EXTENSION OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974 (P.L. 93–415)

HEARING

BEFORE THE

SUBCOMMITTEE TO INVESTIGATE JUVENILE DELINQUENCY

OF THE

COMMITTEE ON THE JUDICIARY UNITED STATES SENATE

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

S. 1021 and S. 1218

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APPENDIX

EXTENSION OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974 (P.L. 93-415) S. 1021 AND S. 1218

WEDNESDAY, APRIL 27, 1977

U. S. SENATE,
SUBCOMMITTEE TO INVESTIGATE
JUVENILE DELINQUENCY OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met at 10:05 a.m., pursuant to notice, in room 2228, Dirksen Senate Office Building, Hon. John C. Culver (chairman of the subcommittee) presiding.

Present: Senators Culver and Bayh.

STATEMENT OF HON. JOHN C. CULVER, A U.S. SENATOR FROM IOWA

Senator CULVER. The subcommittee will come to order.

Let me welcome all of you to the hearing this morning. It is the first meeting of the subcommittee that I will have an opportunity to chair since assuming that position in this Congress.

All of us know of Senator Bayh's outstanding service during his chairmanship. He has focused, in my judgment, subcommittee attention on this problem in a most remarkable and commendable way. I think that, under his able leadership, this subcommittee set a high standard of professional emphasis and attention to this problem.

Senator Bayh focused the subcommittee's attention on what is one of our society's most pressing problems. He has offered several significant pieces of legislation that most of you here today are aware of. Most notably has been the Juvenile Justice and Delinquency Prevention Act which we will be discussing today.

We owe Senator Bayh an immeasurable debt of gratitude for his leadership. I am certain that Senator Bayh would be the first to acknowledge that he was most fortunate to have the very capable and supportive assistance of Senator Mathias in the subcommittee's work.

The problems of juvenile justice demand an informed citizenry as well as an informed bipartisan approach in Congress. In this subcommittee's history, juvenile justice has received this attention.

I am hopeful that in the coming years the subcommittee can continue to address the problems of juvenile justice with a similar spirit of constructive and imaginative approaches. I am encouraged that President Carter, as well as Attorney General Griffin Bell, have shown

an understanding of the importance of Federal juvenile delinquency prevention programs in a coordinated attack on crime.

Mr. Bell told us at his confirmation hearing that "if we are going to do anything about crime in America, we have to start with the juvenile." I believe that his sense of priority is borne out by the tragic statistical evidence that is so painfully familiar to most of us. Persons 24 and younger commit 6 out of every 10 violent crimes in the United States and 8 out of every 10 property crimes. Juveniles under 21, today commit 62 percent of all serious crimes. Those under 18 are responsible for 43 percent of all serious crimes.

The number of violent crimes by youth nearly quadrupled from 1960 to 1975. That probably says more about the nature and problems of our society, in a fundamental sense, than it does the youth themselves. It certainly suggests problems that go far beyond the appropriate purview and jurisdiction of this subcommittee to resolve, but they are troubling and disturbing in terms of their social, economic, and political implications on this Nation's way of life.

In my own State of Iowa, about 8,400 youngsters were processed through the juvenile delinquency courts in 1965. By 1975, the number had increased to 20,200. Last year, offenders under 18 accounted for 43 percent of all major crimes committed in Iowa.

The Juvenile Justice and Delinquency Prevention Act of 1974 was an attempt to bring a coordinated effort to search for a better juvenile justice system. Its emphasis was on attempting to prevent juvenile delinquency rather than reacting to it after the fact. Also, the status offender was to be removed from the traditional juvenile system; but the juvenile court system itself should insure that those who commit crimes of violence or are repeatedly criminal in their conduct receive quick and sure punishment.

The subcommittee is now considering two bills, S. 1021 and S. 1218, to amend the Juvenile Justice and Delinquency Prevention Act of 1974 in a number of respects, as well as reauthorize it.

Today's hearing gives the subcommittee an opportunity to hear from a number of witnesses who have observed the act in operation and participated in its implementation. I anticipate that the subcommittee will have an opportunity to learn a great deal.

This subcommittee will be exploring much of the activities that have been undertaken of an investigative nature in the past, as well as more serious congressional oversight on this subject later in the year.

We face a May 15 deadline under the Budget Control Act that will limit us to 1 day of hearings. We have therefore asked the witnesses to submit transcripts of their testimony in advance.

We are going to have a number of witnesses and panels today. We have to free up this room at 12:30. I would, therefore, request that, to most efficiently use the available time, the witnesses try as best they can to summarize their remarks. We will make the entire text of their statements part of the record rather than have them read their remarks in their entirety. This will, of course, leave us time for questions.

We are particularly pleased to welcome this morning as our first witness Mr. James Gregg, who is now the Acting Administrator of the Law Enforcement Assistance Administration of the Department of Justice.

It is my understanding, Mr. Gregg, that you are accompanied by Mr. Thomas Madden, who is the General Counsel of LEAA; and Frederick Nader, the Acting Assistant Administrator for the Office of Juvenile Justice and Delinquency Prevention.

We are very pleased to welcome you here. You may begin.

STATEMENT OF JAMES M. H. GREGG,[1] ACTING ADMINISTRATOR, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, DEPARTMENT OF JUSTICE, ACCOMPANIED BY THOMAS J. MADDEN, GENERAL COUNSEL, LEAA, AND FREDERICK NADER, ACTING ASSISTANT ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, LEAA

Mr. GREGG. Thank you very much, Mr. Chairman.

We are pleased to have the opportunity to appear this morning in support of reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974.

I would like to highlight some of the significant points of my written statement.

With over two years of experience under the 1974 Act, we have found it to be very workable. We are convinced of the fundamental soundness of the purposes of the act. The objectives of the act, although difficult to obtain in some cases, are achievable. The structure of the act and the authority provided contribute to our ability to implement the policies it embodies.

While we have encountered some problems in the administration of the program, they have been routine problems as are usually encountered in the early stages of any significant new Federal assistance program.

Since we believe the 1974 law is sound, the amendments we are supporting are few in number and generally modest in effect. However, at least two of the amendments are of considerable significance.

The first is the reauthorization provision, which would extend the act another 3 years through fiscal year 1980. Funds in the amount of $75 million would be authorized for fiscal year 1978, and such sums as may be necessary for the 2 succeeding fiscal years.

This reauthorization period will permit us to continue the substantial progress already made under the 1974 act. Importantly, it will reassure State and local governments, as well as private agencies concerning the Federal Government's long-term commitment——

Senator CULVER. Excuse me, Mr. Gregg. You say "the substantial progress made under the 1974 act."

What do you base that assessment on?

Mr. GREGG. Monitoring by our staff of the program, the preparations by the States and among private agencies for implementing the programs, the initial start on programs——

Senator CULVER. What percent has actually been made available for the customer of these services, as distinguished from administrative overhead in total funds expended since the enactment of the legislation?

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[1] See p. 63 for Mr. Gregg's prepared statement.

Mr. GREGG. Under the formula program, up to 15 percent can be expended for the purposes of planning the programs, evaluation, monitoring, and so forth.

Senator CULVER. But, in the life of the program, how much has actually been expended?

Of the total amount that has been actually made available, how much has ever gotten out in the street?

Mr. GREGG. Actually expended, as of this date, by fiscal year: $9,382,000 in fiscal year 1975; $1,628,000 expended in fiscal year 1976. I should point out that, while fiscal year 1975 figures as cited, the actual appropriation was not made until almost the conclusion of the fiscal year. It really became available to us for obligation only in fiscal year 1976. For practical purpose, those 2 fiscal years should be treated as 1. That 1975 money was not actually available for obligation in fiscal year 1975.

Senator CULVER. Are talking about $10½ million?

Mr. GREGG. That is correct.

Senator CULVER. You have actually expended that money under this program.

Mr. GREGG. That represents actual expenditures at the project level in the various States and cities. We have obligated a good deal more than that from LEAA, but this is the money that has actually been spent——

Senator CULVER. Does that include overhead?

Mr. GREGG. It would include up to 15 percent of the formula grant part of the program.

Senator CULVER. What is the bottom line figure? How much money has actually been spent on kids since 1974, when we enacted this legislation?

Mr. GREGG. The figure would be the $10½ million.

Senator CULVER. Does that include any administrative expenses?

Mr. GREGG. It would include up to 15 percent of those expenditures that were for the formula grant program.

Senator CULVER. All right, after eliminating those funds, what was the actual amount expended?

Mr. GREGG. It would be 85 percent of the $10½ million.

Senator CULVER. About $10 million.

Mr. GREGG. Yes, sir.

Senator CULVER. On that basis, you say "continue the substantial progress since 1974"?

Mr. GREGG. Yes, sir.

Senator CULVER. By your characterization, I think that is ludicrous. But go ahead with your statement.

It is hardly substantial progress measured against the statistics I cited; is it?

Mr. GREGG. I think, sir, I would like to address that in more detail when I finish my statement.

Senator CULVER. I think it cries out for addressing in more detail. We will get into that.

Mr. GREGG. The second significant change concerns provisions of the act dealing with deinstitutionalization of status offenders. The 1974 act requires——

Senator CULVER. Are you calling for 3 years on the reauthorization?

Mr. GREGG. Yes, sir.

Senator CULVER. The first year is $75 million?

Mr. GREGG. And such sums as may be necessary for the 2 succeeding fiscal years.

Senator CULVER. As of now such subsequent funds are not defined.

Mr. GREGG. That is correct.

Senator CULVER. You are only calling for an authorization that represents half of last year's authorization.

Mr. GREGG. That is correct, sir.

