

Committee Meeting

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of

SENATE JUDICIARY COMMITTEE

SENATE BILL Nos. 1324, 1460, and 1461

and

ASSEMBLY BILL Nos. 2047 and 2154

(Carjacking Legislation)

LOCATION: Freeholders Boardroom
Essex County Hall of Records
Newark, New Jersey

DATE: May 28, 1993

MEMBERS OF COMMITTEE PRESENT:

Senator William L. Gormley, Chairman
Senator Leanna Brown

ALSO PRESENT:

Rafaela Garcia
Office of Legislative Services
Acting Aide
Senate Judiciary Committee



Hearing Recorded and Transcribed by

The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, CN 068, Trenton, New Jersey 08625



WILLIAM L. GORMLEY
Chairman

JAMES S. CAFIERO
Vice-Chairman

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LEANNA BROWN
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RAYMOND J. ZANE

New Jersey State Legislature

SENATE JUDICIARY COMMITTEE
LEGISLATIVE OFFICE BUILDING, CN-068
TRENTON, NEW JERSEY 08625-0068
(609) 292-5526

NOTICE OF PUBLIC HEARING

The Senate Judiciary Committee will hold a public hearing on the following bill:

The committee will discuss pending legislation dealing with carjacking.
And also take testimony on the following bill:

SCR-103 Proposes amendment to the Constitution
Bassano to permit wagering in person at casinos
on the results of professional sports
events.

The hearing will be held on Friday, May 28, 1993 at 10:00 A.M. in the
Essex County Board of Freeholders Boardroom, Room 506, Essex County Hall
of Records, 465 Dr. Martin Luther King Blvd., Newark, New Jersey.

*The public may address comments and questions to John J. Tumulty,
Judiciary Section, Office of Legislative Services. (609) 292-5526. Those
persons presenting written testimony should provide 15 copies to the
committee on the day of the hearing.*

[FIRST REPRINT]
ASSEMBLY, No. 2047

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 23, 1992

By Assemblymen ZANGARI, R. BROWN, Stuhltrager
and Assemblywoman Weber

1 AN ACT establishing the crime of carjacking and supplementing
2 Title 2C of the New Jersey Statutes.

3
4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. a. Carjacking defined. A person is guilty of carjacking if in
7 the course of committing ¹[a theft] an unlawful taking¹ of a
8 motor vehicle, as defined in N.J.S.39:1-1, or in an attempt to
9 commit ¹[a theft] an unlawful taking¹ of a motor vehicle¹, he
10 enters a motor vehicle which at the time of the theft or
11 attempted theft is occupied by one or more persons and] he¹:

12 (1) inflicts bodily injury or uses force upon an occupant ¹or
13 person in possession or control of a motor vehicle¹;

14 (2) threatens an occupant ¹or person in control¹ with, or
15 purposely or knowingly puts an occupant ¹or person in control of
16 the motor vehicle¹ in fear of, immediate bodily injury;

17 (3) commits or threatens immediately to commit any crime of
18 the first or second degree; or

19 (4) operates or causes said vehicle to be operated with ¹[an
20 occupant] the person who was in possession or control or was an
21 occupant of the motor vehicle at the time of the taking¹
22 remaining in the vehicle.

23 ¹An act shall be deemed to be "in the course of committing an
24 unlawful taking of a motor vehicle" if it occurs during an attempt
25 to commit the unlawful taking of a motor vehicle or during an
26 immediate flight after the attempt or commission.¹

27 b. Grading. Carjacking is a crime of the first degree and upon
28 conviction thereof a person may, notwithstanding the provisions
29 of paragraph (1) of subsection a. of N.J.S.2C:43-6, be sentenced
30 to an ordinary term of imprisonment between 10 and 30 years. A
31 person convicted of carjacking shall be sentenced to a term of
32 imprisonment and that term of imprisonment shall include the
33 imposition of a minimum term of at least five years during which
34 the defendant shall be ineligible for parole.

35 2. This act shall take effect immediately.

36

37

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40 Establishes carjacking as a criminal offense.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:
¹ Assembly AJL committee amendments adopted May 6, 1993.

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 2154

STATE OF NEW JERSEY

ADOPTED MAY 6, 1993

Sponsored by Assemblymen R. SMITH, GREEN,
SOLOMON, CATANIA, Assemblywoman DERMAN,
Assemblymen LUSTBADER, R. BROWN and STUHLTRAGER

1 AN ACT concerning unlawful entry into a motor vehicle and
2 amending N.J.S.2C:18-2.

3
4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 1. N.J.S.2C:18-2 is amended to read as follows:

7 2C:18-2. Burglary.

8 a. Burglary defined. A person is guilty of burglary if, with
9 purpose to commit an offense therein he:

10 (1) Enters a structure, or a separately secured or occupied
11 portion thereof, unless the structure was at the time open to the
12 public or the actor is licensed or privileged to enter; or

13 (2) Surreptitiously remains in a structure or a separately
14 secured or occupied portion thereof knowing that he is not
15 licensed or privileged to do so.

16 b. Grading. Burglary is a crime of the second degree if in the
17 course of committing the offense, the actor:

18 (1) Purposely, knowingly or recklessly inflicts, attempts to
19 inflict or threatens to inflict bodily injury on anyone; [or]¹

20 (2) Is armed with or displays what appear to be explosives or a
21 deadly weapon; or

22 (3) Enters an occupied motor vehicle or enters and
23 surreptitiously remains in an unoccupied motor vehicle with the
24 purpose to commit any offense set forth in chapters 11 through
25 15 of Title 2C of the New Jersey Statutes.

26 Otherwise burglary is a crime of the third degree. An act shall
27 be deemed "in the course of committing" an offense if it occurs
28 in an attempt to commit an offense or in immediate flight after
29 the attempt or commission.

30 (cf: P.L.1981, c.290, s.18)

31 2. This act shall take effect immediately.

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36 Makes it a crime of the second degree to unlawfully enter a
37 motor vehicle with purpose to commit a violent crime.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

SENATE, No. 1324

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 9, 1992

By Senator CODEY

1 AN ACT establishing the crime of carjacking and supplementing
2 Title 2C of the New Jersey Statutes.

3
4 BE IT ENACTED by the Senate and General Assembly of the
5 State of New Jersey:

6 1. a. Carjacking defined. A person is guilty of carjacking if in
7 the course of committing a theft of a motor vehicle, as defined in
8 N.J.S.39:1-1, or in an attempt to commit a theft of a motor
9 vehicle, he enters a motor vehicle which at the time of the theft
10 or attempted theft is occupied by one or more persons and

11 (1) inflicts bodily injury or uses force upon an occupant;

12 (2) threatens an occupant with, or purposely or knowingly puts
13 an occupant in fear of, immediate bodily injury;

14 (3) commits or threatens immediately to commit any crime of
15 the first or second degree; or

16 (4) operates or causes said vehicle to be operated with an
17 occupant remaining in the vehicle.

18 b. Grading. Carjacking is a crime of the first degree and upon
19 conviction thereof a person may, notwithstanding the provisions
20 of paragraph (1) of subsection a. of N.J.S. 2C:43-6, be sentenced
21 to an ordinary term of imprisonment between 10 and 30 years. A
22 person convicted of carjacking shall be sentenced to a term of
23 imprisonment and that term of imprisonment shall include the
24 imposition of a minimum term of at least five years during which
25 the defendant shall be ineligible for parole.

26 2. This act shall take effect immediately.

27

28

STATEMENT

29

30 This bill would establish carjacking as a criminal offense.
31 Under the bill, a person is guilty of carjacking if in stealing or
32 attempting to steal a motor vehicle, the person harms or
33 threatens to harm an occupant or operates the motor vehicle with
34 an occupant remaining in the vehicle.

35 Carjacking would be graded as a crime of the first degree
36 punishable by between 10 and 30 years imprisonment. The bill
37 mandates that the sentence imposed on a person convicted of
38 carjacking must include a term of imprisonment with a period of
39 parole ineligibility of at least 5 years.

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42

43 Establishes carjacking as a criminal offense.

SENATE, No. 1460

STATE OF NEW JERSEY

INTRODUCED JANUARY 12, 1993

By Senator LYNCH

1 AN ACT concerning forcible entry into a motor vehicle and
2 supplementing Title 2C of the New Jersey Statutes.

3

4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 1. A person is guilty of illegal forcible entry if the person:

7 a. Forcibly enters an occupied motor vehicle without any
8 lawful right to do so;

9 b. Enters an unoccupied motor vehicle with the purpose of
10 committing a crime against a person who later enters the motor
11 vehicle; or

12 c. Uses force or the threat of force to compel a person to
13 enter a motor vehicle.

14 Illegal forcible entry is a crime of the second degree.

15 2. This act shall take effect immediately.

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STATEMENT

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20 This bill makes it a crime of the second degree to forcibly
21 enter an occupied motor vehicle, to enter an unoccupied motor
22 vehicle in order to wait for a person to enter so that a crime can
23 be committed against that person, or to use force, or the threat
24 of force, to compel a person to enter a motor vehicle.

25 A crime of the second degree is punishable by a term of
26 imprisonment of five to 10 years, or a fine of up to \$100,000, or
27 both.

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31

32 Makes forcible entry into an occupied motor vehicle a crime of
33 the second degree.

SENATE, No. 1461
STATE OF NEW JERSEY

INTRODUCED JANUARY 12, 1993

By Senator LYNCH

1 AN ACT concerning certain kidnappings and amending
2 N.J.S.2C:13-1.

3
4 BE IT ENACTED *by the Senate and General Assembly of the*
5 *State of New Jersey:*

6 1. N.J.S.2C:13-1 is amended to read as follows:

7 2C:13-1. Kidnapping. a. Holding for ransom, reward or as a
8 hostage. A person is guilty of kidnapping if he unlawfully removes
9 another from the place where he is found or if he unlawfully
10 confines another with the purpose of holding that person for
11 ransom or reward or as a shield or hostage.

12 b. Holding for other purposes. A person is guilty of kidnapping
13 if he unlawfully removes another from his place of residence or
14 business, or a substantial distance from the vicinity where he is
15 found, or if he unlawfully confines another for a substantial
16 period, with any of the following purposes:

17 (1) To facilitate commission of any crime or flight thereafter;

18 (2) To inflict bodily injury on or to terrorize the victim or
19 another; or

20 (3) To interfere with the performance of any governmental or
21 political function.

22 c. Grading of kidnapping. (1) Except as provided in paragraph
23 (2) and paragraph (3) of this subsection, kidnapping is a crime of
24 the first degree and upon conviction thereof, a person may,
25 notwithstanding the provisions of paragraph (1) of subsection a. of
26 N.J.S.2C:43-6, be sentenced to an ordinary term of imprisonment
27 between 15 and 30 years. If the actor releases the victim
28 unharmed and in a safe place prior to apprehension, it is a crime
29 of the second degree.

