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Testimony before the Senate Committee on the Judiciary; by William J. Anderson, Deputy Director, General Government Div.

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In spite of Federal law enforcement policy calling for a restrictive application of Federal resources in areas of concurrent jurisdiction, the Federal Bureau of Investigation (FBI) and U.S. attorneys have established investigative and prosecutive practices relating to bank robberies which have resulted in local authorities playing a subordinate role. The Federal investigative effort in bank robberies is not warranted because: bank robberies are not very different from robberies of other commercial establishments; the typical bank robbery was not very complex and gang operations were minimal; and only a small percentage of bank robbers committed their robberies in more than one State. The FBI role as the principal investigative agency in bank robberies has been justified by the FBI's nationwide jurisdiction and ability to link bandits to multiple robberies. Local police probably could have solved most of the robberies examined, and the FBI, even with a reduced role, could have assisted State and local police in cases of multiple robberies. Also, more bank robbery prosecutions are possible at the local level. Only two of eight U.S. attorneys reviewed have taken action to reduce the Federal role. The Attorney General should: direct the FBI to establish and carry out a plan, to go into effect after a reasonable transition period, to minimize its investigative involvement in bank robberies; and establish prosecutive guidelines for bank robbery to minimize Federal prosecution except in cases where Federal procedures facilitate prosecution. (HTW)

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STATEMENT OF
WILLIAM J. ANDERSON, DEPUTY DIRECTOR,
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BEFORE THE
SENATE COMMITTEE ON THE JUDICIARY
ON FEDERAL LAW ENFORCEMENT POLICY
AND PRACTICE REGARDING BANK ROBBERIES

Mr. Chairman and Members of the Committee:

At a time when the Congress is considering the Federal law enforcement role relative to State and local jurisdictions, we reviewed the crime of bank robbery--the FBI's involvement in investigations and the U.S. attorneys' involvement in prosecution. As a result of this review, we have concluded that the Federal Government should reduce its investigative and prosecutive roles in bank robbery crime. The following overview puts our position in perspective.

Despite a Federal law enforcement policy which has consistently called for a restrictive application of Federal resources in areas of concurrent jurisdiction, the FBI and U.S. attorneys have established investigative and

prosecutive practices relating to bank robberies which have resulted in local authorities playing a subordinate role. Our case analysis and discussions with Federal, State, and local law enforcement officials showed that bank robberies do not represent a unique problem for law enforcement and local jurisdictions generally could assume a greater investigative and prosecutive burden. Reducing the Federal role in bank robberies would permit the FBI to devote more resources to investigative priorities such as organized crime, white-collar crime, and foreign counterintelligence. In reviewing Federal involvement in bank robberies, we devoted specific attention to

- the nature of the bank robbery crime,
- investigative efforts of police and the FBI, and
- Federal and local prosecutive practices.

Our observations and conclusions are based primarily on an analysis of 230 bank robbery cases randomly selected from 1,462 investigative matters closed during fiscal year 1977. We performed work at FBI field offices in Charlotte, Cleveland, Dallas, Detroit, Houston, Los Angeles, and Philadelphia. We selected these offices for review to insure broad geographic and demographic coverage of the

bank robbery problem. These jurisdictions accounted for 27 percent of the Nation's total bank robberies during fiscal year 1977.

We were provided access to the information needed to conduct our review and we believe the observations and conclusions we have today are valid. Our detailed findings will soon be available in a report to the Congress.

FEDERAL LAW ENFORCEMENT POLICY

I'd like first to discuss what the Federal policy has been historically toward law enforcement for bank robberies.

Federal policy has consistently called for a restrictive application of Federal resources in areas of concurrent jurisdiction, particularly with regard to bank robberies. The Congress passed legislation in 1934 providing punishment for robberies of financial institutions operating under Federal law or with Federal insurance. The legislation was part of a series of antigangster bills proposed by the Department of Justice to provide assistance to State and local authorities in dealing with organized groups of gangsters operating across State lines. In a 1934 letter, transmitting the bills to the Chairman of the Senate Judiciary Committee, the Attorney General said

"* * * generally the suppression of crime is the obligation of the various States and local political subdivisions. * * * It [the legislation] is not intended to invite the political subdivisions of our country to refer their own problems of law enforcement to the Federal Government, but rather in a cooperative manner to supplement their activities to the extent indicated."