Senator CULVER. It is only equal to the $75 million that was actually appropriated last year.

Mr. GREGG. Yes, sir. The budget for last year was $75 million. That amount was also requested in the budget for fiscal year 1978.

Senator CULVER. Do you know that everytime you authorize something you almost have to assume less appropriation?

Mr. GREGG. Well, sir, that sometimes happens.

Senator CULVER. I have noticed that sometimes happens.

Mr. GREGG. The 1974 act requires that status offenders be deinstitutionalized within 2 years of a State's participation in the formula grant program. Some States, despite strong efforts on their part, will not be able to meet this 2-year deadline. Therefore, under this proposed legislation, the Administrator of LEAA would be granted authority to continue funding those States which have achieved substantial compliance with this requirement within the 2-year limitation and which have evidence an unequivocal commitment to achieving this objective within a reasonable time.

This will enable States which are making good progress toward the objectives of the act to continue in and benefit from the formula program.

Mr. Chairman, there are nine other amendments proposed in this legislation. The details concerning those are contained in the written statement.

Senator CULVER. Excuse me, Mr. Gregg. On the 2-year requirement, are saying you would waive that 2 years and cut off funds in the absence of substantial compliance?

Mr. GREGG. We would require substantial compliance within the 2-year period and an unequivocal commitment to achieving fully the objective within a reasonable time.

Senator CULVER. What would you consider to be a reasonable time?

Mr. GREGG. Another several years, at most.

Senator CULVER. Please proceed.

Mr. GREGG. That concludes my highlighted statement, Mr. Chairman. The details of the other provisions are included in the written statement. We are prepared now to answer your questions.

Because of the very worthwhile objectives of this act—especially the deinstitutionalization provisions—and the need to obtain legislation and carefully plan new programs before implementing them, an initially slow rate of expenditure has resulted. That is not unusual in new Federal assistance programs.

In most assistance programs there is a rather slow startup period. In many cases, it is very fortunate that we do not have rapid imple-

mentation. Otherwise, we would get programs that have not been well thought through. This delay reflects careful planning on the State's part and the need to obtain legislative authority, in some cases, to mount these programs.

I would also ask Mr. Nader to comment on your question as to progress to date.

Mr. NADER. We have four major activities operating, Mr. Chairman. One of those activities is the special emphasis program, for which there has been available both juvenile justice funds and funds made available to us under the Crime Control Act. We have awarded somewhere in excess of $40 million to programs around the country. They focus not only on deinstitutionalization of status offenders, but also diversion.

We have some programs that work, for example, to take youngsters out of adult facilities. These are facilities with cell blocks, tiers, guards, and cages. We have supported a whole range of training programs, research activities, and development of standards over the past 2 years.

It is important to note that there is a substantial difference between the term "expended"—which means the money has actually been used—and the term "obligated"—which means that a proposal has been submitted, and the project is underway and is operating.

The obligation figures for this program are substantially higher than actual funds being spent on the street.

One of the important things to note as well is that, some States must change their entire system of dealing with these youngsters. This includes courts, correctional facilities, and police operations. That is not easy, Senator.

Senator CULVER. Why is the administration requesting a 3-year extension of the act?

Mr. GREGG. We believe, Mr. Chairman, that this will give us another substantial period of time to implement the act, to assess our progress, to evaluate the programs, and, at the same time, to give sufficient indication of commitment to the program for purposes of planning on the part of State and local governments and private agencies.

Senator CULVER. When the Attorney General sent his request for this 3-year extension to the White House, what was the authorization request that he made?

Mr. GREGG. It was a 3-year extension requesting a $150 million authorization for each of the 3 years.

Senator CULVER. It was the same, I assume, for the budget request?

Mr. GREGG. The Attorney General had requested that amount, over and above the overall LEAA budget ceiling. The $75 million was approved, but not as a figure over the ceiling——

Senator CULVER. But he wanted $150 million under this program.

He is not asking a $150 million authorization and then asking for less than the budget? He is asking the same. He is consistent; is he not?

Mr. GREGG. Yes, sir.

Senator CULVER. OK.

Unfortunately, the previous administration never fully implemented this act. Could you give us some indication of just how high a priority this administration assigns to juvenile justice and delinquency prevention, in your judgment?

Mr. GREGG. My impression is that it assigns an exceedingly high priority to this area. In the entire LEAA budget, this was the only area

for which Mr. Carter increased the budget request. It has been made clear on numerous occasions, both by the Attorney General and the White House, that this is considered to be a very high priority.

Senator CULVER. What about level of maintenance? Are we going to have problems on that?

Mr. GREGG. No, sir. We are maintaining the juvenile justice investments in the other LEAA programs.

Senator CULVER. What level would that be maintained at?

Mr. GREGG. In fiscal year 1975, it amounts to $121,587,000. In fiscal year 1976, it was $130,298,000.

Senator CULVER. What percent of your total is that?

Mr. GREGG. Our total budget was $750 million for fiscal year 1976. $130 million of Crime Control Act funds, plus $75 million for the Juvenile Justice Act went into juvenile programs.

Senator CULVER. Around 20 percent? Is that what you are going to maintain it at?

Mr. GREGG. Yes. Around 20 percent, plus what is appropriated for the Juvenile Justice Act.

Senator CULVER. What about coordination? What thoughts do you have on that?

What sort of reorganization or administrative changes are you contemplating in order to effect maximum administration——

Mr. GREGG. Most of LEAA's juvenile justice responsibilities have been transferred to the Office of Juvenile Justice and Delinquency Prevention.

There are one or two minor exceptions to that. We are developing with both the Juvenile Justice Office and our Statistics and Information Service a juvenile justice information system. That is a joint project by the two offices.

We also have a policy coordination mechanism within the Agency. The Office of Juvenile Justice has an opportunity to review and comment on any policy or program that would affect juvenile justice.

Senator CULVER. I have been submitted a number of questions by Senator Wallop that he wonders if you would be good enough to respond to for the record.

Mr. GREGG. We would be happy to.

Senator CULVER. Also, in the interest of time, I hope you can expedite the responses to these. I will make them available to you today.

Mr. GREGG. We certainly will.

Senator CULVER. Without objection, your responses, when received, will be made a part of the record.

[The following questions were submitted by Senator Wallop to Mr. Gregg and his answers thereto:]

Question 1. Isn't it correct that one of the major interests of LEAA, and in particular LEAA's Offices of Juvenile Justice and Delinquency Prevention, is to encourage state's to implement standards that have been developed?

Response. States seeking LEAA block grant funds under the Crime Control Act must submit a comprehensive plan which establishes goals, priorities, and standards for law enforcement and criminal justice. Standards are also a major focus of the Juvenile Justice and Delinquency Prevention Act (JJDP Act).

Section 247 of the JJDP Act requires the National Institute for Juvenile Justice and Delinquency Prevention to review existing standards relating to the juvenile justice system in the United States. The Institute is supervised in its activities by the Advisory Committee on Standards for Juvenile Justice established in section 208(e). The Advisory Committee is charged with recommending Federal action, including but not limited to administrative and legislative action, required

to facilitate the adoption of standards throughout the United States, and recommending state and local action to facilitate the adoption of these standards at the state and local level.

Since juvenile justice and delinquency prevention is an area which is primarily the responsibility of state and local governments, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) is encouraging each state to develop its own standards. In this process, each state is to review and consider the recommendations of the Advisory Committee and to provide a significant role for its State Advisory Group.

OJJDP is undertaking a series of projects to demonstrate and evaluate portions of the Standards recommended by the Advisory Commiittee. Operational tools such as model statutes, guidelines, and manuals will assist implementation. Training and technical assistance will be provided and Federal efforts in areas covered by the Standards will be coordinated.

Question 2. Isn't it correct that most of those standards would require substantive changes in state law or, in any event, action by the state legislatures in order to be implemented?

Response. Some Standards would require substantive statutory changes in various jurisdictions. Others, especially in the Prevention, Intervention, and Adjudication areas, could be implemented administratively at the state and local levels utilizing existing resources and statutory authority.

Question 3. Is the Office of Juvenile Justice and Delinquency Prevention doing anything to assist the state legislatures in acquiring the capacity to understand the very complex issues that are involved in order that the standards be implemented?

Response. Yes. In October 1975, LEAA awarded Legis 50/The Center for Legislative Improvement a $269,000 grant to conduct a study of legislative efforts to divert status offenders from the juvenile justice system. The study had two components: An in-depth analysis in four states (New Mexico, Florida, Michigan, and Alabama) of the political and procedural dynamics involved in the formulation of legislation, and four regional workshops designed to identify ways to enhance the process of juvenile justice policy-making.

The study was considered a success by all participants and it was concluded that the project had permitted the most concentrated investigation thus far of the effect of state legislative institutional capacity on the establishment of laws governing juvenile behavior.

Question 4. Would it be fair to assume that Office of Juvenile Justice funds spent for the purpose of providing that kind of assistance, that is, assistance to the state legislatures, might result in state resources far beyond those provided by the Congress being applied to juvenile justice problems?

Response. Yes. Considering the state responsibility for juvenile offenders, and the financial and manpower resources available at the state level, LEAA hopes to continue efforts to improve the provision of resources to all branches of state government, including legislative bodies charged with juvenile justice policy-making responsibilities. The adoption and implementaton of some of the federally-supoprted Standards for juvenle justice would be hampered by lack of refinments in the state legislative process. The problems of the juvenile offender will, in many cases, be impacted only by the passage of new legislation at the state level. To expedite the legislative process, LEAA will support state efforts to address particular problems.