30 (2) Kidnapping is a crime of the first degree and upon
31 conviction thereof, an actor shall be sentenced to a term of
32 imprisonment by the court, if the victim of the kidnapping is less
33 than 16 years of age and if during the kidnapping:

34 (a) A crime under N.J.S.2C:14-2 or subsection a. of
35 N.J.S.2C:14-3 is committed against the victim;

36 (b) A crime under subsection b. of N.J.S.2C:24-4 is committed
37 against the victim; or

38 (c) The actor sells or delivers the victim to another person for
39 pecuniary gain other than in circumstances which lead to the
40 return of the victim to a parent, guardian or other person
41 responsible for the general supervision of the victim.

42 Notwithstanding the provisions of paragraph (1) of subsection a.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 of N.J.S.2C:43-6, the term of imprisonment imposed under this
2 paragraph shall be either a term of 25 years during which the
3 actor shall not be eligible for parole, or a specific term between
4 25 years and life imprisonment, of which the actor shall serve 25
5 years before being eligible for parole; provided, however, that the
6 crime of kidnapping under this paragraph and underlying
7 aggravating crimes listed in subparagraph (a), (b) or (c) of this
8 paragraph shall merge for purposes of sentencing. If the actor is
9 convicted of the criminal homicide of a victim of a kidnapping
10 under the provisions of chapter 11, any sentence imposed under
11 provisions of this paragraph shall be served consecutively to any
12 sentence imposed pursuant to the provisions of chapter 11.

13 (3) Notwithstanding the provisions of paragraph (1) of
14 subsection a. of N.J.S.2C:43-6, if the actor unlawfully removes
15 the victim from a motor vehicle or unlawfully confines the victim
16 in a motor vehicle, the actor shall be sentenced to a term of
17 imprisonment by the court. If the kidnapping is punishable as a
18 crime of the first degree, the term of imprisonment shall include
19 a minimum term of eight years, during which the actor shall not
20 be eligible for parole. If the kidnapping is punishable as a crime
21 of the second degree, the term of imprisonment shall include a
22 minimum term of three years, during which the actor shall not be
23 eligible for parole.

24 d. "Unlawful" removal or confinement. A removal or
25 confinement is unlawful within the meaning of this section and of
26 sections 2C:13-2 and 2C:13-3, if it is accomplished by force,
27 threat or deception, or, in the case of a person who is under the
28 age of 14 or is incompetent, if it is accomplished without the
29 consent of a parent, guardian or other person responsible for
30 general supervision of his welfare.

31 (cf: P.L.1986, c.172, s.2)

32 2. This act shall take effect immediately.

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STATEMENT

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37 This bill sets mandatory minimum penalties for motor
38 vehicle-related kidnappings. Under current law, kidnapping is a
39 crime of the first degree, punishable by a term of imprisonment
40 of between 15 and 30 years. If the defendant releases the victim
41 unharmed and in a safe place prior to apprehension, kidnapping is
42 a crime of the second degree. Crimes of the second degree are
43 punishable by a term of imprisonment of five to 10 years.

44 This bill provides that if, in the course of the kidnapping, the
45 defendant unlawfully removes the victim from a motor vehicle or
46 unlawfully confines the victim in a motor vehicle, the defendant
47 will serve a mandatory minimum term of eight years
48 imprisonment (for first degree kidnapping). If the defendant
49 releases the victim unharmed and in a safe place prior to
50 apprehension, (second degree kidnapping), the defendant will be
51 sentenced to a mandatory minimum term of imprisonment of
52 three years.

- 1 _____
- 2
- 3 Provides mandatory minimum terms for motor vehicle-related
- 4 kidnappings.

TABLE OF CONTENTS

| | <u>Page</u> |
|--|-------------|
| Senator Richard J. Codey District 27 | 1 |
| James J. Mulvihill Assistant Attorney General New Jersey Department of Law and Public Safety | 3 |
| Clifford J. Minor County Prosecutor Essex County, New Jersey | 7 |
| Theodore A. Brown Assistant Prosecutor, and Director Chronic Auto Theft Carjacking Prosecutions Unit Essex County, New Jersey | 8 |
| APPENDIX: | |
| Memorandum to Senate Judiciary Committee from John J. Tumulty Aide to Senate Judiciary Committee | 1x |
| News Releases plus attachments submitted by County Prosecutor Clifford J. Minor | 4x |

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SENATOR WILLIAM L. GORMLEY (Chairman): The first topic for today-- By the way, I should introduce myself. I am Senator Bill Gormley, from Atlantic County, and I have with me Senator Leanna Brown, from Morris County. We certainly appreciate Essex County making these very fine facilities available to us today.

The first matter before us today-- Let me just give you a little bit of background. Obviously, there is a high emphasis, because of the crime package that has been put forward by Senator DiFrancesco and Assembly Speaker Haytaian, on crime issues, with the major emphasis on putting more police on the street. There is no issue that receives greater attention, I believe -- and it is in a very sincere and nonpolitical way from both sides of the aisle -- than the crime of carjacking. It has become, unfortunately, a symbol of crime. It has become a symbol of fear to many New Jersey residents, and consequently, knowing that, we have already moved certain bills and measures over in the Assembly. The Assembly is also working on this, and, hopefully, by the end of June we will have a compilation, a package, and other bills for the Governor's desk on this issue.

With that in mind, what I would like to do is introduce someone who has been in the forefront on this issue, Senator Codey, who is also one of our hosts today. We appreciate his hospitality. Senator Codey will review the piece of legislation that he has introduced, and then representatives of the AG and the Prosecutors' Offices will go over their -- will give their input on that piece of legislation, or any other focus we might want to see in the near future in terms of reforms in terms of carjacking.

With that brief outline -- I hope it was brief -- I would like to call on Senator Dick Codey. Senator?

S E N A T O R R I C H A R D J . C O D E Y: Thank you, Mr. Chairman, Senator Brown. Members of the Committee: I would

like to thank you today for scheduling this meeting to discuss carjacking and a bill which I have sponsored to address this problem. I would also like to thank you for traveling to Essex County today to conduct this hearing. Your presence in Newark, however, should not suggest that Newark or Essex County are unique in their experience with this problem. Carjacking haunts this city and many urban and suburban communities throughout northern New Jersey and the entire State.

Carjacking is an insidious, hateful act in which drivers have been shot, and even killed, because of a criminal's lust over a certain car. The victims have been young and old. They have been men and women. They have been black and white. They have lived in big cities and small towns. No one is immune from this threat. Carjacking has become an equal opportunity crime, where any punk with a gun can wrest a car away from an unsuspecting driver.

Automobile theft has existed as long as we have had cars. It is pervasive and destructive to business activity, our community, and to our personal sense of well-being here, and around the State. The latest inclination of this problem is carjacking, where thugs steal a car away from a driver through force, or a far worse menace in which cars are stolen at gunpoint from unarmed motorists, some with small children in the car.

The carjacking and shooting in Washington has captured much national attention, but such incidents happen here, too. In the past week, we have had a man sentenced for a similar shooting and carjacking in the parking lot of a South Orange grocery store. Under my bill, this man could have been given a 30-year jail term on just the carjacking charge, not including the attempted murder. And just this Tuesday, in the same grocery store parking lot in South Orange, a senior citizen was abducted when a woman jumped into her car while she sat waiting

for her husband. She drove to Newark, and stole her money and her jewelry.

Our citizens are prisoners in their own homes; prisoners in their own neighborhoods; and afraid to drive because of these carjackings and shootings. We must give them back their homes, their neighborhoods, their towns, and their cities. Making carjacking a first degree crime, as my bill would do, would give our law enforcement community greater ability to put away those who would terrorize someone over a car.

Automobile theft is now a third degree crime. This has not been a strong enough deterrent to would-be car thieves, but 30 years in jail and a \$100,000 fine would give car thieves something to think about. These penalties are the only things that will get the carjackers' attention. Law enforcement officials cannot patrol every parking lot, every city street, every neighborhood to scare off car snatchers. The threat of 30 years in jail, with a minimum five-year sentence, would put a different kind of fear into the carjackers. Do the crime, you'll do the time. We have to put the message out on the streets that either you put your gun away, or you're going away.

This is a serious issue. We must be serious about meting out some serious punishment for those who would prey on our senior citizens and women with children in grocery store parking lots. This bill, combined with the continued rigorous work from the law enforcement community, will help us to release the citizens who are now being held hostage in their own homes. I urge you to approve this bill so that it can be considered by the Senate sometime this summer.

Thank you, Mr. Chairman.

SENATOR GORMLEY: Thank you. Jim Mulvihill, from the Attorney General's Office.

A S S T. A.G. J A M E S J. M U L V I H I L L: Senator Gormley, Senator Brown, I am very pleased to be here on behalf of Attorney General Robert J. DelTufo.

SENATOR GORMLEY: If I may, what I would like to focus on-- Let's focus on Senator Codey's bill and refinements and suggestions, or whatever you might have regarding that, or other legislation.

ASSISTANT ATTORNEY GENERAL MULVIHILL: All right. I just wanted to thank the Committee for the prompt action you took on the auto theft legislation last fall, and for coming up here to Essex County for the hearing in Bloomfield. We want to thank Senator Codey for introducing S-1324 last November. We in Essex County -- and I, at that time, was serving as Acting Prosecutor -- knew about the problems in Washington, D.C. with carjacking, and we started to see some problems in Essex County. We got on top of the curve here in Essex County with that problem, and Prosecutor Minor will tell you more about what has been done here in Essex to combat carjacking. But I want to thank Senator Codey because he very, very promptly introduced his bill which will make carjacking a distinct and separate offense, with a 30-year penalty that will send a proper message to would-be carjackers, who are, in essence, thugs, that they will be very severely punished upon conviction.

Presently, carjacking is proscribed by our robbery statute. However, as I say, carjacking is a distinct crime that should have a specific statute to properly prosecute offenders and to indicate that we will prosecute them to the ultimate of the law.

The County Prosecutors are very active in the carjacking problem. We have four regional Task Forces -- Carjacking Task Forces here in New Jersey that were established last fall at the request of Governor Florio. Attorney General DelTufo brought the Prosecutors together, and here in this particular county -- Essex -- plus Union and Hudson, it is headed by Prosecutor Rutolo, who hopefully will be here later to testify before this Committee.

On June 14 we are having a statewide meeting of our regional Carjacking Task Forces to share information and the innovative procedures that have taken place in the past six months statewide.

As you know, Senator, Attorney General DelTufo has directed the County Prosecutors that there will be no plea bargaining under our present robbery statutes and carjacking situations, unless the case we have may have proof problems. We have in our Carjacking Task Forces the full cooperation of the FBI, the State Police, and all of the various law enforcement agencies.

Carjacking is a special problem because people in their vehicles really believe that the car is an extension of their home, which is a sanctuary. When a carjacking offense takes place they are caught unaware, and that is a very dangerous situation that can result in serious injury or death.

