*** This topic is related to the issue of bias in the justice system--in particular, to the widespread perception that, because of the costs involved in hiring a lawyer, poor and middle class people are severely disadvantaged in seeking access to justice. It was noted that this is a problem that cuts across all of the principal areas of trial court jurisdiction--criminal, juvenile, civil, and domestic relations. It is also an area where significant progress is now being made in some jurisdictions through development of a broad range of pro se assistance programs.

**6. *Unacceptable delays in the resolution of cases.*** The issue of slow case processing--and the need to dramatically re-design court procedures in order to resolve cases (especially relatively simple cases) far more expeditiously than is generally done in most courts--was listed as a priority topic in both the civil/family law breakout group and the criminal/juvenile delinquency breakout. One participant noted that this is one of the areas where a great deal is known about what can and should be done (and about the substantial cost saving and other

benefits that can result from well-functioning courts). It simply hasn't been done in most jurisdictions, and ways need to be formed to catalyze action.

**7. *The need for a research capacity in and for courts.*** Several participants noted that there is a striking dearth of empirical research about courts and court-related issues. The problems exist on both the demand side and the supply side. On the demand side, courts and court systems rarely seek to conduct real research about their operations and federal funding agencies (e.g., National Institute of Justice, National Science Foundation, State Justice Institute) rarely seek to fund research that would expand the base of knowledge about the courts. Given the lack of demand, it is hardly surprising that there are few researchers who are knowledgeable about courts and court-related issues. In most areas of society, research is done routinely and is a critical element of program improvement and the development of new programs. If courts are to thrive, it will be essential to make a major investment in developing a research capacity, both within the courts and in external entities (e.g., universities, non-profit organizations) that can undertake both theoretical and applied research focused on court and justice system operations.

## **II. Elements of a Strategy for Addressing Top Priority Issues**

Participants at the February 2000 planning meeting suggested four general approaches to addressing the top priority areas and moving toward achievement of the goals of the initiative: (A) build on existing strengths; (B) learn from recent experiences with innovation and collaboration; (C) develop partnerships with other groups and institutions that have stakes in well-functioning courts; and (D) shape a vision for courts and the justice system that will attract broad support. The four approaches are complementary to each other, and together comprise main components of an overall strategy. This section of the report briefly outlines participants' ideas with respect to each of these elements of a strategy.

**A. Build on existing strengths.** Building upon existing strengths is an obvious element of any strategy for making significant system improvements. Participants cited a number of strengths and resources that can be drawn upon to help achieve the goals of the initiative. They include:

1. Court associations--for example, the Conference of Chief Justices, the Conference of State Court Administrators, the National Association for Court Management, the National Conference of Metropolitan Courts, the National Association of Women Judges, the American Judges Association, and numerous state associations of Judges, court managers, and court support personnel.

2. The American Bar Association and its constituent entities, including the ABA Coalition for Justice, the various conferences that are part of the ABA's Judicial Division, and other conferences and sections that have stakes in the effective operation of the nation's courts.

3. National organizations that conduct education and technical assistance in and for courts--for example, the Justice Management Institute, the National Judicial College, the National Center for State Courts and its Institute for Court Management, and the American Judicature Society.

4. The State Justice Institute (SJI)--a funding agency that, despite its small appropriation, has contributed significantly to court improvement and has gained the confidence and respect of the state judiciaries.

5. The Justice Department's Office of Justice Programs and its constituent bureaus and offices--a major potential source of funding for court and justice system improvement, and one that has shown increased interest in working with courts and court-related organizations.

6. Existing "best and promising practices" now used in some courts, about which not enough is currently known.

7. Current projects and initiatives that address priority issues, such as:

- The 1999 National Conference on Public Trust and Confidence and follow-up.
- The American Bar Association's *Justice Initiatives* program.
- The National Association for Court Management's *Symposium 2000* and the Association's midyear conferences focusing on public trust and confidence in the courts.
- The work of the COSCA/NACM Joint Technology Committee, especially its work on development of functional standards.
- The Urban Court Managers Network.
- The OJP Information Technology Initiative.
- The National Consortium of Race and Ethnic Bias Commissions.
- Conferences and workshops on programs to assist self-represented litigants, sponsored by the State Justice Institute and the Open Society Institute.

8. The revolution in information technology--a new capacity to exchange information and disseminate knowledge about issues, resources, and effective practices.