In a separate statement to the House Judiciary Committee, the Attorney General disclaimed any intention for the Federal Government to supersede State authorities in bank robbery cases, stating, "It [the Federal Government] will intervene only to cooperate with local forces when it is evident that the latter cannot cope with the criminals."

The Justice Department's Criminal Division reaffirmed the intent of the original legislation in a 1975 U.S. Attorneys Bulletin, which pledged support for U.S. attorneys' efforts to encourage State prosecution of bank robberies. Noting that bank robberies were matters of great local concern, the bulletin drew support from a 1974 letter from the Attorney General to all U.S. attorneys stating that "* * * cooperation between Federal and State law enforcement authorities should be 'predicated on Federal efforts encouraging local prosecution, not only of those cases with minimal Federal interest, but of all cases with strong State or local interest.'"

In a statement before this Subcommittee on February 28, 1978, the Attorney General outlined the proper scope of Federal investigation in crimes of concurrent jurisdiction. He said that the future emphasis of FBI criminal investigations should be on the investigation of offenses which, because of their nature and scope, can be better handled at the Federal level. He added that routine offenses, which can be investigated equally well by Federal or local authorities, should be left to local enforcement agencies.

THE NATURE OF BANK ROBBERIES DOES
NOT WARRANT THE PRESENT FEDERAL
INVESTIGATIVE EFFORT

Now I'd like to briefly describe the typical bank robber to show why we believe that the present Federal investigative effort is not warranted.

Law enforcement officials generally characterized bank robberies as little different from robberies of other commercial establishments. Bandits in our sample cases generally had prior criminal backgrounds, but their methods of operation usually were not sophisticated and few operated beyond the borders of one State.

Nearly 65 percent of the 237 identified robbers involved in our sample had been previously convicted of crimes-- principally robbery, burglary, and drug offenses. While 9 percent had previously been convicted specifically for

bank robbery, 31 percent of the robbers in our sample had been involved in four or more bank robberies.

Drug use was also quite prevalent in the criminal history of the bandits. FBI records indicated that 42 percent of the bank robbers in our sample were drug users.

Despite the criminal background of many bandits, most bank robberies were of a relatively uncomplex nature. The characteristics typical of most bank robberies in our sample would indicate that planning was not very extensive and gang operations were minimal. The bandits in most of the robberies

- acted alone (72 percent),

- were not disguised or wore only a hat and/or sunglasses (53 percent),

- attempted to rob only one teller (57 percent), and

- did not indicate any awareness of bank security devices such as alarms, bait money, or dye packs (67 percent).

In addition, only 17, or 7.2 percent, of the 237 bandits involved in our sample committed robberies in more than 1 State.

THE STRAIGHTFORWARD NATURE OF BANK
ROBBERY INVESTIGATIONS DOES NOT REQUIRE
THE PRESENT LEVEL OF FBI INVOLVEMENT

Having given a profile of the bank robber, I'd like now to describe the nature of robbery investigations.

These facts are presented to show again that the present level of FBI involvement is not required.

Despite the original congressional intent that the Federal Government would supplement State and local efforts in investigating bank robberies, the FBI has become the principal investigative agency. The FBI specializes in these investigations and attaches a high priority to them.

In contrast, the police have a clearly secondary investigative role. Police do not assign greater priority to bank robbery investigations than to investigations of other robberies. Although metropolitan police personnel resources substantially exceed FBI resources, police generally (1) respond to bank robberies in less strength than the FBI and (2) leave the FBI with principal responsibility for investigative actions beyond the immediate crime scene. Representatives of several local police agencies indicated the FBI's willingness to pursue bank robbery investigations allowed them to use their resources in other ways.

Police and the FBI justify the present FBI role because the FBI's nationwide jurisdiction facilitates interstate and intrastate investigations as well as the ability to link bandits to multiple robberies. While these factors do support some FBI involvement in bank robbery investigations, our analysis of bank robbery solutions does not support the

present extent of Federal involvement. The 191 solutions from our sample were universally accomplished through straightforward, that is to say, routine, investigative techniques, which we believe the local police could perform if they applied sufficient resources.

The straightforward techniques which figured in every solution included such routine actions as

- quick law enforcement response resulting in capture of the bandit(s) at the crime scene or during the attempted getaway,
- followup of leads available at or in the vicinity of the crime scene, and
- followup of tips.