As I indicated, we have our Task Forces. There are some statistics to indicate that this is a statewide problem. I know Prosecutor Minor will tell you what the stats are here in Essex County, but in terms of the Central Regional Task Force, which is Mercer, Monmouth, Middlesex, Hunterdon, and Somerset, there were 19 carjacking offenses in Middlesex County in 1992, and 13 thus far in 1993. Monmouth County had five in 1992 and one thus far this year. Mercer has had one in '92 and two in '93. One just happened recently to the Executive Director of the National Conference of Christians and Jews, who was parking his car at the Trenton Train Station at 11:00 in the morning, dropping off a woman colleague, in broad daylight. He went around to the back of the car and into the trunk getting things for her, and a carjacker jumped into the car and took off, which could have put those people into great danger.

So, this is something that is happening every day. The Southern Regional Task Force, which is headed by Prosecutor

Borden-- In 1992, there were 72 carjackings in Camden City, and two in the rest of Camden County. In 1993, there have been 38 carjackings in Camden City, and 11 in the rest of the county and the suburban towns that surround Camden, with one in Atlantic City. There have been approximately five in our Northern Regional Task Force area headed by Prosecutor Fava.

Now, the Attorney General strongly supports the bill and the amendments that were made by the Assembly as contained in Assembly Bill No. 2047. We believe that that language strengthens the language and clarifies the language contained in Senator Codey's bill which, of course, was the original bill.

I just wanted to say also, Senator, that this past Monday, Assistant Prosecutor Ted Brown and I were invited to speak at a national district attorneys' association conference in Washington, D.C. for county prosecutors and district attorneys in populations of 500,000 or more. It is called the Metropolitan Prosecutors' Committee. We were on the program on the topic of carjacking. DAs have heard about what we have done here in New Jersey to combat this problem. What we told these prosecutors was extremely well received. We are on the cutting edge here in New Jersey of combating this problem and doing everything possible to prevent it from becoming a larger problem.

We believe that enactment of this bill -- Senate Bill No. 1324 -- with the amendments, will do a great deal to send the proper message to these would-be criminals.

SENATOR GORMLEY: Thank you.

It is good to see Prosecutor Minor, who we had very recently in front of the Judiciary Committee. He has set focusing on carjacking as his primary goal. I remember your testimony that day. It is a pleasure to have you here today with Ted Brown from your office. We would appreciate your testimony at this time.

P R O S E C U T O R C L I F F O R D J. M I N O R:
Senator Gormley, Senator Brown: I appreciate being invited to testify before this Committee. I support Senate Bill No. 1324, and I appreciate Senator Codey contacting my office and asking me to be here.

I don't think it would be productive for me to repeat anything they have said. Mr. Mulvihill has covered most of the things that I would have said, but I just want you to know that we have found that carjacking is a crime of opportunity. There is no real scheme or plan by which these things occur. We have found that young men congregate on the streets of our urban areas. They get together in the evening hours and then decide what it is they are going to do for the day. Four or five will get together and steal one vehicle, and then go about stealing four others, which will mean that they will have five vehicles. They will take these five vehicles and place them in strategic areas within the community, and then go about on a crime spree for the evening, which could include not only robberies, but additional carjacking.

Although Essex County has experienced a 30 percent reduction because of some of the programs that were instituted by the Prosecutors' Offices in Essex County and Union County, with the Attorney General's assistance, we still believe that this bill would be a significant bill to deter this particular crime. We have found in trying these particular offenses that the dual role that we would have to play in order to prosecute cases dealing with a robbery and a stolen car sometimes gives us proof problems that this bill will clarify for us -- that it is a first degree crime. I believe that the young men in our community will not want to face 30 years for a crime such as this.

We also think the public should know that carjacking is a crime which started in Europe. Actually, this crime started in South America, although we say it started in

Washington. It has been going on in Brazil for many years. It was truly a crime in which vehicles were in process. People were driving the vehicles, stopped for a light, and a caravan of people would take the car from the victim. It has since come to our community, where most people are carjacked walking to and from their vehicles, not necessarily operating their vehicles. These crimes occur between 8:00 p.m. and 4:00 a.m.

So, we believe that this bill will be a very good tool for the Prosecutors' Offices. I have a booklet that we have produced for you. I will not go over statistics with you, but will give you an opportunity to have this to go over in your Committee hearing. We believe you should give this bill deep consideration and have it go out to the full Senate.

Thank you very much.

SENATOR GORMLEY: I certainly appreciate that. We will make this report available, obviously, to all of the members of the Judiciary Committee. We certainly appreciate it.

Prosecutor Brown, do you have anything?

A S S T. P R O S E C U T O R T H E O D O R E A. B R O W N:
Thank you, Senator, and Senator Brown. I would just like to thank you for the opportunity to speak.

I just want to add, very briefly, that I head a unit which specializes in carjackings. It is the Chronic Auto Theft Carjacking Prosecutions Unit, which was established by then Acting Prosecutor Mulvihill and has been augmented by Prosecutor Minor.

Prosecutor Minor has directed us in this unit to put carjacking prosecutions on a very fast track, to go from apprehension to Grand Jury presentation in 60 days or less. We have been able to do that, and since the beginning of the year we have indicted some 62 carjacking suspects in over 70 carjacking-related cases. Pursuant to the Governor and Attorney General's policy of no plea bargaining, three of these defendants have already pled guilty to the entire indictment in

those cases. One was sentenced to 18 years in prison, nine of which must be served without the possibility of parole. The second one, which Senator Codey mentioned, pled guilty to the indictment which included the robbery, as well as the attempted murder charges. He was sentenced to 40 years in prison, at least 20 of which must be served without parole. So the policies that the Governor and the Attorney General, through Prosecutor Minor, have implemented, have been very effective here in indicting carjacking suspects. As a result of these policies, carjacking is down in Essex County some 30 percent over the first four months of this year, as opposed to 1992.

As we speak, one very notorious carjacking case which became the first Federal carjacking case prosecuted in New Jersey under the new Federal carjacking statute-- The State charges in that case are now being presented to the Grand Jury. Those defendants who have already entered guilty pleas and have been convicted in Federal court -- Mr. Ludiver and Mr. White -- await sentencing in Federal court. The charges in the State are presently being presented to the Grand Jury as we speak.

Thank you, Senator.

SENATOR GORMLEY: Okay. Thank you very much. I certainly appreciate the testimony. Senator Brown, do you have any questions for any of the Prosecutors, or the AG, or Senator Codey?

SENATOR BROWN: Just a quick question. I want to congratulate the sponsor and underscore the importance of the bill.

There has been mention, obviously, that incidents do occur when the driver is enticed out of the car, or when somebody is approaching his or her car. Obviously, that is not the subject of this bill, but I am just curious, with all of this expertise here, what the penalties are, and so on, and the ways of prosecution if I am enticed out of my car and, you

know, injured, and my car is carjacked, but I am not in it, as is called for in this bill.

PROSECUTOR MINOR: What we intend to do if this Committee so pleases to put it up for a full Senate vote is, we will publicize that that particular thing that you don't believe is in this bill, is now in this bill; that if a person is coming to or from this vehicle, we will be able to charge them under this particular statute as a first degree crime.

SENATOR BROWN: Thank you.

SENATOR GORMLEY: Also, I know something that both Senator Codey and I have a high interest in. What I would appreciate is, on the 14th of June when you have the State meeting-- There has been something we have talked about which has been a high priority for the Attorney General, and something I think is the final piece of the puzzle, and it relates to the boot camp in terms of those people who, shall we say -- those offenses that are not aggravated, but are related to this in terms of juveniles, or whatever, in terms of looking towards-- I know it has been one of the priorities, a boot camp--

PROSECUTOR MINOR: Yes.

SENATOR GORMLEY: --on a model basis, to deal with the younger people who become involved in this process, this unfortunate pattern of conduct.

It is a complex issue, but it is something that has been brought up. I know we have all had an interest in making sure that there could possibly be a facility like this set up. So, if you would get back with the Committee after the meeting on the 14th to follow up on that, we certainly would appreciate it.

ASSISTANT ATTORNEY GENERAL MULVIHILL: Yes, we are very much in favor of trying to upgrade the juvenile justice system, Senator. As you know, Attorney General DeLufo has personally been involved in reorganizing the Division of

Juvenile Services and having it transferred from Corrections to Human Services. I strongly believe, and I know Prosecutor Minor believes, that we have to give a greater priority to the juvenile justice system. I would make a plea, also-- Of course, this Committee is not the Appropriations Committee, but I would make a plea that there be appropriations for these different programs that are connected with the legislation.

I think we really have a chance to turn people around when they are juveniles, but when we wait until they become adults-- Most of the offenders in these carjacking cases are young males between the ages, I think, of 20 and 26. Ted?

ASSISTANT PROSECUTOR BROWN: Yes, that's correct.

ASSISTANT ATTORNEY GENERAL MULVIHILL: Those are the bulk of the offenders. But, some of those people, if we had done a better job in the juvenile justice system, we may have prevented crimes and put those people on the right track to being law-abiding, taxpaying, contributing members of society. So I think all of us have to refocus on the juvenile justice system, give it a greater priority within existing resources.

SENATOR GORMLEY: Thank you very much. Thank you for your testimony today. The bill will be listed at the next Committee meeting for a vote. Thank you very much for your time today.

SENATOR CODEY: Thank you.

ASSISTANT ATTORNEY GENERAL MULVIHILL: Thank you.

(MEETING CONCLUDED)

APPENDIX



WILLIAM L. GORMLEY
Chairman

JAMES S. CAFIERO
Vice-Chairman

JOHN O. BENNETT
LEANNA BROWN
JOHN E. DIMON
LOUIS F. KOSCO
BRADFORD S. SMITH
JOHN A. GIRGENTI
EDWARD T. O'CONNOR, JR.
RAYMOND J. ZANE

New Jersey State Legislature

SENATE JUDICIARY COMMITTEE
LEGISLATIVE OFFICE BUILDING, CN-068
TRENTON, NEW JERSEY 08625-0068
(609) 292-5526

TO: Senate Judiciary Committee
FROM: John J. Tumulty
DATE: May 28, 1993
SUBJECT: CARJACKING

The following is a brief summary of the bills presently pending before the Senate Judiciary Committee addressing the problem of carjacking:

S-1324 (Codev)

A-2047 (Zangari, R. Brown)

Both S-1324 and A-2047 would establish a new statutory offense entitled "carjacking." Under both bills, "carjacking" would be graded as a crime of the first degree punishable by between 10 and 30 years imprisonment. Both bills mandate that the sentence imposed on a person convicted of carjacking must include a term of imprisonment with a period of parole ineligibility of at least 5 years.

As modified by the amendments suggested by the Attorney General's Office, A-2047 would provide that a person is guilty of carjacking if, in the course of committing an unlawful taking of a motor vehicle, or an attempt to do so, the person also does one of the following four acts:

(1) inflicts bodily injury or uses force upon an occupant or person in possession or control of a motor vehicle:

(2) threatens an occupant or person in control with, or purposely or knowingly puts an occupant or person in control of the motor vehicle in fear of, immediate bodily injury:

(3) commits or threatens immediately to commit any crime of the first or second degree; or

(4) operates or causes the vehicle to be operated with the person who was in possession or control or was an occupant of the motor vehicle at the time of the taking remaining in the vehicle.