9. The basic core values that courts, at their best, exemplify in their operations--most importantly, FAIRNESS.

10. The court's capacity to convene groups and individuals in order to address problems and issues affecting the operations of the courts and the justice system--a function of the court's role as a respected neutral.

11. The momentum in recent years toward greater openness in the judiciary--an increased willingness on the part of many judges to engage in discussions (and programs) focused on justice *system* improvement.

12. Recent innovations in court case processing that have provided experience in collaborations with a broad range of institutions, agencies, and community groups--e.g., drug courts, domestic violence courts, community courts, pro se assistance programs, jury reform, civil discovery/disclosure reform.

**B. Learn from recent experience with innovation and collaboration.** Participants at the planning meeting noted that there have been a number of recent experiences and accomplishments that provide a basis for optimism that courts can introduce innovations that (a) link them more closely with communities and with other institutions and agencies; and/or (b) are effective in producing more responsive and better quality justice. Examples cited included drug courts, domestic violence courts, community courts, *pro se* assistance programs, reforms of the civil discovery process designed to simplify the process and reduce costs, and improvements in the use and treatment of jurors.

Each of these programmatic innovations has involved work with groups and institutions outside the courts. It should be possible to learn, from studying these experiences, more about how courts and court leaders can work productively with others in improving court effectiveness and strengthening the overall justice system. They also provide fertile ground for learning about the types of obstacles likely to be encountered in undertaking collaborative efforts to make system improvements, and about ways to overcome the obstacles.

**C. Develop partnerships with other stakeholders.** Several participants at the planning meeting spoke of a need for courts--and court leaders--to look beyond the narrow and often isolated world of courts to develop support for court and justice system improvement. Given their generally weak political position, courts need allies who will support their requests for resources. Equally important, they need to gain these allies without engaging in the type of political log-rolling that is common in the legislative process.

Proponents of the position that courts should actively seek allies and collaborators in efforts to improve court and justice system operations noted that courts have historically been relatively ineffective in competing for resources, both at the national level and at the state and local levels. It has made no difference whether the potential source of funding is a legislative body (e.g., Congress, state legislatures) or an executive branch body (e.g., LEAA, OJP, state Byrne Grant funding bodies). They observed, however, that there are many groups in society that have (or should have) a strong interest in a well-functioning court system.

Such stakeholder groups are logical allies in any effort to improve court operations and strengthen the justice system, but it will require serious and sustained efforts to heighten their consciousness about the needs of the courts and to enlist them as supporters and collaborators. It is also likely to require that court leaders listen seriously to the views of prospective allies as to ways that courts can improve, and that they listen and act in a fashion that does not reinforce the existing perception of bias toward the affluent.

**D. Shape a compelling vision for courts and the justice system.** Several participants spoke of a need to focus not only on problems but also on a vision for the future. They emphasized the importance of developing a widely shared vision of the courts and the justice system of the future--one that preserves basic core values that underlie the work of courts (and, indeed, make those core values a central part of the vision) but that takes account of the transformations now taking place in American society, notably including the changes in technology and demographics.

In this connection, other participants noted that, during the past decade, SJI has sponsored a national conference on the future of the courts and that a number of states (and some local jurisdictions) had undertaken similar efforts. In seeking to shape a vision for courts and the justice system, it would be relevant to examine the experiences of state futures commissions, some of which have had broad citizen involvement. More recently, some local trial courts have also developed mechanisms for involving community members in the planning process. Experience gained through these efforts can help shape a broader initiative focused not solely on the courts but on the courts and their linkages with all of the components of the justice system.

At the February 2000 planning meeting, there was not enough time to focus explicitly on development of a vision for the justice system. Additionally, it was recognized that circumstances and needs vary widely from state to state. However, the frequency with which some themes recurred suggests at least some of the elements of a vision which would be broadly applicable. They include:

- A commitment to fairness and equality throughout the justice system.
- Broad access to justice--an end to physical, economic, language, and psychological barriers that make equal justice too often an unfulfilled promise.
- Expeditious resolution of disputes.
- Effective use of modern technology
- An independent judiciary, yet one that is not isolated from either the community or the other branches of government.
- Court systems, and larger justice systems, that have resources adequate to meet the needs of society and achieve the vision that is shaped.
- A capacity for self examination and self-criticism, including development of a research capacity that will enable scrutiny of operations and the testing of assumptions.