Interstate investigations did not play a major role in solving our sample bank robberies. Only 9 of the 191 solutions were facilitated by interstate investigation. Thus, the FBI's nationwide jurisdiction and organization were not vital to most bank robbery solutions.

The FBI's investigative scope, transcending local jurisdictions, does place it in an advantageous position to link bandits to multiple bank robberies through comparison of physical descriptions and methods of operations.

Linking bandits to multiple robberies offers several advantages:

- Investigative effort in several cases may be focused against a single robber or group of robbers, thus saving investigative time.
- Many cases may be removed from an unsolved status through the identification of a bandit.
- A stronger prosecutive case may be possible.

FBI and police efforts to link bandits to multiple robberies removed 74 cases (39 percent) from an unsolved status in our sample. Even with a reduced investigative role, we believe the FBI could continue to assist State and locals by linking bandits to multiple robberies.

MORE BANK ROBBERY PROSECUTIONS
ARE POSSIBLE AT THE LOCAL LEVEL

Thus far, I have discussed Federal involvement in bank robbery investigations. Now I'd like to turn to the question of Federal involvement in bank robbery prosecutions. Basically, we believe that more bank robbery prosecutions are possible at the local level.

In 1975 the Department of Justice's Criminal Division sought to reduce the Federal role in bank robberies by encouraging U.S. attorneys to defer prosecutions of bank robbers to local authorities, when appropriate. The Department took this action because it recognized that the Federal role in bank robbery investigations and prosecutions exceeded both the congressional intent and the Federal interest. To

date, however, only two of the eight U.S. attorneys included in our review have taken action to reduce the Federal role.

Generally, apprehended bank robbers were prosecuted federally unless the subjects were juveniles, mentally incompetent, or involved in a more serious local violation. As a result, U.S. attorneys prosecuted 77 percent of the 237 identified robbers involved in our sample.

Only the U.S. attorneys in Philadelphia and Detroit are taking steps to reduce the Federal prosecutive role. The U.S. attorney in Detroit is currently developing guidelines for deferring bank robbery cases to local prosecutors. Since late 1977, the U.S. attorney in Philadelphia has been deferring cases to local prosecutors involving (1) bank robbers apprehended principally as a result of local efforts and (2) an unarmed lone bandit using a demand note.

Six other U.S. attorneys' offices were satisfied with the status quo. The U.S. attorneys' offices in Dallas and Houston generally support local prosecution of bank robberies when the FBI does not play a major investigative role. Representatives of these offices believed their policies generally met the intent of the Department's memorandum. Representatives of the remaining four U.S. attorneys'

offices visited said the Federal prosecutive domination should be continued because

- specific Department of Justice prosecutive guidelines have not been issued,
- the FBI continues to serve as the primary investigative agency, and
- local authorities would not be able to accept the added burden.

Discussions with representatives of local prosecutors' offices showed that with the exception of one local prosecutor's office, they believed their agencies could handle the prosecution of bank robbers if Federal involvement decreased.

CONCLUSIONS

We believe the Federal role in bank robberies can and should be substantially reduced. In order to minimize the potentially disruptive effects on some local agencies, it may be advisable to reduce the Federal role gradually. A transition period would permit local authorities to prepare for assuming a greater investigative and prosecutive role.

We believe that the Attorney General should direct the FBI to establish and carry out a plan to minimize its investigative involvement in bank robberies. The plan should provide that, after a reasonable transition period,

the FBI's involvement would generally be limited to assisting police by

--serving as a clearinghouse for linking bank robberies in various jurisdictions and

--aiding interstate investigation of bank robberies.

We believe the Attorney General should establish prosecutive guidelines for bank robbery to minimize Federal prosecution except in cases where Federal procedures facilitate prosecution.

Our draft report on this matter was sent to the Department of Justice for comment on June 30, 1978. Although we understand the Department's response to our draft report is in process, we have not yet received it. Under the agreement entered into between the Director of the FBI and the Comptroller General, which governs our work at the FBI, the FBI is given an opportunity to comment on all of our draft reports and those comments will be included in our reports when issued.

Our report will be issued shortly after we receive the comments of the Department of Justice.

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This concludes my prepared statement, Mr. Chairman.
We would be pleased to respond to any questions.