Question 5. In summary, then, isn't it correct to say that by finding a mechanism to assist the legislatures and their appropriate committees to address the problems which must be addressed if the standards are to be implemented, then the funding of such a mechanism would be consistent with Congress' intent that juvenile justice funds be used to impact on the problems of the juvenile offender?

Response. Yes. A mechanism should be supported whereby LEAA and OJJDP can actively assist the state legislative capacity-building process in a manner which will allow these legislators to deal effectively, innovatively, and efficiently with juvenile justice matters. The systemic weaknesses identified by the Legis/50 study, when applied to the complexity of the juvenile justice system, underscore the need for an ongoing mechanism designed to provide state legislatures with greater expertise in dealing with juvenile justice issues.

Senator CULVER. We are very fortunate to have Senator Bayh with us this morning, who I have already referred to earlier. He has contributed in a historic and remarkable way in this whole area of juve-

nile delinquency. We are so fortunate to have his continued counsel on this subcommittee as he assumes other responsibilities on the full committee.

I wonder if at this time, Senator Bayh, you have any questions.

STATEMENT OF HON. BIRCH BAYH, A U.S. SENATOR FROM INDIANA

Senator BAYH. Thank you, Mr. Chairman.

Let me say that it is a privilege to have a chance to serve with a man that I believe will bring to this subcommittee the same kind of sensitivity that we tried to create in the subcommittee since 1970.

I confess that it was a heart-wrenching decision to make when the recorganization of the Senate required us to limit our services to the chairing of one subcommittee. Because of nuances that I do not think are necessary to get into here, it was necessary for me to relinquish my chair of this subcommittee to assume the chair of the subcommittee on the constitution.

I want to say that I do so in good faith, that the same kind of principles will be carried on, perhaps even expanded and handled in a more diligent way by my successor. I certainly intend to follow his leadership and, as one member of this subcommittee, to be as interested as it is possible for one member to be in the continuation of the thrust of this subcommittee.

As one element of Congress that is sensitive to the important role that Government plays, both in Congress and in the executive branch as well as other governmental institutions throughout the country at State and local levels, in dealing with the social problems of young people and how they impact on society, this subcommittee's role is substantial.

Mr. Chairman, I would like to ask some questions of our witnesses.

There has been a good deal of opposition directed at the relatively new juvenile justice program, which we are studying for extension. Some elements apparently want us to stay as we have been. I assume it is not necessary to take the subcommittee's time to relate what the track record has been, as far as results are concerned, with continuing to do things the way they have been done in the past.

As one of the principal movers and shakers in this juvenile justice legislation, I find it hard to be totally objective about it. We did not pretend that this was a magic potion or that we had all the answers. But we did insist that those who suggested that we continue to do things in the future the same way we had done them in the past were ignoring the fact that they did not have any of the answers.

Failure was being compounded. It seemed to me that, although we did not know whether our new program would work perfectly—and assumed it would not work perfectly—we at least thought it was worth giving a try and that it made a lot of sense and came closer to what might solve our problems.

It seems to me that one of the things that is central to accomplishing what Congress intended in 1974 is the implementation of section 527, which I quote:

> All programs concerned with juvenile delinquency administered by the Administration shall be administered or subject to the policy direction of the

office established by Section 201 A of the Juvenile Justice and Delinquency Prevention Act of 1974.

We are all too familiar with the past failures of the agency to respect its mandate. I know that the new Attorney General shares my concern about this matter, from bringing it to Mr. Bell's attention during his confirmation hearings. I would like to know precisely, Mr. Gregg, how you intend to comply with the provisions of this act in this respect; I think it is critical. Right now we are in the process of, shall I say, maturation. We are trying to determine who is going to be doing what in LEAA. There may be some questions that you just cannot answer because of the transient nature of the situation at LEAA.

The President has talked extensively—and I think he is sincere—on his effort toward reorganization and making more efficient the administration of governmental programs. One of the whole thrusts of the Juvenile Justice Act was to take some 39 separate independent youth delivery and youth servicing mechanisms that existed in various ways in the Federal Government, bring them in there, and let the assistant administrator have a chance to really pull things together, to stop the competition, to stop the overlapping, and to stop some of the inconsistencies that were going on.

So, I think we can look at that question I raised in a broader context.

Mr. GREGG. If I may, Senator Bayh, I will respond to the question in two respects.

One is the coordination of policy and the policy direction of the Office with respect to LEAA juvenile justice activities. Mr. Nader can best respond to the progress that we have made in the area of coordinating Federal programs and policies generally beyond the LEAA program.

With respect to section 527, most projects and programs that fully involve juvenile justice activities have been transferred to the Office and are under the authority of the Office. There are several very minor exceptions.

One that I mentioned in response to Senator Culver's question is an information-gathering program that is being conducted jointly by the Office of Juvenile Justice and our Statistics and Systems Office in LEAA. This is a joint project, but it is clearly under policy direction of the Office of Juvenile Justice.

We also have within LEAA a policy coordination system, whereby any policy that the Agency would be promulgating affecting juvenile justice would be subject to the review of the Office of Juvenile Justice. If that Office had any problems or difficulties with that policy, this would be considered by the Administrator of LEAA.

We also have a Grant Contract Review Board in LEAA. It reviews all grants and contracts of national scope that LEAA is involved in. The Office of Juvenile Justice has a panel member on that board. Any grant or contract that raises issues concerning juvenile justice would be referred by the board to the Office of Juvenile Justice for their review and comment.

So, these are several mechanisms that we now have in place to insure the necessary policy review and coordination. We have several additional ones under consideration at this time.

With respect to the coordination of Federal programs overall, I will ask Mr. Nader, who has been very directly and heavily involved in that, to comment.

Mr. NADER. We have several activities ongoing at the present time, Senator. Of primary importance are the Coordinating Council and the National Advisory Committee, the citizens group appointed by the President. The National Advisory Committee has designated a subcommittee to work with the Coordinating Council so that, every-time that Coordinating Council meets, there is, in effect, a citizens' group working with them.

The first order of business was to try to find out, as best as we could, how many Federal programs relate to juvenile justice. It was an extremely difficult process. We came up with something on the order of 140 different Federal programs. The next item we focused on in order to provide some direct help to the States was to determine how many of those Federal programs required State plans.

There are 26 different Federal youth programs that require State plans. That means each State has to generate separate State plans in response to a Federal mandate relating to, in many instances, the same population of youths.

We are now in the process, using that as basic information, of developing an information system that will be governmentwide. It will give us not only legislative information, but program information that relates to policy and objectives and project-impact information. Then we can get a better handle on what is being done for what population of juveniles using Federal funds. In order to do that, we must initially define some terms which have not been defined in the past.

We want, for example, to arrive at a uniform definition of "prevention"—one that makes sense and which we can hold other agencies accountable for in their activities. Preventative activities, treatment activities, training activities, and even the scope of who is a "juvenile" are all items which may be viewed differently by different agencies. We have had three initiatives operating at the same time to assist in this effort.

One is development of a series of demonstration projects supported by LEAA under the direction of the Coordinating Council at three sites across the country. The intent is working with the local jurisdictions to figure out how to best use Federal dollars from several sources on behalf of a specific target population of youngsters. Then there would not be the duplication that currently is in the offing.

We want to know how projects work through the different Federal regulations, the different funding cycles, et cetera, in order to make that possible. We are carefully documenting this effort so that we can provide specific feedback at the Cabinet level as to what statutory regulatory, and administrative changes will be necessary in order to make funds flow more easily.

In addition, the Coordinating Council decided to set an agenda that they could follow over the next few years, focusing on one step at a time. That agenda related to such issues as doing a proscriptive cohort analysis to find out the major factors that contribute to young people feeling the necessity of becoming involved in activities which are considered antisocial—what sort of health factors are involved,

what sort of educational factors are involved, and what sort of environmental factors are involved.

Then we could speak much more clearly to the agencies responsible as to what they ought to be doing.

The third thing we are working on is an analysis of Federal programs, which is required by statute, and the development of a comprehensive Federal plan. We will specify the policy objectives and priorities in the plan to other agencies so that we will have a yardstick of their performance.

That, in a very summary way, are the sorts of things that the Coordinating Council, the National Advisory Committee, and the people on my staff have been involved in over the past two years.

Senator BAYH. When will that second study, relative to the environmental questions, be completed?

Mr. NADER. The Coordinating Council, with the change of administrations, has not taken that step as of yet, Senator. The prospective cohort analysis has not been initiated.

The Coordinating Council was reviewing their research agenda, meeting six times per year. With the changes in membership, it has not had the opportunity to meet in the last 4 months.

Senator BAYH. Is there anything we can do in Congress to prod that along?

Mr. GREGG. I discussed this, Senator Bayh, with Deputy Attorney General Flaherty. He expects to be holding a meeting of the Council in the near future.

Senator BAYH. The chairman asked a question that I think is very relevant. I would like to follow up on it.

This act began with very responsible and modest goals as far as moneys were concerned. Do you think that most of these moneys have been well spent?

Mr. GREGG. Yes, sir; I believe they have. Senator Culver raised the issue of why more of the funds have not been spent at this time. We tried to outline some of those reasons.

Another factor is the emphasis on evaluation and program development in this Act. We have tried to take care to design programs, particularly the Special Emphasis programs, in a way that they will be carefully evaluated. We will know at the conclusion of those programs how effective they have been. This does take some time.

Quite candidly—and I think, sir, you are as familiar with this as anyone—that the road was somewhat rocky during the first 2 years of this program under the previous Administration. That caused some people who wanted to be involved in the program to stand back a bit until the question of the priority of this activity and the long-term commitment to it was established.