### **III. Possible Next Steps: Recommendations**

Participants at the planning meeting made a number of suggestions about possible action steps to address the top priority issues. Many of those suggestions were aimed at what individual courts or court systems could do, while others focused on possible projects or activities that could be undertaken by specific national organizations. This section of the report focuses explicitly on possible actions that could be taken by or with the support of the Office of Justice Programs, without regard to what specific organizations or associations might be involved in the action.

Before turning to possible OJP actions, it should be noted that several participants emphasized the importance of developing a broad base of support for any initiative aimed at strengthening courts and the justice system. Participants recognized that OJP support could be extremely valuable, but were wary of courts becoming overly dependent upon a federal executive branch agency for a major portion of funding for new initiatives. In this connection, it was noted that federal funding for programs in courts tend to be targeted to narrow categories of

operations. In recent years, for example, federal funding has supported the development and implementation of drug courts and domestic violence courts. However, there has been little or no federal funding support for innovations in many of the areas identified at the February 2000 meeting as being top priority for a courts and the justice system initiative. Participants also recognized that the problem of categorical funding streams is one that will ultimately have to be addressed with Congress, and that OJP bureaus and offices have relatively little discretion with respect to funding new initiatives not mandated by Congress.

Notwithstanding these reservations, participants made a number of suggestions (both at the meeting and in subsequent discussions) for ways that OJP bureaus and offices could in the short term help in development of a broad national agenda for justice system improvement that takes account of the central role that courts should have in such an initiative. Seven main ideas were advanced:

1. Sponsor a series of small meetings to help shape a programmatic agenda, beginning with the priorities identified at the February meeting.
2. Help develop a court and justice system counterpart to PERF (the Police Executive Research Forum) involving court leaders who are (a) committed to undertaking significant innovations in the top priority areas in their courts or court systems: and (b) committed to having the innovations evaluated and to sharing the research with others.
3. Help sponsor a non-partisan “blue-ribbon” national task force or national commission, charged with examining the state of the nation’s justice system, with particular attention to the role of courts in the effective administration of justice.
4. Plan to conduct or help sponsor a national conference on the role of courts in the effective administration of justice in the 21st century.
5. Develop an action research program--with funding from NIJ and the program offices that are providing funds for innovations such as drug courts, domestic violence courts, and community courts--to specifically examine the impact of these programs on the courts in which they are located and to learn how successful innovations in these courts can be incorporated in a broader range of court operations.
6. Strengthen OJP’s own capacity to work effectively with courts by (a) bringing into OJP bureaus and offices a cadre of persons who have had experience working in and with courts; and (b) developing an advisory committee structure and mechanisms for regularly obtaining advice and input about court needs and priorities from court leaders at all levels and from knowledgeable scholars and consultants.
7. Develop funding opportunities that will help address the top priority needs of the courts.

In the remainder of this section, each of these ideas is briefly discussed.

**1. Follow-up planning meetings.** This is a very modest recommendation, aimed at helping to further develop the ideas outlined in this report and assisting OJP and other funding agencies in setting priorities for implementation. The meetings (or “focus group” sessions) would involve justice system leaders and others who are interested in improving court and justice system operations. The meetings would have two main objectives: (a) developing a more detailed action agenda in the topical areas identified at the February 2000 meeting; and (b) identifying specific areas and ways in which federal funding and other support for major improvements can be obtained and used in addressing the top priority areas.

**2. A Courts and Justice System Research Forum.** One of the most important components in the markedly improved performance of law enforcement agencies over the past decade has been the groundwork laid during the previous decade and a half during which police agencies--particularly in large cities--developed a research capacity that enabled them to focus on strategies that could be demonstrated to be effective in reducing crime. The Police Executive Research Forum (PERF) has been a key component in focusing attention on the importance of research and in educating law enforcement leaders in how to use research effectively to improve operations. Today, most large city police departments (and many departments in smaller units of government) have a well-developed research capacity. Very few courts have a similar capacity, and there is also no vehicle for research on justice *system* operations that includes the courts as central actors in shaping justice system policies and outcomes. As a number of the participants at the February meeting pointed out, development of an R & D capacity is a clear and pressing need for courts--especially for courts in large metropolitan areas and for state court systems.