Senator Codey has indicated that he wishes S-1324 to be amended to be identical to A-2047 as passed by the Assembly.

S-1460 (Lynch)

A-2154 (R. Smith, Green)

S-1460 would establish a new statutory crime entitled "illegal forcible entry." Under S-1460, a person would be guilty of this crime if the person forcibly enters an unoccupied motor vehicle in order to wait for a person to enter so that a crime can be committed against that person or uses force or the threat of force to compel a person to enter a motor vehicle. This offense would be graded as a crime of the second degree (between 5 and 10 years imprisonment, a fine of up to \$100,000.00 or both.)

ACS for A-2154 also deals with the illegal entry of a motor vehicle. Instead of creating a new criminal offense, however, ACS for A-2154 would amend N.J.S. 2C:18-2, the present burglary statute. Under ACS for A-2154, a person would be guilty of burglary if the person enters an occupied motor vehicle or enters and surreptitiously remains in an unoccupied motor vehicle with the purpose to commit any offense set for the in chapters 11 through 15 of Title 2C of the New Jersey Statutes. Those chapters cover homicide, assault, kidnapping, sexual assaults, and robbery.

Senator Lynch has indicated that he wishes S-1460 be amended to reflect the provisions of ACS for A-2154.

S-1461 (Lynch)

S-1461 sets mandatory minimum penalties for motor vehicle-related kidnappings. Under current law, kidnapping is a crime of the first degree, punishable by a term of imprisonment of between 15 and 30 years. If the defendant releases the victim unharmed and in a safe place prior to apprehension, kidnapping is a crime of the second degree. Crimes of the second degree are punishable by a term of imprisonment of five to 10 years.

S-1461 provides that if, in the course of the kidnapping, the defendant unlawfully removes the victim from a motor vehicle or unlawfully confines the victim in a motor vehicle, the defendant will serve a mandatory minimum term of eight years imprisonment (for first degree kidnapping). If the defendant releases the victim unharmed and in a safe place prior to apprehension, (second degree kidnapping), the defendant will be sentenced to a mandatory minimum term of imprisonment of three years.

**The Essex County
Prosecutor's Office
Clifford J. Minor
County Prosecutor**

**CARJACKING
The Newest Nightmare**

CAT/CP

4x

NEWS RELEASE

OFFICE OF THE ESSEX COUNTY PROSECUTOR

ESSEX COUNTY COURTS BUILDING
NEWARK, NEW JERSEY 07102
201-621-4700

CLIFFORD J. MINOR
PROSECUTOR

May 27, 1993

FOR IMMEDIATE RELEASE

CONTACT: Ray Weiss (201) 621-4742

Essex County Prosecutor Clifford J. Minor and South Orange Chief of Police Steven Palamara announced today the arrest of Janice Holmes, age 28, of East Orange for the abduction and carjacking of a 68-year-old Maplewood woman from a Supermarket parking lot in South Orange, New Jersey, at about 2:30 pm Tuesday, May 25th, 1993.

Prosecutor Minor credited the quick apprehension of this defendant to the outstanding around-the-clock efforts of the South Orange Police Department, in particular Detective Sergeant James Chelel and Detective Paul Jones who were assisted by Essex County Prosecutor's Investigator Michael Tomich of the Chronic Auto Theft/Carjacking Prosecution Unit.

The defendant was arrested today in Newark and charged with armed robbery, kidnapping and possession of CDS which was found on her person when she was arrested. It is alleged that Ms. Holmes abducted the woman from the Pathmark Supermarket on Valley Street in South Orange and drove her to Newark while threatening her with the use of a gun. It is further alleged that during the course of the abduction Ms. Holmes took various

jewelry and money from the victim. The victim was abandoned by the defendant on 6th Avenue in Newark where the victim was assisted by local residents in obtaining help from the police.

Prosecutor Minor said Janice Holmes is expected to be arraigned on Friday, May 28, 1993 before the Honorable Joseph A. Falcone, Essex County Presiding Criminal Judge.

These charges are merely formal accusations. The defendant is presumed innocent unless and until found guilty.

NEWS RELEASE

OFFICE OF THE ESSEX COUNTY PROSECUTOR

ESSEX COUNTY COURTS BUILDING
NEWARK, NEW JERSEY 07102
201-621-4700

CLIFFORD J. MINOR
May 21, 1993
PROSECUTOR

FOR IMMEDIATE RELEASE

CONTACT: Ray Weiss (201) 621-4742

Essex County Prosecutor Clifford J. Minor announced today that carjackings reported in Essex County during the first 4 months of 1993 dropped dramatically by 30 percent when compared with the same period in 1992.

Prosecutor Minor attributed the decrease in carjackings to a crackdown in Essex County by law enforcement agencies that have cooperated to apprehend, indict, place on trial and convict many of the chronic auto thieves and carjackers.

Prosecutor Minor said: "Carjacking is down because we have used innovative law enforcement initiatives to arrest the most serious offenders and place them behind bars."

Prosecutor Minor said 55 fewer vehicles were reported carjacked between January and April of this year in contrast with the first 4 months of 1992 (180 in 1992 vs. 125 in 1993). During the same period, the number of carjackings reported in Newark rose from 68 to 85, an apparent increase of 25%.

Prosecutor Minor noted that, actually, there may not have been an increase because the apparent rise in carjackings

in Newark may reflect more sophisticated reporting procedures implemented by the Prosecutor and the Newark Police Department. Prosecutor Minor stated, "My staff meets regularly with high ranking officers in the Newark Police Department to improve and refine the procedures for reporting carjackings. In 1992, carjacking cases were examined by hand. We are now using state of the art technology not only to analyze crime statistics, but also to analyze crime patterns and to report carjackings accurately and promptly." The sophisticated reporting system now in place captures all of the carjacking cases. Sifting through the cases by hand, as personnel did in 1992, may well have allowed some of the carjackings to slip through the cracks and go unreported.

The statistics are now tracked by the Essex County Prosecutor's Office Chronic Auto Theft Prosecutions Unit, headed by Assistant Prosecutor/Director Theodore A. Brown. The unit keeps up on crime trends and carjacking suspects with modern crime analysis computer programs.

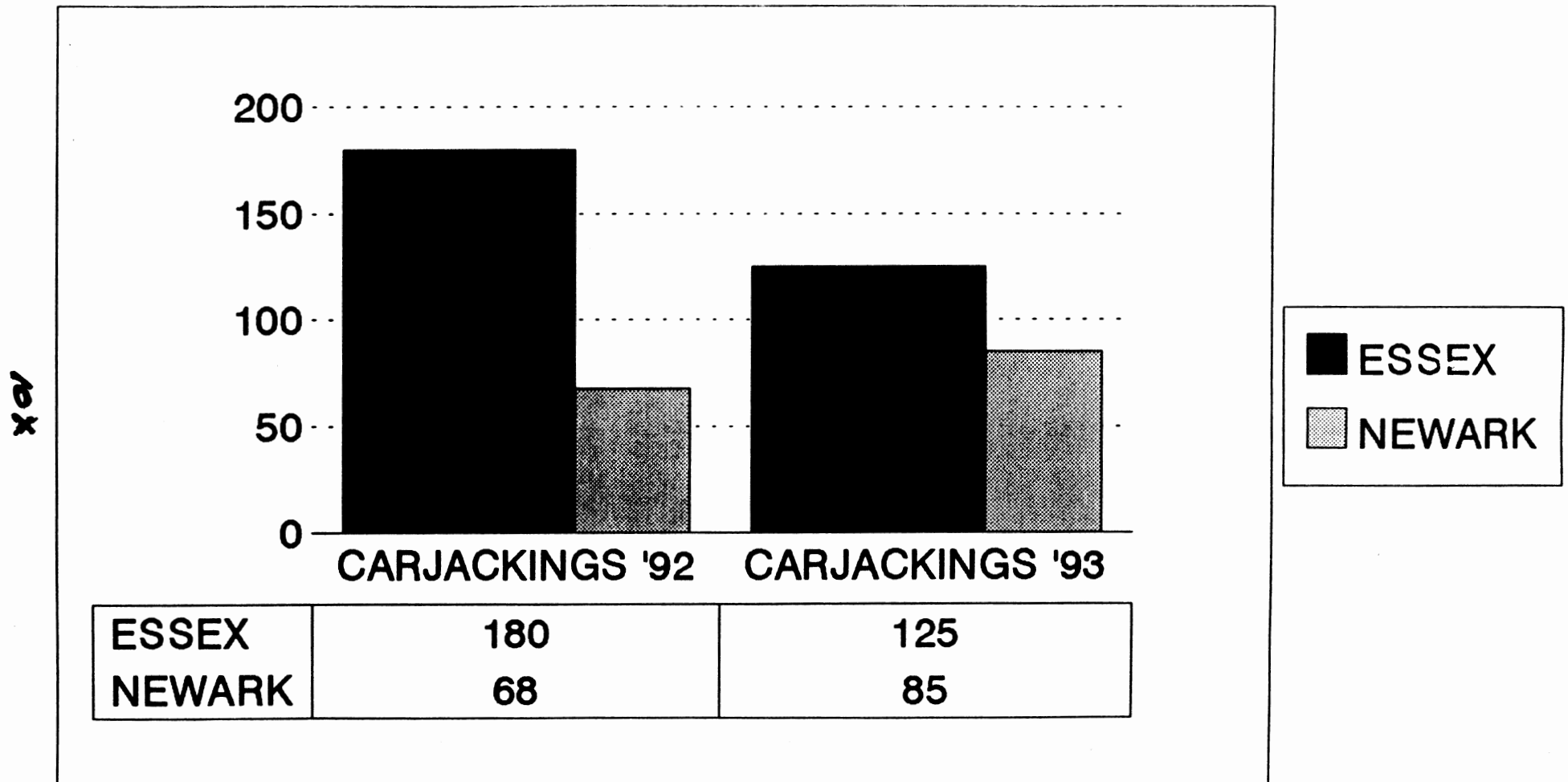
Since the beginning of this year, the Chronic Auto Theft Prosecutions Unit has indicted 52 defendants charged in 40 carjacking cases. One of the defendants, Trevor Burroughs pleaded guilty on May 12, 1993, and was sentenced to 18 years in prison, at least 9 years of which he must serve before becoming eligible for parole.

On Friday, May 21, 1993, Kenneth Houseman was sentenced to 40 years in prison for crimes he committed in connection with a carjacking in South Orange where a victim was

shot and seriously injured. Houseman pleaded guilty to attempted murder and robbery on March 30, 1993. He will be required to serve at least 20 years before being eligible for parole. Nearly all of the 50 remaining carjacking defendants are presently in jail awaiting trial.