As you will recall, the program had quite a few ups and downs—largely downs—during that 2-year period. This affected the willingness of people to get involved and get committed to the program. Now, as it has become very clear that this is a high priority of the administration and there is a longer term commitment to this effort, we will see the program move more rapidly.

Senator BAYH. You pointed out the reason why I was asking the question. I want to pursue that with another question.

There has been a rocky road. There was an effort to roll up the road. President Ford said he would sign the bill but he would not ask for

any money. That has been the kind of battle that we have had to fight to get any moneys at all.

I understand the people who work at the bureaucratic level. I say that in a positive way. People who implement programs that are passed in a cooperative effort between the President and the Congress cannot be oblivious to the leadership in the executive branch. There has been none. This has been a congressional and a citizens program. If it had not been for the private, public and volunteer groups that were involved in this, we would never have gotten it passed.

I think Congress deserves good marks, but I think we certainly have to share those marks with the people and the groups that were involved in creating the environment in which Congress could act.

Congress was never designed as an administrative body. You cannot design a horse by committee; as they say, you end up with a camel. You people downtown are the ones that have to run this program.

The reason I ask the question is that I believe President Carter and Attorney General Bell are firmly committed to this. But they are dependent on some of you who have been laboring down there under an administration that was not committed to this. It was quite the contrary. It was doing everything it could to gut it, either on top of the table or under the table.

Are we going to have different attitudes down there now? You, sir, are a professional. You are not a political appointee. What concerns me is that we go through this appropriation of $25 million in fiscal year 1975, which was done over the budget. All of these have been over the opposition of the Director of the Budget: $25 million in fiscal year 1975; $40 million in fiscal year 1976; and $75 million in fiscal year 1977.

I do not know whether we ever received the real answer to the question. At a time when we were spending $75 million, the outgoing administration asked for only $35 million for fiscal year 1978.

Is that accurate?

Mr. GREGG. Yes, sir.

Senator BAYH. Mr. Chairman, that gives you a pretty good idea of the kind of obstacles that have been thrown in our way. I think your question was a good one, but I do not think we ever received the $35 million request on the record.

Mr. GREGG. That is the correct figure.

Senator BAYH. What concerns me is that President Carter and Mr. Lance and Attorney General Bell are all relying on some of you down there who have had an intimate relationshhip with this program to make recommendations as far as the budget is concerned. Despite the fact that we have just now begun to get in gear, you say by your own definition moneys have been well spent—we go from $25 to $40 to $75 million. The new administration has put a high priority on this. Yet, you are asking for the same kind of money this next year as we spent last year. Why?

Mr. GREGG. Senator Bayh, it involves the overall difficulties with the Federal budget and the desire to hold spending down. It is also a reflection of those several rocky years and the result of the lack of clear and consistent policy over those years.

It is going to take us some time to catch up.

I do not think——

Senator BAYH. May I interrupt?

We have a new chairman. He is going to provide dynamic leadership. We have a new President and Attorney General; they are going to provide dynamic leadership.

Maybe those are good excuses; maybe not. But let's forget about them; that's yesterday.

Have any of you made any new recommendations to the Deputy Attorney General or to the Attorney General that we ought to be upping the budget level?

The appropriation process is moving. Certainly you are not oblivious to what is going on up here and the way we appropriate money. It is not easy to come by. We think we have an excellent opportunity now at getting $125 million appropriated.

The chairman very wisely pointed out, "when you ask for an authorization, you very seldom get what you ask for." What are you doing at LEAA to prod some of these people?

Mr. GREGG. I would like to go back to your earlier question about the professional staff. There has never been any lack of commitment on the part of professional staff to this program. It was at a political level that the confusion existed.

The increase in the budget up to $75 million, when the new administration came in is a reflection of the very high priority for the program. That has been made perfectly clear to the professional staff in the Agency, who have supported the program all along.

There is a study underway of the entire LEAA program, its structure and activities. That will probably result in some changes for the organization and direction of the Agency. It may well be that, subsequent to that time, the administration would reconsider the budget. That is one factor in keeping the budget at the $75 million level. We need some time to adjust internally to these changing priorities.

Senator BAYH. Could you tell us now or, if not, could you provide for our chairman an assessment of how much money you could spend; how much money is presently being requested for grants?

Mr. GREGG. Considering where we are, the history of this program, and the previous difficulties, $75 million is a very reasonable figure. I would be very reluctant, until some further changes are made, to suggest that a higher figure is appropriate.

That is not a judgment, sir, as to the need. We have to consider our ability to implement the program, the history of the program, and the effect that has had on potential participants in the program. All those factors considered, $75 million is a reasonable figure at this time.

Senator BAYH. Mr. Gregg, that is disappointing.

I do not know much about you, but everything I know is good. You are a professional. You have been laboring under significant hardships.

I am sure that Chairman Culver will want to develop with people who will be talking with him the same kind of relationship I tried to develop with great hardships under those who were serving in the past administration. I would think that those who are appointed under the new administration would not be under the same inhibitions that we dare not say to the Senators they think different than the Office of Management and Budget.

With all respect, sir, you are just parroting that kind of situation.

Mr. GREGG. Well, sir, this is the administration's position.

Senator BAYH. What is your position?

Mr. GREGG. I have given you my honest, candid opinion, exclusive of any other policy considerations. At this moment, until further changes are made, until we can adjust to the new policy, the $75 million is a reasonable figure.

Senator CULVER. Would the Senator yield on this point?

Senator BAYH. Yes.

Senator CULVER. Mr. Gregg, you earlier testified that Attorney General Bell, in his initial submission and budget request on this particular program, requested $150 million.

Now, did he overrule your professional recommendation or did you subscribe and support this initial budget request?

[Consultation between Mr. Gregg and Mr. Madden:]

Mr. GREGG. I wanted to refresh my memory as to the timing of the initial reauthorization request that I believe went to OMB very, very shortly after Judge Bell became Attorney General. I believe it was a matter of days.

Budget adjustments were made after there had been more staff review by the Department of the budget situation, so there was an inconsistency——

Senator CULVER. After 13 years in Congress, I have some sense of the budget process. But here we have a newly appointed Attorney General of the United States.

Shortly after taking office he is advised that he must make a budget request for the program activity of this particular agency.

Did he talk to you? Did you give a recommendation? Did you at any time suggest that $150 million was appropriate for this agency?

Mr. GREGG. Yes, sir; we did.

Senator CULVER. How on earth would you ever suggest $150 million to the Attorney General, when you now say, for the record, that the agency does not have the internal capability to wisely use this amount?

I am disturbed by the fact that Attorney General Bell came into office and turned to you, a professional civil servant, a man most intimately acquainted with the history and the capability of this Agency, and asked how much money, given the commitment of this President, and my commitment to this as a priority matter in the area of criminal justice should we request? How much do we need to begin to do a job in an area that has been so sorely neglected by the previous administration? What kind of commitment should we make in light of an election which philosophically rejected the previous administration's policy?

And you said $150 million.

How could you tell Mr. Bell that $150 million was needed, and now come up and cut it right in half? How are we to believe that this is all you need.

I know you feel an obligation to follow the official OMB position, but how can you reconcile this inconsistency in your professional counsel?

Mr. GREGG. The authorization is not an appropriation; it is a ceiling. We are talking about fiscal year 1978.

Senator BAYH. Would you repeat just what you said?

Mr. GREGG. An authorization is a ceiling. It is not an appropriation. One can have an authoriztaion; the President can propose budgets at lower levels than authorized amounts.

Senator BAYH. That's going to make us sleep easy.

Senator CULVER. Were you just playing a game with the Attorney General when you said we need $150 million for this program and then said that's a meaningless figure.

Did you say to him, we will fight for $150 million? The kids of America need it. The health of this society needs it.

Now you come in and say $75 million is enough. Are you really saying that $35 million is what you would settle for without quitting? How are we to believe you are committed to this program?

Mr. GREGG. May I respond to that Senator?

Senator CULVER. I would welcome it.

Mr. GREGG. The point I was going to make was that $150 million was, in effect, a ceiling. Since the fiscal year for which that authorization would be made would begin next fall, there could be an opportunity to begin to correct some the problems that developed over the years of great uncertainty about the program. If, on the basis of changed conditions, additional appropriations would be appropriate, they could be requested at a later date.

The $75 million figure is the figure that was approved by the Department and by OMB. As I have stated, under the circumstances, at this time, it is an appropriate figure.

I say that on as objective a basis as I can, considering the status of the program at this moment.

Senator BAYH. Mr. Chairman, I find it very difficult to understand that kind of logic.

We are here addressing ourselves to a bill that is not an appropriation bill, Mr. Gregg. It is an authorization bill.

By your own words a while ago, what you said twice and what you fully recognize, I don't care how lauditory this looks in November of next year or October of this next year; you can't come back and ask an additional dollar in the appropriations process. We have all sorts of supplemental appropriations bills; we are all aware of that. But there is no way you can do that.

You ask for a ceiling in the authorization. What is the most you think you can reasonably spend? You are telling us it is $75 million. That is what we are spending this year.

Mr. GREGG. The $75 million authorization is the figure that was approved by OMB and the administration.

Senator BAYH. Mr. Gregg, this is the figure that you gave me when I just asked you the question of how much you thought you could spend. It is the same advice, apparently, the second time around, you have given to the Attorney General of the United States.

I am not in the habit of jumping up and down on people. As I say, I am very disappointed in you, sir. I thought, given the albatross of the past administration being removed and given the advice that apparently you gave to the Attorney General at first of $150 million, that we would be getting a little different answer from you, sir.

Mr. GREGG. Sir, the figure that the Department of Justice suggested for the authorization was $150 million. The figure that has been approved by the administration is $75 million.