Development of a *Courts and Justice System Research Forum* or *Courts Research Consortium*--a roundtable meeting that would periodically bring together court leaders who are committed to both innovation and, importantly, to having the innovations evaluated and to sharing the research findings with others--would help to jump-start development of the R & D capacity in a number of urban courts and state administrative offices of the courts. While OJP (and particularly NIJ) can help with implementation of this suggestion, court leaders would have to play a key role. For this idea to work, there would have to be (a) agreement, on the part of those participating in the roundtable or consortium, to focus research efforts on a small set of high priority issue areas; (b) capacity on the part of the participants to both initiate innovations in the priority areas and ensure that the accompanying research is undertaken; and (c) capacity for the participants to meet periodically, to share and discuss research findings and their implications and plan new initiatives.

**3. A national task force or national commission.** Some of the participants at the February 2000 meeting felt that establishment of a non-partisan “blue-ribbon” national task force or national commission charged with examining the state of the nation’s justice system, with particular attention to the role of courts in the effective administration of justice, would be the most effective way of highlighting key issues and developing support for needed changes. It has been more than twenty-five years since the National Commission on Criminal Justice Standards and Goals examined the state of the nation’s criminal justice system, and over thirty years since the President’s Crime Commission issued its report on *The Challenge of Crime in a Free Society*. In the meantime, there have been enormous changes in society, in the development of

technology that can affect the administration of justice in a wide range of ways, and in the issues faced by those responsible for the administration of justice.

Participants at the February meeting recognized that there are a number of difficult issues that would have to be addressed in forming a national task force or commission, but felt that the idea was at least worth serious exploration. Threshold questions include:

- Who would be the convening authority?
- What would be the defined mission and purpose of the task force or commission?
- What would be the scope of its work?
- What would it cost?
- Where would funding be found?
- Who would be the commissioners or task force members? How would they be selected? (NOTE: There was a general sense that the commission should be broad-based, should be selected on a non-partisan basis, and should include leaders who are not justice system professionals).
- Who would provide staff? (NOTE: There was agreement that a national task force or commission, to be effective, would have to have an excellent broad-gauge staff).
- What would be the time frame?
- What would be the expected products?

**4. *A National Conference on the Role of Courts in the Effective Administration of Justice in the 21st Century.*** Participants at the February meeting discussed the possibility of a national conference as another means of focusing national attention on key issues and developing support for needed changes. It was recognized that a national conference could be either a precursor to the formation of a national commission or an event that, along with publication of the commission's report, would mark the culmination of the commission's work. Many of the same issues identified with respect to the formation of a national commission must also be addressed with respect to the planning for a national conference, including who would be the convening authority, what would be the purposes or goals, how it would be funded, who would participate as invitees, who would serve as staff, and what would be the expected products.

**5. *An action research program focused on the impacts of federally funded programs on court and justice system operations.*** This is a more modest suggestion, focused on developing knowledge about how the federal funds that have been used to support innovations in selected areas (e.g., drug courts, domestic violence courts, community courts) have affected both (a) the ways in which courts and other justice system institutions address the targeted problems; and (b) the ways in which the use of these funds may have affected other aspects of justice system operations. Objectives of this research would include learning about the extent to which the federal funds may skew the utilization of resources, to the detriment of other important justice system values, and also learning about how strategies and techniques that prove successful in the federally-funded programs can be used more widely to address a broader range of court and justice system issues.

**6. *Strengthen OJP's capacity to address court-related issues effectively.*** Participants at the February 2000 meeting had two related suggestions for steps that OJP could take to increase its own capacity to work effectively on issues affecting courts and the justice system on an on-going basis. First, participants felt it would be helpful if OJP could strengthen its own staff capabilities in this area by seeking to bring in staff members who have had experience working in and with courts. Second, several participants noted the desirability of an advisory committee structure, both at the top level of OJP (i.e., as advisors to the Assistant Attorney General) and for major bureaus and offices.

There would be a variety of ways in which the advisory group structure could be developed. Optimally, it would include state court system leaders (e.g., leaders of the Conference of Chief Justices and the Conference of State Court Administrators), trial court leaders (e.g., leaders of the National Conference of Metropolitan Courts, the American Judges Association, the National Association for Court Management), American Bar Association leaders, leaders of major court related organizations (e.g., the Justice Management Institute, the National Judicial College, the National Center for State Courts, the American Judicature Society), and leading individual practitioners, consultants, and scholars.