FIRST FOUR MONTHS

REPORTED CARJACKINGS 1992 & 1993

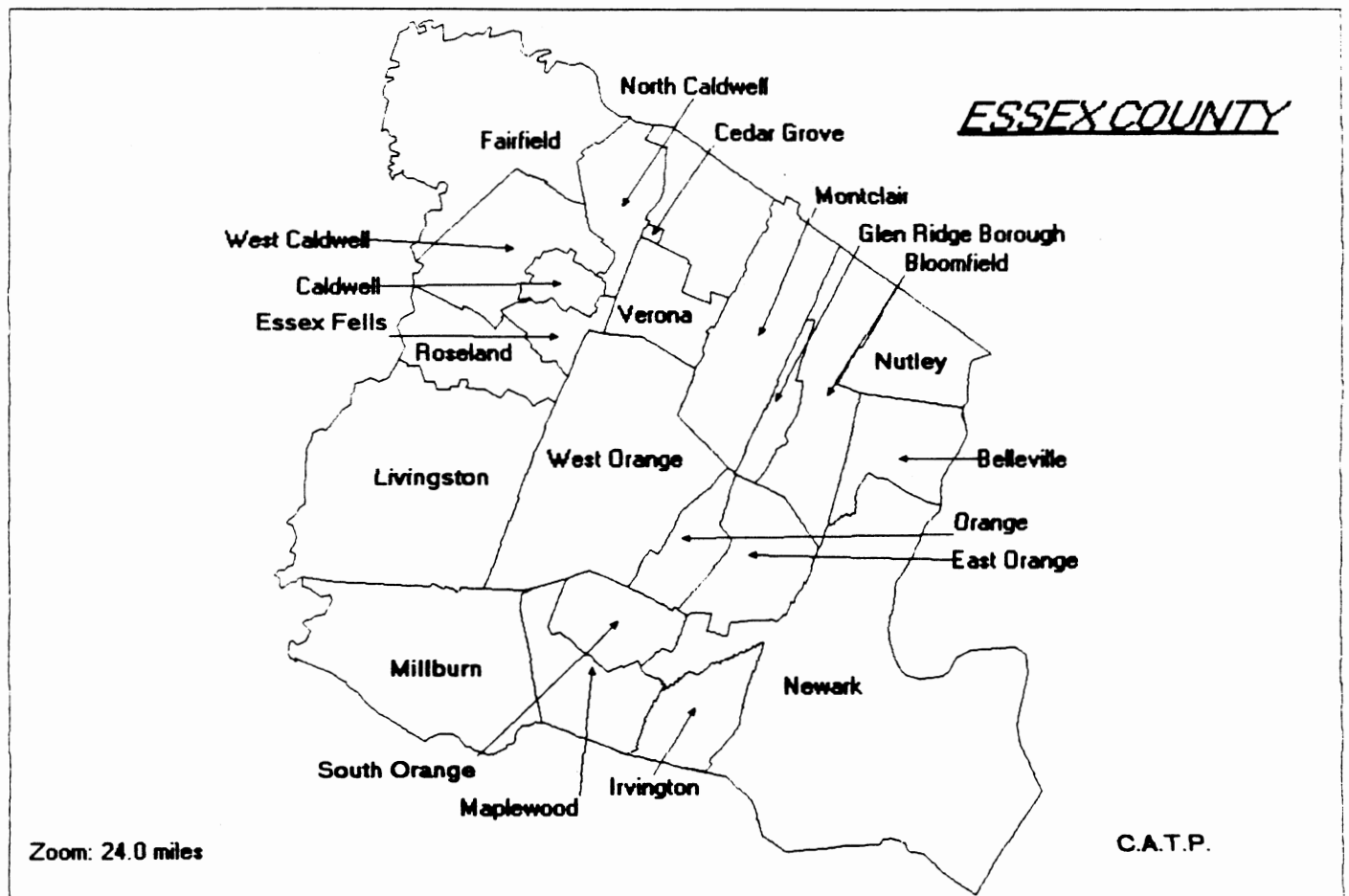


C.A.T.P.

ESSEX COUNTY (-30%)

NEWARK (+25%)

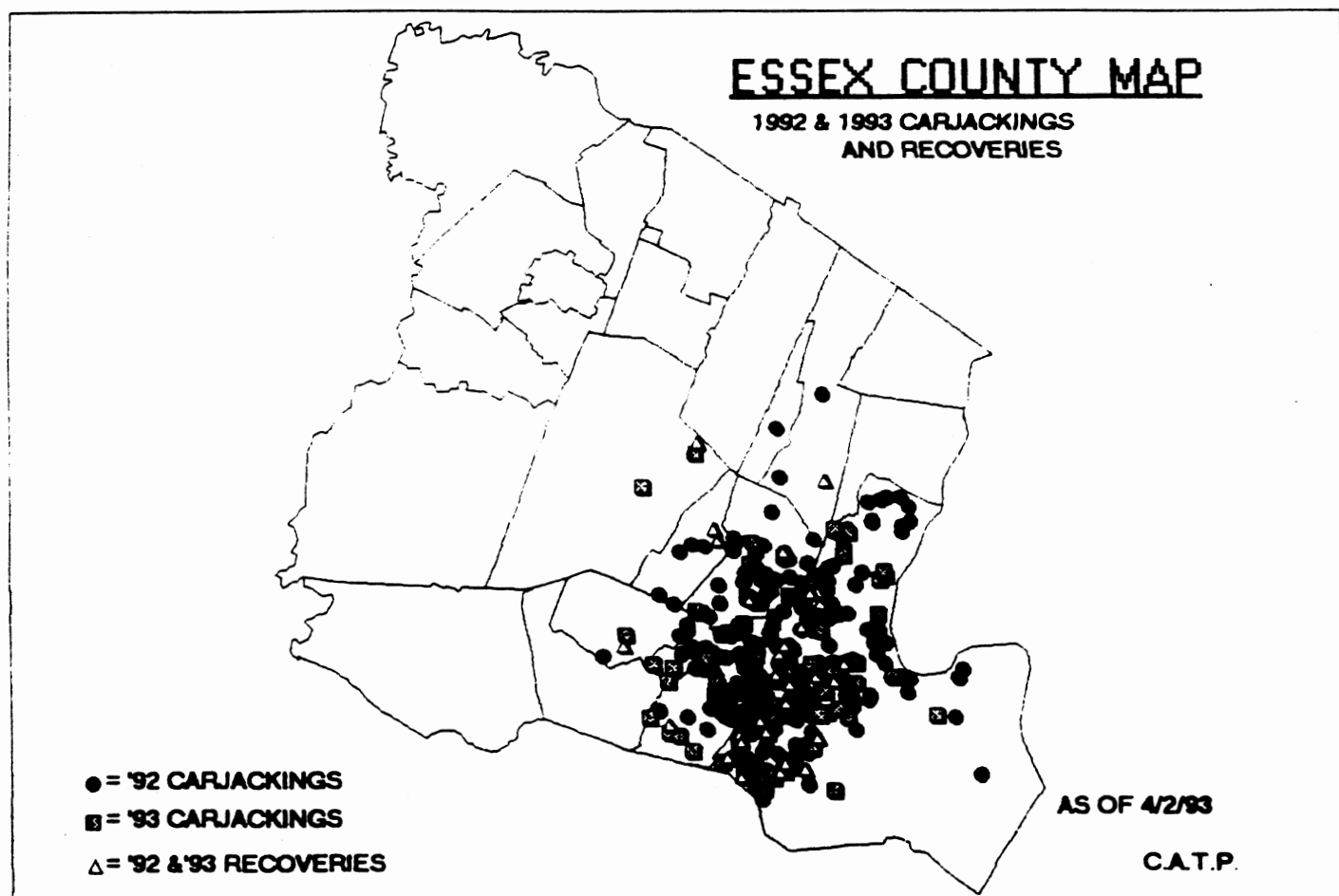
MAP# 1



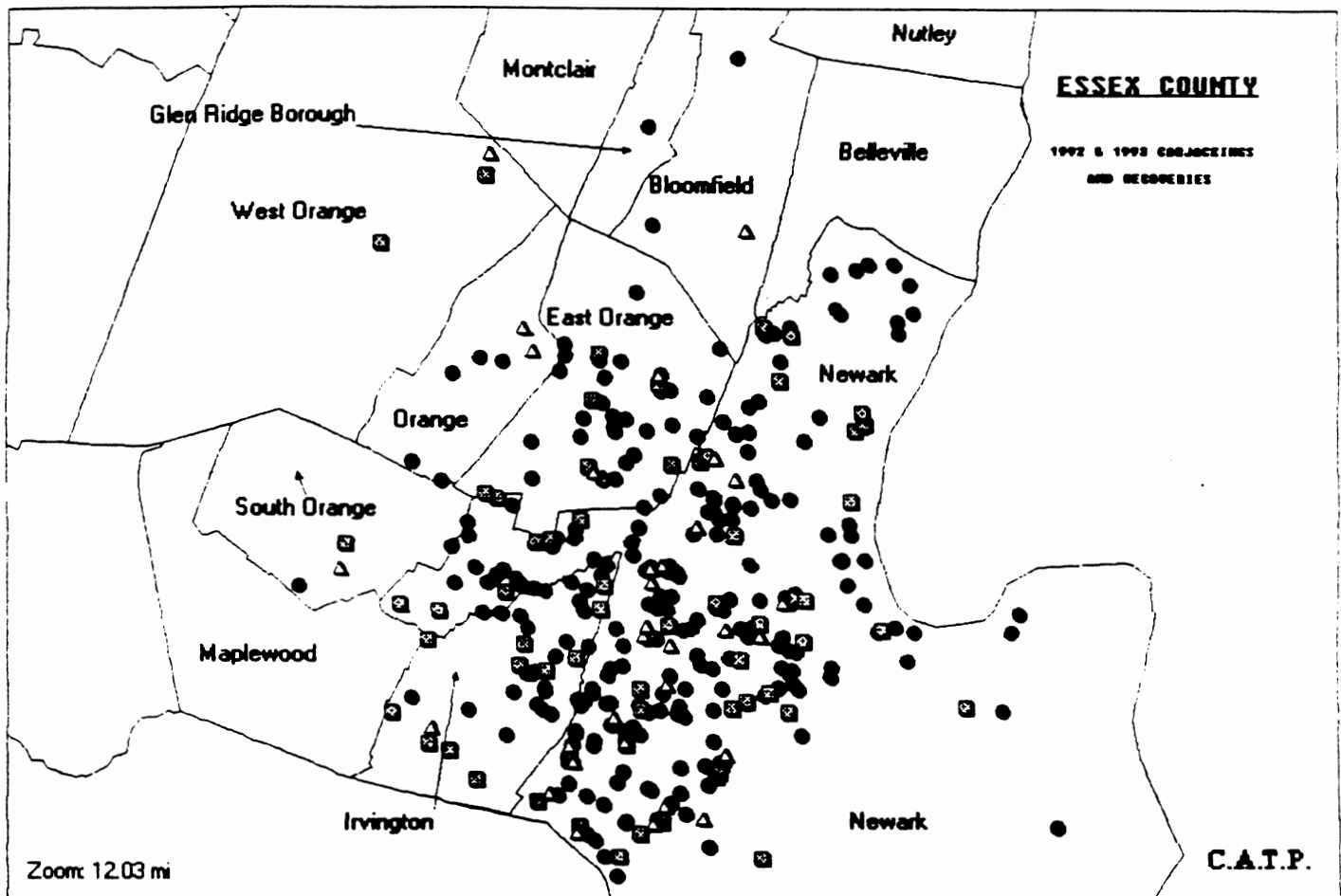
New Jersey State Library

11X

Map #2 is the same map of Essex County, New Jersey as Map #1. However, the names of the cities have been remove and 3 separate data-bases were layered over the basic cities' boundary lines. The solid dots represent 1992 carjackings, squares indicate 1993 carjackings, and triangles denote 1992 and 1993 recoveries of stolen vehicles.