Senator BAYH. That is why, Mr. Gregg, I asked the question.

We are all familiar with the fact that, when the decision comes down and when Congress acts, you fellows have to carry out the orders. But we are sitting up here—unless we have to hire mirror images of you fellows that are down there running the program to go in and second-guess everything you do and look over your shoulder and try to see what is really happening, we have to rely on you fellows for independent judgment. You have to tell us what you believe.

The chairman understands that, when they ask for $75 million, that is what they are prepared to do battle for. But you told us that you thought that's all we could reasonably spend. I think the chairman points out a remarkable inconsistency of only 100 percent between the answer you gave the Attorney General when he first requested $150 million and the answer you are giving us now.

I did not ask the question to tell me how you are going to defend this with Mr. Lance, who I have a great deal of respect for; but he has one responsibility and we have another.

I don't think I am going to get a much different answer than what you have given us before. Let me ask you another question. Maybe I can get a different answer here.

What is the total dollar value of requests from the States for programs under the Juvenile Justice Act?

Mr. GREGG. Are you asking, Senator, the total amount of all grant applications that have been made to LEAA under the act?

Senator BAYH. That is right.

Mr. GREGG. I do not have that figure at hand. Let me ask Mr. Nader if he could make an educated guess. If not, we will provide that for the record; it would be a substantial amount.

Senator BAYH. It does not have to be to the dollar. It seems to me that we ought to be able to come close to it.

What about it, Mr. Nader?

Mr. NADER. In our deinstitutionalization of status offender program, we had something on the order of 450 applications. The total requested was somewhere around $200 million. We were able to fund a total of $11.8 million, which is all the money we had available.

Senator BAYH. You had requests for $200 million. Are those applications that have gone through the normal State screening process and been referred to you?

Mr. NADER. Some of them we could not fund Senator. Others were fairly good, but would need an awful lot of work.

We ended up with about 40 that I considered to be fundable in my professional judgment. The dollar amount requested for those that were fundable was about $50 million. Then we took the best of those.

Senator BAYH. And you only had $11 million to spend.

May I ask you the same question that I asked Mr. Gregg about how many dollars you think your program that you are now charged with running specifically—his responsibility is a little different than yours. How many dollars do you think we could invest in that program?

Mr. NADER. The Special Emphasis programs and other initiatives that we control from our central office are expandable. When we put a program announcement out for diversion and we received 350 applications or for prevention, when we got 490 applications, the same

thing obtains, Senator. We reduce it down to those projects that are absolutely the best we can find.

Senator BAYH. I am for this program, but I do not want to spray money on the Wabash, the Ohio, or any other river. I want it spent wisely.

The question is directed at how many dollars do you think we could really spend if we had—as I think we do—a President, an Attorney General, a chairman of this Subcommittee that are really committed to doing something to help kids. How many dollars do you think we could spend through this program under your auspices?

Mr. NADER. It is hard to put an upper limit on it, Senator. There are such needs out there that the only thing that constrains us is the competency of people to actually run the programs. I think we could wisely spend substantially more than we are talking about today. Other changes, however, would have to be made in terms of staff support. Some changes would also have to be made in the relationship between LEAA and the States.

Other Federal agencies would have to begin to pull their fair share. A lot of the abominable conditions, Senator Culver, that you talked about are conditions that come about from health problems, from educational problems, from mental health problems, from all of the problems that the juvenile and criminal justice system does not have the capability to deal with very effectively.

Senator CULVER. I think if you listened carefully to my opening statement—and I would suggest you might want to go back and reread it. When I extemporized a little bit, I think I more than adequately covered the additional ground and its social implications. I even went so far as to suggest that, perhaps, it constituted even an indictment of our society.

I am not saying that $75 million is a magic panacea to solve all of the world's ills. I am also on the Armed Services Committee. I know that every B–1 bomber now costs $117 million a copy in our national security interests.

What do these facts say about our national security and our will and our quality of life and our allocation of resources and our priorities?

Were you asked by Griffin Bell, too, to submit a number of $150 million? Were you asked to sign on?

Mr. NADER. No, sir.

Senator CULVER. Were you consulted about the $150 million figure we started with here in this program. You are the Acting Assistant Administrator of this office; You are the highest ranking body they have over there. Were you asked to give them a number?

Mr. NADER. No, sir.

Senator CULVER. You were not even asked. Mr. Gregg, how do you explain that, that Mr. Nader was not even asked? He is the one that has the stack of applications. He is the one who has been in the real world of this social agony. Where did you get your number?

Mr. GREGG. I should point out, Senator Culver, that neither Mr. Nader nor I were involved in either of those numbers. Mr. Velde the previous Administrator of LEAA, was in office during the entire period that both this authorization figure of $150 million and the

budget of $75 million were discussed. Those discussions were between Mr. Velde and Mr. Bell.

The former Administrator stayed on beyond the change of administrations. During the period you are referring to, he was dealing with the Department concerning these issues.

Neither Mr. Nader nor I were involved in those discussions at that time.

Senator BAYH. Are you telling us, Mr. Gregg, that Pete Velde, who I dearly love as a person, but who has hardly been a ray of enlightenment as far as this program is concerned—I think he just looks at it a little differently. I know he is conscientious about it. Are you saying that he would suggest a number for funding this program that is 100 percent higher than you would, sir?

Mr. GREGG. I am saying, sir, that those discussions, both on the authorization figures and the budget figure, were discussions that Mr. Velde held with officials of the Department. I was not privy to those discussions at that time.

Senator CULVER. But you did subscribe to the $150 million yourself? You have already told us you were notified about that.

Mr. GREGG. I was aware of that figure; yes, sir.

Senator CULVER. And you supported it?

Mr. GREGG. I did not have an opportunity to either support it or not support it. However, I would have supported it.

Senator CULVER. Mr. Nader, you said that the biggest obstacle to more money was the inability to use it wisely. I wonder how you would weigh the relative obstacles to more efficient utilization or need of additional funds. Is the obstacle the OMB or the inability of the LEAA and the States to develop good programs?

Admittedly, we are not talking about throwing money at the problem. You know, if we wasted every nickel in this program and were at least trying, in my judgment, it would be a better good-faith effort than I can point to from other experiences in our national budgetary activities in terms of just absolute, unconscionable waste. I cited an example a few moments ago; they want to buy 244 B–1 bombers. They will contribute, at best, only marginally to our true security by any conceivable, rational definition.

I am trying to find out whether we have to have all this internal restructuring and study of the problem until the patient cannot survive another examination, or if an additional $75 million is needed and can be used as a policy signal and be to show that there is a true commitment to juvenile justice. It would be the kind of encouragement that you mentioned earlier, Mr. Gregg, that this thing has lacked in terms of stabilization and constancy as a public policy matter.

Mr. NADER. Senator, we are trying to remove as many youngsters as we possibly can from the juvenile justice system because it is criminogenic. It causes more problems than it solves.

At the same time, we are trying to determine how many youngsters and what types of youngsters need that social control. We must also figure out what kind of human resources are necessary to help those kids develop into the most positive direction possible to stand as tall as they can within only the limits of their own potential.

We have people out there who take dollars from charities and use them for pornographic purposes for children. We have people out there who, with all good intent, set up programs that involve more youngsters in the criminal justice system than was otherwise the case.

It makes moral and fiscal sense to make the best judgments you can before you start putting tons of money out on the street——

Senator CULVER. "Tons of money?"

Let's just define our terms in one context of the magnitude of this social problem in our current Federal budgetary efforts.

If you come in for an authorization of $75 million, what do you guess to be, in the absence of the leadership of Senator Bayh and others expending more enormous effort to override that, the likely figure you are going to get to work with?

Mr. NADER. My guess is $75 million, because the President requested $75 million. The requested authorization is $75 million.

That had been my assumption all along, Senator. That would be my response.

Senator BAYH. Mr. Chairman, with all respect to the witnesses, I find it totally unacceptable that the people in charge of the program would not be more aggressive in requesting resources.

But that is neither here nor there. It looks like we are going to have to continue to provide that kind of leadership up here.

What I would like to ask, Mr. Chairman, is that these folks provide us, one, the dollar figure, broken down by States, of the applications that you have now under the juvenile justice program for which you are now requesting $75 million.

Can you break that down by State?

Mr. GREGG. We will do that.

Senator BAYH. You can do that for 49 States, because the Indiana Criminal Justice Planning Agency did not even make any applications. We have a great bunch of bureaucrats there. If you want to include them, that would be helpful. Hopefully, we can get some of the more benevolent hearts in LEAA to forget their transgressions or omissions.

I would like to know the level of applications. I think that gives us one target.

Then, Mr. Nader, you might screen out those programs that just don't make sense.

I am going to be distressed if it just accidentally comes to $75 million or $75,000,001.35. I do not think you are that kind of person. I think you will give us a good fair judgment.

You said a moment ago, Mr. Chairman, "substantially more" than the figure we are talking about. So, I will expect a substantially greater assessment here.

I can submit some of these for the record.

Mr. GREGG. I wonder, Senator Bayh, if, in connection with that request, we might also submit to you the number of personnel or staff that it would require to approve, review, monitor, and evaluate those projects?

Senator BAYH. Certainly; that is fine. I would assume that paying those staff people would come out of the total figure.

Mr. GREGG. The staff is paid out of a different account. We have to have positions appropriated by the Appropriations Committees to carry out all of our programs.

Last year, we were authorized three major new program areas, but have not received one position to carry out those responsibilities. So I make the request in order to give you an idea of how our current staff capability would meet or not meet a higher funding level.

Senator BAYH. I think that is a fair request.