**7. *Develop funding opportunities that will address the top priority needs of courts.*** Participants at the February meeting did not get into detailed discussion about specific programs that OJP might fund to help address court priorities. It was recognized that OJP--and the OJP bureaus and offices--must fund programs and projects that are consistent with the authorization and appropriations legislation that governs them, and that in recent years the scope of discretion has been substantially narrowed by Congressional earmarks. However, within those constraints, it would be worth exploring how the priorities identified by the planning group (and those that might in the future be identified through an advisory committee structure and process) could be addressed. Potential types of funding for programs and projects from one or more of the OJP bureaus and offices include:

- Technical assistance, including education and training programs.
- Development of basic statistical data on court business and court performance, focused particularly on high priority areas.
- Research on issues in the high priority areas.
- Demonstration programs in priority areas, with accompanying evaluation.
- Technology infrastructure development in an integrated justice context, with recognition that courts are part of the criminal and juvenile justice systems, but are also part of civil and domestic relations dispute resolution systems.

## CONCLUSION

Although many billions of federal dollars have been poured into criminal justice and juvenile justice improvements since the enactment of the Omnibus Crime Control and Safe Streets Act of 1968, only a very small fraction of these resources have been devoted to the improvement of state and local court operations, or to the strengthening of linkages between courts and other justice system institutions and agencies. Nor has there so far been any major investment of federal funds in court improvement through other possible vehicles. The State Justice Institute was established by federal legislation in the mid-1980s, and has been instrumental in many of the court and justice system improvements that have taken place over the past 12-15 years. However, SJI has had to fight for its continued existence and has been chronically underfunded. SJI has never had an annual budget of as much as \$14 million.

In recent years, the Office of Justice Programs has put substantial resources into a few specific categories of court-related programs pursuant to Congressional appropriations--for example, as much as \$30 million into drug courts in a single fiscal year. However, OJP has been unable to allocate significant amounts of resources for research or action programs focused on improvement of the basic infrastructures of state and local courts and court systems. Ironically, it is likely that--because U.S. foreign policy leaders have recognized the fundamental importance of a sound court and justice system to the development of stable democracies--far more federal funds have been spent on the improvement of court system infrastructures in foreign countries over the past decade than have been spent on court system infrastructure improvements in American states and localities.

State and local courts should, of course, continue to be funded primarily by states and localities, and federal funds should not be used to supplant state and local funding. However, the federal government can play a significant role in helping state court systems and local courts improve their operations, and it should be possible to do this without inappropriate federal executive branch intrusion into the affairs of state judicial branch policymaking and operations. There is a strong national interest in development of a program—or set of programs—that addresses key needs of state and local courts and utilizes federal funds for purposes such as research, collection of statistical data, demonstration programs, technical assistance, education and training of practitioners, dissemination of information (including the sharing of research findings and best practices in different court contexts), and development of court infrastructures. Federal assistance, administered sensibly and with awareness of the unique roles and responsibilities of state and local courts, can be a vitally important catalyst for dramatic court and justice system improvements.

While there are a number of very difficult issues involved in developing a program of significant federal funding support for state and local court system improvement, this is an area that needs attention and is ripe for policy and program development. At all levels of government, there is growing recognition of the crucial role that state and local courts play in achieving a number of national policy objectives, including addressing problems of family violence, other forms of criminal behavior, substance abuse, mental health, and community economic development. Particularly at the state and local levels, there is increasing experience

with effective collaboration involving courts, other justice system institutions and agencies, and other groups that have stakes in the effective administration of justice.

If court leaders and others interested in strengthening the nation's justice systems are to have a significant role in shaping policy, it will be important to agree upon at least the broad outlines of a strategy. That strategy should be one that recognizes both the need for change and the need to reinforce the foundations of the judiciary as an independent and co-equal branch of government. It should be a strategy that (a) builds on existing strengths in the courts community; (b) addresses issues and problems that are important to the society; and (c) can attract support from a broad range of other groups that have stakes in the effective functioning of American courts and justice systems. The ideas and recommendations developed at the February 2000 meeting should be valuable contributions to the shaping of such a strategy.

# **OJP/BJA COURTS AND THE JUSTICE SYSTEM INITIATIVE**

## **PARTICIPANTS IN THE PLANNING GROUP MEETING**

**Thomas W. Church, Jr.**  
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