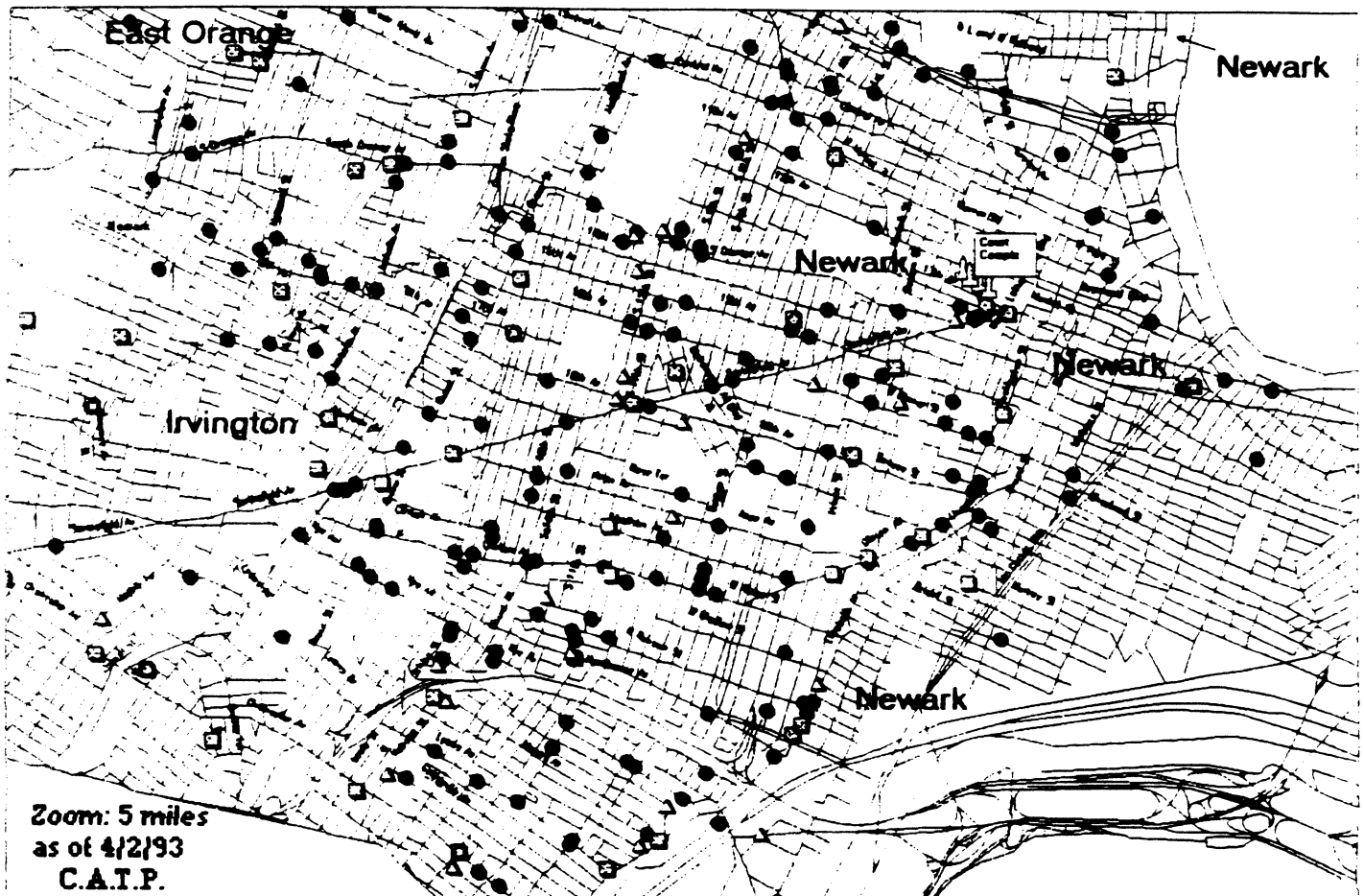


MAP# 6



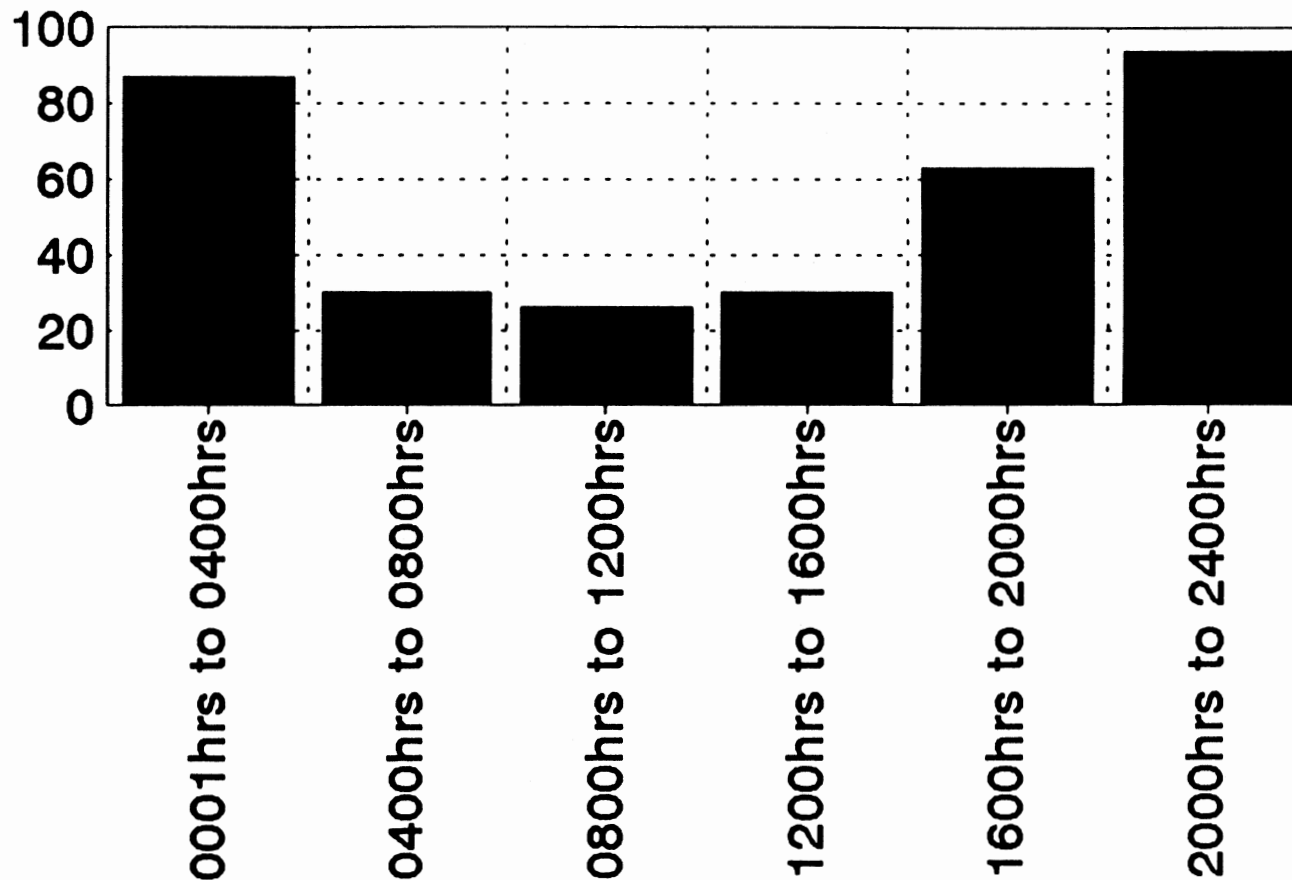
Map #6 is a map that indicates the locations of the bulk of Essex County's reported carjackings and recoveries for 1992 and 1993 as of 4/2/93. It is viewed from 12.03 miles above ground level. Unlike Map #2 that is views at 24 miles above ground level, Map #6 shows clearer clusters and patterns of "hot carjacking" locations, such as Newark's West and Central Wards.

Map #8 is another view of the carjacking activity in the County. It is viewed from 5 miles above ground level and many of the streets' names are also included on the map. The 5 mile zoom gives a very good picture of the "Hot Spots" or active locations for carjacking. Also note that the court complex has been placed on the map.