I assume that you have made similar protestations to the Appropriations Committees before now?

Mr. GREGG. We have made protestations in a number of quarters, including the Appropriations Committees.

Senator BAYH. This is the first time I ever heard of it. I am on the Appropriations Committee. I do not happen to be on that subcommittee, but, as one who has been intimately involved in trying to talk to some of my colleagues who are on that subcommittee about getting that money up there—and we have been rather successful—it is rather strange that this is the first time I have ever heard about that.

I think that is a reasonable request, so that we can go to bat and we can see you get the administrative dollars you need to carry out the grant level; and then keep the two in balance.

[The following information was subsequently received for the record:]

DISTRIBUTION OF SPECIAL EMPHASIS APPLICATIONS BY STATE

State	DSO	Diversion	Prevention	Total
Alabama	11	3	8	22
Alaska	4	0	1	5
Arizona	4	4	6	14
Arkansas	1	0	2	3
California	43	35	57	135
Colorado	5	3	5	13
Connecticut	2	2	6	10
Delaware	2	3	3	8
District of Columbia	17	9	5	31
Florida	14	9	20	43
Georgia	3	4	9	16
Guam	1	0	0	1
Hawaii	0	1	1	7
Idaho	4	3	0	2
Illinois	27	5	13	46
Indiana	6	3	6	15
Iowa	4	1	21	26
Kansas	6	2	2	10
Kentucky	3	2	4	9
Louisiana	5	5	4	14
Maine	1	2	3	6
Maryland	9	6	5	20
Massachusetts	10	8	12	30
Michigan	14	6	11	31
Minnesota	5	4	6	15
Missouri	11	5	10	26
Mississippi	2	1	1	4
Montana	1	0	1	2
Nebraska	2	1	6	9
Nevada	6	1	2	9
New Hampshire	3	0	1	4
New Jersey	4	8	8	20
New Mexico	6	1	3	10
New York	23	56	72	151
North Carolina	4	1	3	8
North Dakota	1	1	5	7
Ohio	13	8	7	28
Oklahoma	2	3	4	9
Oregon	7	4	7	18
Pennsylvania	14	17	23	54
Puerto Rico	0	1	7	8
Rhode Island	4	2	3	9
South Carolina	7	1	2	10
South Dakota	1	4	2	7
Tennessee	7	3	3	13
Texas	26	9	17	52

DISTRIBUTION OF SPECIAL EMPHASIS APPLICATIONS BY STATE—Continued

State	DSO	Diversion	Prevention	Tota
Trust territory	0	0	0	0
Utah	2	1	5	8
Vermont	2	0	1	3
Virginia	11	5	6	22
Virgin Islands	0	0	0	0
Washington	8	3	10	21
West Virginia	2	1	0	3
Wisconsin	2	6	9	17
Wyoming	0	1	0	1
American Samoa	0	0	0	0

SPECIAL EMPHASIS JJ

	Amount appropriated	Amount awarded to date	Balance to be awarded by fall	Status
Program awards	28,532,000	219,121	28,312,879	
A. Diversion awards:				
1. State Department of Health and Rehabilitative Services, Florida (split funding).		8,888	----------	
2. Memphis, Tenn. (split funding)		102,970	----------	
Subtotal		111,858	----------	
B. Other awards:				
1. Washington DSO supplementary		55,055	----------	
2. Purchase order Mike Marvin to provide TA for "School Crime Initiative."		10,000	----------	
3. Transfer to RO IV		11,991	----------	
4. California RPM Evaluation of DSO.		29,125	----------	
C. Staff travel (TA)		1,092	----------	
Total	28,532,000	219,121	28,312,879	
D. In process:				
1. Prevention I			6,700,000	In process; award projected by June 30.
2. Gangs			6,616,436	Guidelines are in external clearance. Awards projected September 3.
3. Restitution			4,371,435	Guidelines in external awards September 30.
4. Prevention II			7,000,000	Guidelines are being developed; awards projected for the fall.
5. Drug prevention			2,800,000	Interagency agreement will be completed by June 15.
5. Drug prevention			2,800,000	Interagency agreement will be completed by June 15.
6. Program development			650,000	RCA for sole source contract in process.
7. Teacher Corps			145,879	Interagency agreement in process should be completed by June 30.
8. El Dorado County			29,129	In process, scheduled for award June 1.
Total	28,532,000	219,121	28,312,879	
Balance			0	

SPECIAL EMPHASIS PART C

	Amount appropriated	Amount awarded to date	Balance to be awarded by fall	Status
Program awards	5,679,000	3,439,656	2,239,344	
A. Diversion awards:				
1. John Jay College		420,035		
2. State Department of Health and Rehabilitative Service, Florida (split funding).		1,235,834		
3. Kansas City, Mo. (split funding)		426,001		
4. Denver, Colo		153,864		
Subtotal		2,235,734		
B. Other awards:				
1. Los Angeles County (continuation) RO-IX.		248,256		
2. YMCA intervention RO-I (continuation).		53,465		
3. APWA (continuation)		200,588		
4. Alabama Youth Services (transfer to RO-IV).		200,000		
5. Washington Urban League		401,613		
6. New York State Division for Youth (transfer to RO-II).		100,000		
Subtotal	5,679,000	1,203,922	2,239,344	
C. In process:				
1. Gangs			1,089,344	Guidelines are in externa clearnace. Awards projected September 3.
2. Legis 50			700,000	Application in process. Award scheduled June 30.
3. Sisters United			450,000	In process; award projected June 10.
Total	5,679,000	1,203,922	2,239,344	
Balance			0	

SPECIAL EMPHASIS, FISCAL YEAR 1977, PART E

	Amount appropriated	Amount awarded to date	Balance to be awarded by fall	Status
Program Awards	13,101,000	5,326,589	8,145,014	
A. Diversion awards:				
1. Boston, Mass		960,000		
2. Puerto Rico		968,979		
3. MFY		464,363		
4. Convent Ave. Baptist Church		422,702		
5. Memphis Tenn. (split funding)		767,290		
6. Kansas City, Mo. (split funding)		640,664		
7. Denver, Colo. (split funding)		731,988		
Subtotal	13,101,000	4,955,986	8,145,014	
B. In process:				
1. Serious offenders			8,145,014	Guidelines are in draft. Should be in clearance by June 30. Projected awards September 30.
Total	13,101,000	4,955,986		
Balance			0	

OJJDP GRANT AWARDS AND PERCENTAGE OF THOSE AWARDS GOING TO PRIVATE NOT-FOR-PROFIT CORPORATIONS

The following is a partial list of Diversion and Deinstitutionalization of Status Offender awards. The listing breaks out the grant award amount and the total amount of funds being subcontracted or subgranted to private not-for-profit corporations.

DSO

Arizona—Pima County Deinstitutionalization of Status Offenders; Grant Award Amount: $1,480,090 for two years; Private Not-for-Profit: $1,093,328—74%.

Arkansas—Deinstitutionalization of Status Offenders; Grant Award Amount: $1,108,579 for two years; Private Not-for-Profit: $797,000—72%.

South Carolina—Deinstitutionalization of Status Offenders; Grant Award Amount: $1,500,000 for two years; Private Not-for-Profit: $196,489—12%.

Delaware—Deinstitutionalization of Status Offenders; Grant Award Amount: $987,083 for two years; Private Not-for-Profit: $381,080—39%.

Diversion

Massachusetts—Boston Youth Advocacy Diversion Project; Grant Award Amount: $960,000 for two years; Private Not-for-Profit: $498,228—52%.

Puerto Rico—Puerto Rico Youth Diversion Program; Grant Award Amount: $968,000 for two years; Private Not-for-Profit: $16,720—0.02%.

South Dakota—Rosebud Sioux Tribal Council Youth Diversion Program; Grant Award Amount: $432,858 for two years; Private Not-for-Profit: $2,016—0.01%.

Tennessee—Metropolitan Memphis Youth Diversion Project; Grant Award Amount: $776,178 for two years; Private Not-for-Profit: $776,178—100%.

Senator BAYH. Let me ask you one last question. We have a very real problem, Mr. Chairman, that I am sure you are aware of, in requiring deinstitutionalization for status offenses. Unless we are innovative—Mr. Nader is aware of this and he is aware that I am aware of the problem. You say to deinstitutionalize, and the States are not prepared to meet that responsibility. You have kids that obviously need some supervision, but they do not need to be incarcerated with hard cases.

We have not been innovative enough to provide an intervening, moderate kind of supervision. That is really going to tax us, as to how we can keep kids from being institutionalized with people they learn all the tricks of the trade from and then are abused. But, by the same token, we want to provide supervision that apparently they have not gotten.

We have a requirement of deinstitutionalization. You said several years; you want us to back away from that. I am prepared to be reasonable, but several years worries me. How long a period of time is several years?

Mr. GREGG. Well, sir, I would say that it could be interpreted as being anywhere between 2 to 5 years.

Senator BAYH. Two to five years?

As long as a State was making progress, was making a good faith effort to accomplish the goal, you would suspend them from the requirement of the act?

Mr. GREGG. Sir, we would expect them to have made substantial progress already. This would be an expression of good-faith intent to fully meet the objective. Then, depending on the circumstances in the particular State, they could completely meet the objective within an additional 2 to 5 years.

Senator BAYH. Mr. Chairman, I think here you will find we have one of the real problems that we are going to be confronted with. How do you create the incentive for States to do something that they have not done now, without destroying their involvement in the program which gives them the resources to make progress toward the goal we want to accomplish?

That is going to test all of our ingenuity. It is a real balance there that I think is important.

Thank you, Mr. Chairman.