1992 REPORTED CARJACKING INCIDENTS

TIME OF DAY



VALUES

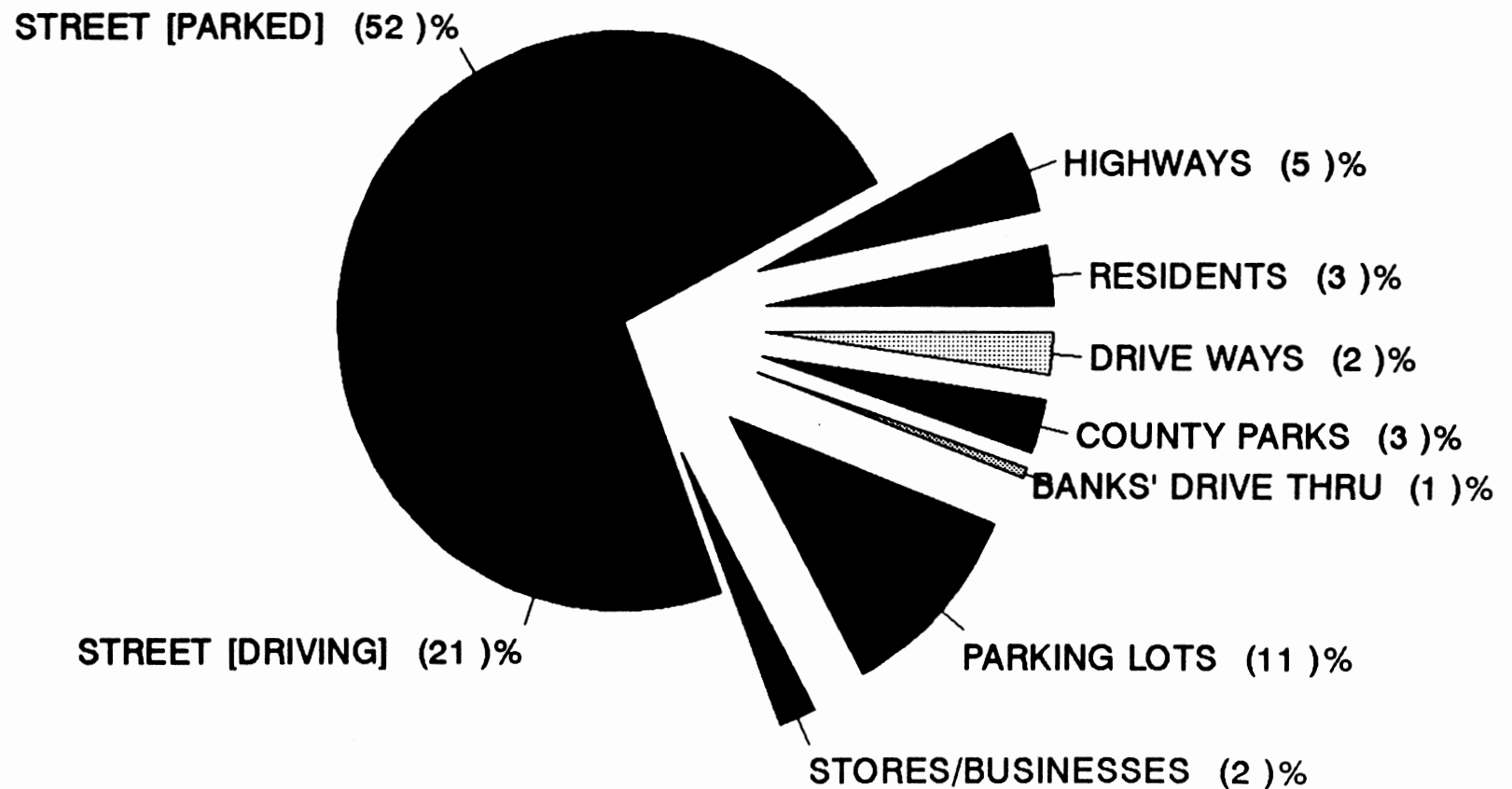
| | | | | | | |
|--------|----|----|----|----|----|----|
| VALUES | 87 | 30 | 26 | 30 | 63 | 94 |
|--------|----|----|----|----|----|----|

DONE IN MILITARY TIME

C.A.T.P.

1992 REPORTED CARJACKINGS

LOCATIONS OF CARJACKINGS

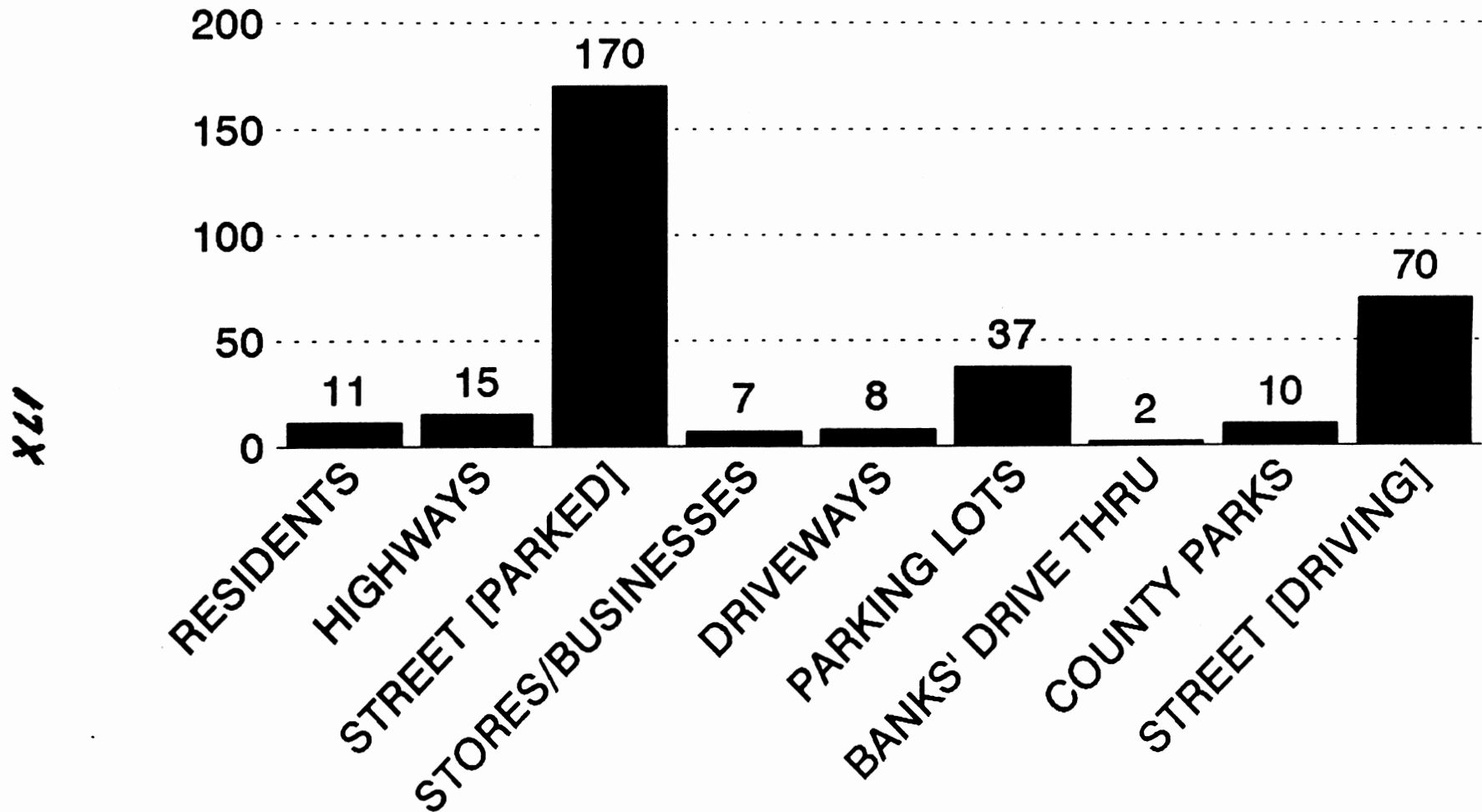


16x

C.A.T.P.

1992 REPORTED CARJACKINGS

LOCATIONS OF CARJACKINGS



1992 REPORTED CARJACKINGS

WEAPONS USED

HANDGUNS {Gen.} (183) 55%

FALSE REPORTS (3) 1%

PHYSICAL FORCE (24) 7%

BATS/STICKS (2) 1%

KNIVES (8) 2%

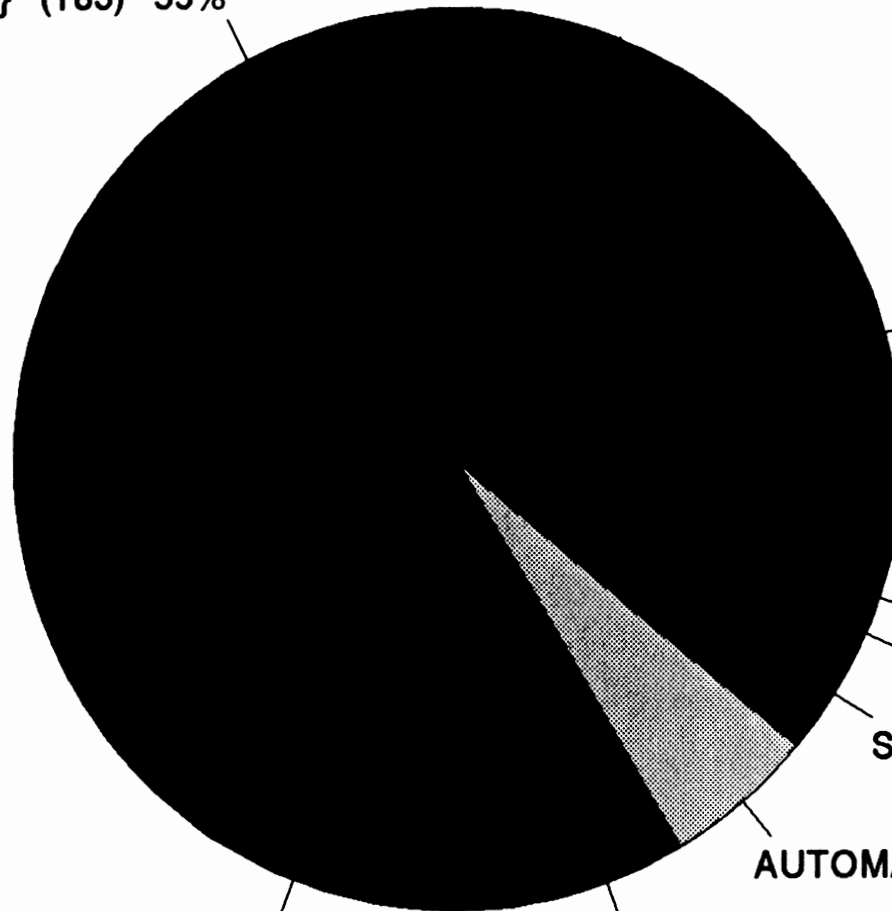
RIFLES (1) 0%

SHOTGUNS (15) 5%

AUTOMATICS {Uzi,Tec-9} (18) 5%

SEMI-AUTOMATICS{9MM} (19) 6%

REVOLVERS {45,38,etc.} (57) 17%

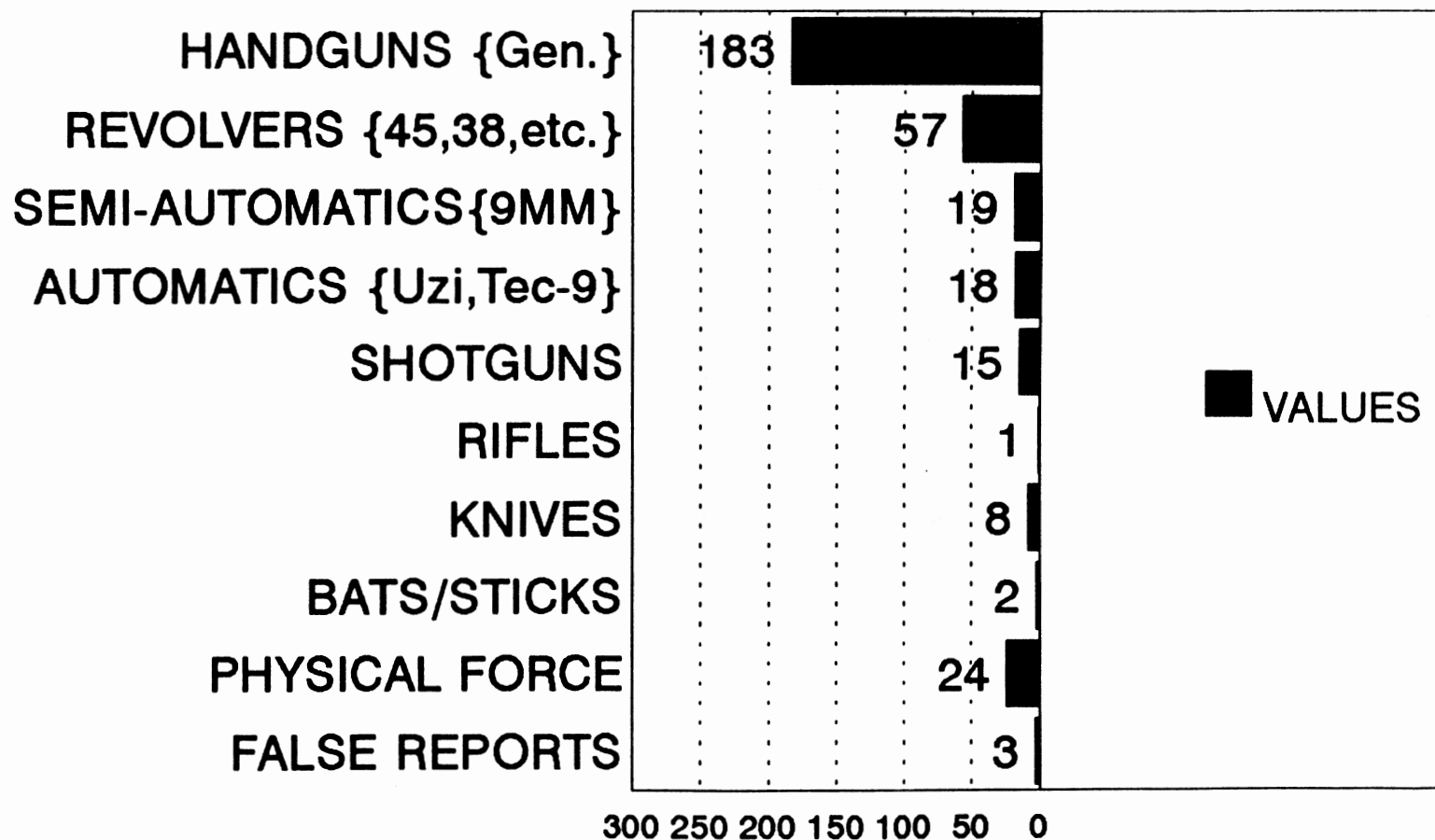


10X

C.A.T.P.

1992 REPORTED CARJACKINGS

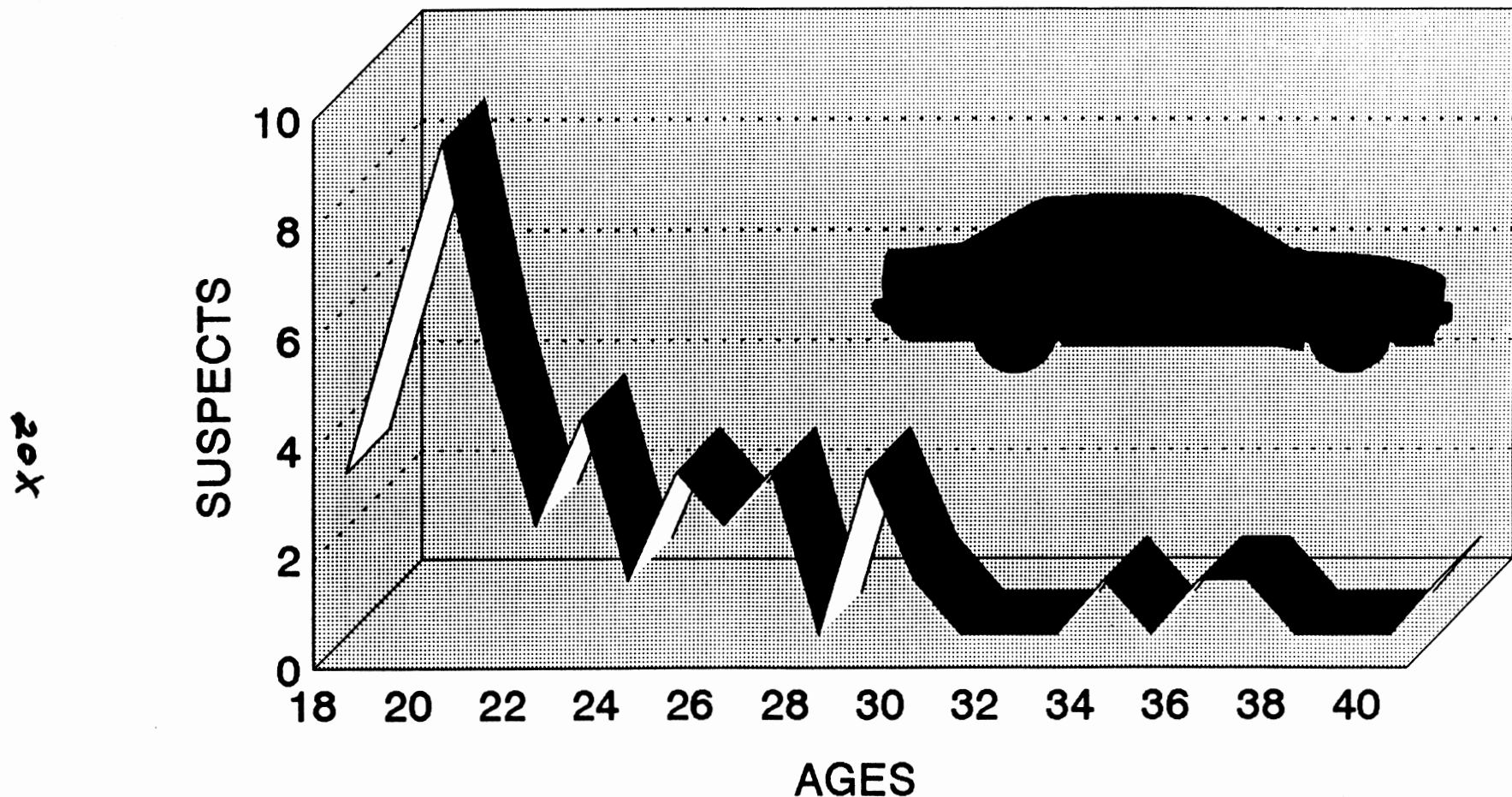
WEAPONS USED



| | | | | | | | | | | |
|--------|-----|----|----|----|----|---|---|---|----|---|
| VALUES | 183 | 57 | 19 | 18 | 15 | 1 | 8 | 2 | 24 | 3 |
|--------|-----|----|----|----|----|---|---|---|----|---|

1992 REPORTED CARJACKINGS

AGE OF SUSPECTS



C.A.T.P.

Average age 20.8yrs ; median age 23yrs.; mode age 20yrs.

Essex County Prosecutor Clifford J. Minor, on behalf of the Essex County law enforcement community, suggests a few precautions that motorists should consider:

- Be alert and aware of your surroundings, especially at night and in isolated areas, but don't become unduly alarmed or fearful.
- Be observant! If someone who appears suspicious approaches your car, quickly but carefully drive away.
- Keep your car doors locked and your windows closed.
- When using a parking lot, always leave yourself a way out in case you are approached by a stranger.
- Park in areas that will be well lighted when you return.
- Always check the rear seat and floorboard areas before getting inside your car.
- If you are being followed, don't drive into your own driveway or attempt to leave your car. Drive to the nearest police or fire station for help, or blow your horn to attract attention.
- Drive cautiously, allow at least one car length between your car and the car ahead of you; avoid being blocked into the curb lane at traffic lights and leave enough room to drive away.
- If another vehicle bumps your car from behind, exercise extreme caution, and if you are suspicious don't stop but motion to the other driver to proceed to the nearest police station.
- If you observe someone lurking near your unoccupied car, keep walking and go to a safe place until the person leaves.
- Take well traveled and well lit routes, and only use busy facilities for gasoline or telephone stops.
- If you have car trouble, raise the hood and remain inside with the doors locked. If a stranger stops, ask him to notify the local police department.
- Keep your house and driveway well lit. Be aware of vehicles and pedestrians, and beep your horn to have a family member open garage doors.

- Do not keep house keys on the same key chain with car keys since carjackers also could gain easy entry to your home.
- Immediately notify police of an attack or an attempted attack. Carry a pencil and paper to note a description of an attacker or his vehicle. Carrying a pocket alarm is also advised.
- Citizens should be the eyes and ears of the community. Report suspicious activity to the police immediately. Call police from your home, office or car. Emergency calls to 9-1-1 can be made on many cellular phones even after your cellular service has been suspended or terminated.

CARJACKING: THE NEWEST NIGHTMARE

ADDENDUM

May 28, 1993

Pending Carjacking Legislation

Senator Richard J. Codey (Senate Bill No. 1324) and Assemblymen Zangari, R. Brown, Stuhltrager and Assemblywoman Weber (Assembly Bill No. 2947) have introduced legislation establishing the crime of carjacking. Under the bill, a person is guilty of carjacking if in stealing or attempting to steal a motor vehicle, the person harms or threatens to harm an occupant, or operates the vehicle with an occupant remaining in the vehicle.

Carjacking would be graded as a first degree crime punishable by between 10 and 30 years imprisonment. The bill mandates that the sentence imposed must include a period of parole ineligibility of at least 5 years.

Carjackings by Municipality

| Municipality | 1992 | 1993 |
|--------------------|------|------|
| Newark | 255 | 106 |
| East Orange | 31 | 12 |
| Irvington | 30 | 20 |
| Orange | 7 | 0 |
| South Orange | 1 | 3 |
| West Orange | 2 | 3 |
| Bloomfield | 2 | 0 |
| Maplewood | 1 | 0 |
| Belleville | 1 | 3 |
| Total Essex County | 330 | 147 |

(1993 totals are through May 27, 1993)

23X

Chronic Auto Theft/Carjacking Prosecutions

Since January 1, 1993, the Essex County Prosecutor's Chronic Auto Theft/Carjacking Unit has indicted 62 defendants suspected in 70 carjacking and related cases. Of the 62 defendants, three have been convicted by entering guilty pleas to the indictments in which they were charged. Two of these defendants have already been sentenced. Trevor Burroughs was sentenced to 18 years in prison, at least 9 of which he must serve before becoming eligible for parole. Kenneth Houseman was sentenced to 40 years in prison, at least 20 of which he must serve before becoming eligible for parole. The third defendant convicted this year for carjacking is presently awaiting sentencing.

The remaining 59 defendants indicted for carjacking by the Chronic Auto Theft/Carjacking Prosecutions Unit are all awaiting trial. Additionally, the Unit will present 12 cases involving 4 defendants suspected of carjacking and related crimes to the Grand Jury today (May 28, 1993). These cases include defendants Frederick Ludiver and Frederick White, who are charged in a carjacking and robbery spree in 4 municipalities of Essex and Union Counties. The investigation of these charges was coordinated by the Chronic Auto Theft/Carjacking Unit, and became the first prosecution in New Jersey under the federal carjacking law. Both defendants have entered guilty pleas to federal charges and face maximum sentences of 65 years in prison and \$1 million in fines.

New Jersey State Library