Senator CULVER. Thank you, very much, Mr. Gregg.

We very much appreciate your appearance here today. We look forward to working with you on these problems in the months and years ahead.

Mr. GREGG. Thank you, Mr. Chairman.

Senator CULVER. I ask unanimous consent that some material from Senator Gravel be included in the record. Without objection, it will be included at this point.

[The above-referred-to material follows:]

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., April 26, 1977.

Hon. JOHN C. CULVER,
Chairman, Subcommittee on Juvenile Delinquency, Senate Judiciary Committee, Washington, D.C.

DEAR JOHN: The State of Alaska is experiencing some difficulties in meeting the requirements of Section 223 (12) and (13) of the Juvenile Justice and Delinquency Prevention Act of 1974. Enclosed please find two letters, one from Governor Jay Hammond of Alaska to President Carter, and another from Gail Rowland, Chairman of the Governor's Advisory Board on Juvenile Justice to me.

These letters provide excellent summaries of the problem and I would appreciate your assistance in including them in the hearing record on legislation to extend the Act. I hope that the Committee will be able to address these issues in legislation later this year.

With best wishes.

Sincerely,

MIKE GRAVEL.

Enclosures.

STATE OF ALASKA,
OFFICE OF THE GOVENOR,
Juneau, Alaska, April 12, 1977.

Hon. JOHN CULVER,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR CULVER: Alaska is completing its second year of participation under the Juvenile Justice and Delinquency Prevention Act of 1974. As you may be aware, Sections 223 (12) and (13) of that Act require that participating states ensure that status offenders be deinstitutionalized and juveniles are not held with adults in dentention facilities within a two year time-frame.

It has become clear that Alaska cannot respond to these mandates in all areas of the State within the limited time. Alaska's climate, geography, and population significantly impact its ability to implement and comply with this Act. Alaska's total population is 404,000, equal to that of El Paso, Texas. In terms of people, Alaska is a small town, but in terms of the area it is vast. Alaska is ⅕ the size of the continental United States stretching across four time zones and larger than the combined areas of Texas, California, and Montana. Alaska sprawls over 586,400 square miles, and two-thirds of it is under ice all of the year.

There are more than two hundred native villages in Alaska, some of them with a population of less than twenty-five. Many of these villages are as much as 500 miles from the nearest service center and most of those centers, like Barrow, Bethel, Nome, and Kodiak, are between 50 and 450 miles from major areas like Fairbanks, Anchorage, and Juneau.

There are only 7,270 miles of highways in Alaska, and 2,157 of them are paved. All Southeastern Alaska communities are accessible only by boat or air, and air travel is the only connection between bush villages and populated areas. Telephone communication is nonexistent in many villages.

Environment factors which affect the development of human services in Alaska have been compounded with growth and change in the State in recent years. Urban areas have had to grow rapidly to meet the sophisticated demands of development, and many indigenous people are struggling with the transition between village life and urban ways. Consequently, Alaska has the highest rate of residential alcoholism in the country, the highest child abuse rate, one of the highest suicide rates, and a divorce rate that is 57 percent higher than the national average. Juveniles between the ages of 10 and 18, who represent 12 percent of the State's total population, account for 53 percent of Alaska's Part I criminal offenses.

In many areas of the State, shelter alternatives for status offenders who cannot be returned to their homes are presently nonexistent; and, where they do exist, they are not geared to handling children who may out of control from alcohol abuse. Providing one of these shelter facilities in Alaska easily equals Alaska's yearly allotment of Juvenile Justice and Delinquency Prevention Act funds.

The Division of Corrections estimates it will cost at least $100,000 to modify one state facility for the separation of juveniles and adults. At least five other facilities are in need of this kind of modification, and there are any number of small facilities under local jurisdiction in remote areas that are out of compliance.

In order for Alaska to continue to participate in the juvenile justice program, amendments to this Act during its re-authorization must:

(1) Permit states to proceed with the implementation of the Act's major objectives at a pace that is appropriate for each state and;

(2) Permit states to expend allocated funds to effect implementation of sections 23 (12) and (13) on the basis of local needs rather than federal requirements.

The need to provide services to youth and equitable juvenile justice throughout Alaska is critical. I urge your assistance in making this Act viable for juveniles in all states, those that do not have the financial capabilities for immediate compliance as well as those that do. Historically Alaska's statutes have supported the philosophy and intent of the Juvenile Justice Delinquency and Prevention Act, and it is my hope that the Act will be amended to permit our continued participation.

Sincerely,

JAY S. HAMMOND,
Governor.

APRIL 14, 1977.

Hon. JOHN C. CULVER,
U.S. Senator,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR CULVER: The need to provide equitable juvenile justice services to Alaskan children continues to be critical.

After two years of participation under the Juvenile Justice and Delinquency Prevention Act of 1974, Alaska cannot fully meet the requirements of Sections 223 (12) and (13). Although Alaska statutes, case law, and court rules have been in agreement with the Juvenile Justice and Delinquency Prevention Act for as long as twenty years, the fiscal and financial realities of delivering juvenile justice services on an equitable basis in all of Alaska, preclude our state from meeting the mandated time frames of the Act.

Current Alaska Division of Corrections' estimates for modification of one state facility for the separation of juvenile and adult offenders is $100,000.00. At this point, five additional facilities need similar modification. Due to the limited funds received by Alaska for planning and implementation under the Act, no accurate data exists on the needs and costs of the many small facilities under local jurisdiction in the remote areas of the state. In fact, it is still difficult to ascertain when these facilities simply serve as the only available building where any child can be housed for safety sake as opposed to the instances where a child has actually entered the justice system. We can, however,

project that most local facilities will require major modification. Additionally, shelter alternatives for Alaska's juveniles do not exist. To provide one such facility at current building costs, will easily consume the yearly Alaskan allotment of Juvenile Justice and Delinquency Prevention Act funds.

The current juvenile justice emphasis in Alaska has been on prevention. It is an approach which I believe is most cost effective as well as philosophically sound.

Because the Juvenile Justice and Delinquency Prevention Act has afforded better planning and focus on juvenile problems in Alaska, I would like to see continued Alaskan participation. To do so, the state will require that modifications be made to the Act during its reauthorization. One of the following amendments would permit Alaska's continued participation:

1. Permit states wtih vast rural areas to participate under a substantial compliance requirements, for example a compliance of ninety percent; or,
2. Permit the Assistant Administrator of LEAA to grant exemptions to the current requirements of one-hundred percent compliance under specific criteria to be established by Congress; or,
3. Exclude from consideration, when viewing compliance, communities which have a population of less than 1,000 people and which are unconnected by roadways; or,
4. Extend the mandated time-frames for compliance and increase the federal financial support for states where unique climatic and cultural conditions severely hamper implementation under traditional federal revenue formulas.

It is my belief that Alaska can be in eighty to ninety percent compliance, in its five major urban areas, within a short period of time. Similarly, it is reasonable to estimate that remote villages, just this year receiving telephone service, will need at least six years and a significant amount of increased planning and implementation funds in order to be in compliance.

I assure you that Alaska wishes to continue its history of equitable and progressive juvenile justice planning and services. Our continued participation in the Act will, however, depend on the state's financial ability to do so within more flexible time frames. We request that federal allocations and time frames under the Act be made more flexible for those states, like Alaska, who are endeavoring to comply.

Respectfully,

GAIL H. ROWLAND,
Chairman, Governor's Advisory Board on Juvenile Justice and Member, Governor's Commission on the Administration of Justice.

Enclosure: 1.

[From: The Juvenile Justice Community Crime Prevention Standards and Goals Task Force Report, 1976]

INTRODUCTION

If you live in Barrow and are unemployed, and your roof leaks and it is thirty degrees below zero, and your child is in Anchorage to get an education, and crime is said to be 100% alcohol related, and the major source of revenue in Barrow is from alcohol, and there are nine year old alcoholics, and there are no playgrounds, and it is dark all winter, and a judge in Fairbanks closes your jail because it is unsafe: it is not too difficult to identify the problems, but it is very difficult to identify solutions.

If you live in Ketchikan and it rains more than 100 inches a year, and it is isolated on a long island, and most jobs are dependent on trees and fishing and world markets, if the juvenile officer position was defunded and a status symbol for a kid is to get into enough trouble to get sent out, and people from the upper part of the State keep flying in and telling you how to solve your problems: it is not too difficult to identify the problems, but it is not always easy to come up with solutions.

If you live in Anchorage and it is growing like crazy and there are more than 20,000 new cars on the streets in one year and jobs on the Slope pay a fortune and the average income exceeds $19,000, and both Mom and Dad work to pay the rent, and school gets out at 2:00 p.m. and there is no place to go and no way to get there if there were: it is fairly easy to identify the problems and to think of a few solutions.

If you are at the Crime Prevention Task Force meeting and you are a planner, you say the problems are sudden economic growth and development, transient

people unemployment, and cost of housing. If you are at the Task Force meeting and you are an employee of the justice or social service system, you talk about lack of funds for programs, insufficient data to identify the problem, and no alternative service. If you are a police officer at the meeting, you talk about lack of specialized training, lack of recreational facilities, and lack of community involvement. If you are at the meeting and you are at the meeting and you are a volunteer citizen, you talk about housing, schools, playgrounds, and jobs.

The rural people with their sparse and low density population, their marginal economies, and their homogenous cultures, live with the symptoms of crime daily; they live so close to basic survival that solutions within their communities have almost ceased to be identifiable.

The urban people with their rapid growth and high density population with their boom-or-bust economies, with their increasingly heterogeneous cultures, latch on to one or two visible solutions and believe that all their problems will go away.

The urban solutions are: "We need planning and viable alternatives." The rural reply is: "Planning by whom and alternatives to what?"

Senator BAYH. Mr. Chairman, could I ask unanimous consent that certain questions that I did not have a chance to ask relative to the extent to which the Federal Government is involved in placing juveniles in a commingled situation and some other related questions to the witnesses be included? Also I would request that some material relative to another program that we have been looking at in this subcommittee—as I am sure you are aware—the school vandalism and violence problem, be put in the record at this time.

Senator CULVER. Without objection, it is so ordered.

[The following questions were submitted by Senator Bayh to Mr. Gregg and his answers therto:]

Question 1. Do SPA's lack the authority to monitor jails, detention and confinement institutions as required by Sec. 223 (a) (14)?

Response. The SPA's responsibility for plan supervision, administration, and implementation is spelled out in the JJDP Act as well as in chapter 2, paragraph 27 of Guideline Manual M4100.1F. The act and application requirements are as follows:

PLAN SUPERVISION AND ADMINISTRATION

(1) *Act Requirement.*—According to Section 223(a)(1) of the JJDP Act, the State plan must designate the State Planning Agency established by the State under Section 203 of the Crime Control Act as the sole agency for supervision of the preparation and administration of the plan.

(2) *Application Requirement.*—The SPA must provide an assurance that is the sole agency for administration of the plan.

PLAN IMPLEMENTATION

(1) *Act Requirement.*—Section 223(a)(2) of the JJDP Act requires the State Plan contain satisfactory evidence that the State Agency designated has or will have authority to implement the plan.

(2) *Application Requirement.*—(a) The SPA must specify how it has and will exercise its requisite authority to carry out the mandate of the JJDP Act.

(b) If the SPA does not currently have the authority to implement the JJDP component of the plan, it should describe what steps will be necessary within the State to give it the authority.

The monitoring requirements in the guideline are as follows:

(1) *Act Requirement.*—Section 223(a)(14) requires that the State Plan "provide for an adequate system of monitoring jails detention facilities, and correctional facilities to insure that the requirements of Section 223(12) and (13) are met, and for annual reporting of the results of such monitoring to the administrator."

(2) *Plan Requirements.*—(a) The State Plan must indicate how the State plans to provide for accurate and complete monitoring of jails, detention facili-

ties, correctional facilities, and other secure facilities to insure that the requirements of Sections 223(12) and (13) are met.

(b) For purposes of paragraph 77h, above, the monitoring must include a survey of all jails, lockups, detention and correctional facilities, including the number of juveniles placed therein during the report period, the specific offense charged or committed, and the disposition, if any, made for each category of offense.

(c) For purposes of this paragraph, the monitoring must include a survey of all jails, lockups, detention and correctional facilities in which juveniles may be detained or confined with incarcerated adults, including a detailed description of the steps taken to eliminate regular contact between juveniles and incarcerated adults.

(d) The State Plan must provide for annual on-site inspection of jails, detention and correctional facilities.

(e) Describe the State Plan for relating the monitoring data to the goals, objectives, and timetables for the implementation of paragraphs h and i as set forth in the State Plan, in the annual report to the Administrator.

(3) *Reporting Requirement.*—The State Planning Agency shall make an annual report to the LEAA Administrator on the results of monitoring for both paragraphs 77h and i. The first report shall be made no later than December 31, 1976. It, and subsequent reports, must indicate the results of monitoring with regard to the provisions of paragraphs 77h and i, including:

(a) Violations of these provisions and steps taken to ensure compliance, if any.

(b) Procedures established for investigation of complaints of violation of the provisions of paragraphs h and i.

(c) The manner in which data were obtained.

(d) The plan implemented to ensure compliance with (12) and (13), and its results.

(e) An overall summary.

Two legal opinions (Nos. 76–6 and 76–7) issued by the Office of General Counsel speak directly to the SPA authority. Legal opinion 76–6 concludes, in part:

"The requirements of Section 223 extend throughout the State. In submitting its application for funds under the Juvenile Justice Act, a State is committing itself to meeting the statutory provisions of Section 223(a) (12) and (13) Statewide. This conclusion is based upon the statutory language and the explicit requirements of the State Planning Agency Guideline, supra, par. 82 h–j. A State accepting Juvenile Justice Act funds is expressing its intent to provide for Statewide accomplishment of the goal of deinstitutionalization of status offenders and the separation of adult and juvenile offenders through the accomplishment of the State plan objectives established by the State planning agency, the State agency which, as mentioned earlier, must have the authority to implement the State plan. The State planning agency, although not an operational agency, has a variety of options, means and methods with which to effectuate these provisions. They include agreements with operating agencies, legislative reform efforts, public education and information, funding to establish alternative facilities, and other methods planned to achieve those goals. It is implicit in the Juvenile Justice Act that failure to achieve the goals of Section 223(a) (12) and (13) within applicable time constraints will terminate a State's eligibility for future Juvenlie Justice Act funding. Certainly, this would be the case if any county or agency 'chose' not to comply."

Legal opinion 976–7 states, in part:

Each SPA has responsibility for monitoring "jails, detention facilities, and correctional facilities" under Section 223(a) (14). A State planning agency may attempt to obtain direct authority to monitor from the governor or legislature, may contract with a public or private agency to carry out the monitoring under its authority, or may contract with a State agency, which has such authority, to perform the monitoring function. Formula grant "action" program funds would be available to the SPA for this purpose since monitoring services (or funds for those services) are of a "program" or "project" nature related to functions contemplated by the State plan."

CONCLUSIONS

(1) Section 223(a) (12) requires that States deinstitutionalize status offenders within two years after submission of their initial plan under the Juvenile Justice Act.

(2) Section 223(a)(13) requires immediate separation of alleged or adjudicated delinquents and incarcerated adults only if no constraints to implementation are identified. Otherwise, identified constraints and the State's approved plan, procedure and timetable for implementation will determine the time limitation.

(3) Section 223(a)(2) requires that the State planning agency have the same authority to implement the Juvenile Justice Act plan that it must have to implement the Crime Control Act plan. While this does require that the State planning agency have authority to cause coordination of services to juveniles Statewide, it does not require that the State planning agency have direct operational authority over State agencies providing services to juveniles.

(4) Compliance with Section 223(a)(12) and (13) can be achieved through a grant of direct authority to the SPA from State government or through a wide variety of programmatic efforts.

(5) A failure to conform with the Section 223(a)(12) and (13) requirements may result in plan rejection or fund cut-off at any point in the planning process or implementation of the plan. Only if there is a definite showing of a lack of "good faith" on the part of the State planning agency in the application process or in meeting the milestones established in the State's timetable would LEAA consider action to recover Juvenile Justice Act funds granted to a State. Failure to meet the 223(a)(12) requirement within two years will result in fund cut-off, irrespectvie of "good faith" planning and implementation, unless the failure is de minimus.

(6) As SPA may be granted direct authority to perform the Section 223(a)(14) monitoring function or may contract with a public or private agency, under appropriate authority, for the performance of the monitoring function.

In response to the requirement contained in Section 223(a)(14), participating states submitted their initial monitoring reports on December 31, 1976. The analysis of these reports indicates that there were two general problems with the monitoring effort. First, and of largest impact, was that most States waited until the fall of 1976 to begin the data collection effort. Thus, there was not enough lead time for the facilities to collect the proper data, for jurisdictional problems to be worked out, nor time to revise the methodology in light of the first-run problems. It is expected that the data generated for the next submission will be much more complete. The second problem is that most States did not fully understand the guideline on what had to be monitored. Responses were received that stated as they had no jurisdiction over jails.

Those facilities were not reviewed. Furthermore, only Alaska, District of Columbia, and Puerto Rico monitored the private facilities that they placed youth in. These facilities fall under the requirement of "all secure facilities." It is expected that feedback from the review of the 1976 submissions will solve this problem. Some States also had informal monitoring procedures which must be firmed up in future efforts.

LEGISLATION

DSO (Section 223 A 12)

Ten States (Iowa, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Oregon, California, Florida) have existing laws to effect deinstitutionalization. Four other States (Alaska, Delaware, New Mexico, and Georgia) have proposed legislation concerning DSO presently before their legislatures. The legislation varies widely in its effect. For example, Maine's law only prohibits status offender commitments and Iowa's only pertains to training schools. New Jersey's mandates that the counties set up non-secure detention centers for youth and eliminate all other placements.

Separation (Section 223 A 13)

Nineteen States (Arkansas, Connecticut, District of Columbia, Massachusetts, Maryland, Maine, Louisiana, Iowa, Illinois, New York, New Mexico, New Jersey, New Hampshire, Missouri, Washington, Arizona, Texas, Florida, Georgia) have existing laws concerning the separation of juveniles from adults. This usually consists of a mandate that all youth be kept separate from committed adults in facilities that hold both or mandating that no youth may be placed in adult facilities including jails. However, some States have variations. In New York approval must be granted for a youth to be placed in an adult-holding facility, and in Missouri only first and second class counties are required to separate. One State, New Mexico, has proposed law on separation before their legislature.

While some States had laws concerning DSO and separation that predate the Juvenile Justice Act, by far the majority have passed legislation in order to assist their efforts in achieving compliance. Thus, the Act has had a significant effect in this area. One problem that limits the effect is that violations of the State laws do occur. Only eight (Arkansas, Delaware, Idaho, Illinois, Maine, Massachusetts, New Jersey, Rhode Island, Texas) of the 37 reports received and reviewed so far mention the procedure which will be followed if there is a report of a violation. In addition, violations will not be found unless there is a monitoring system that looks for such violations.

Question. Is additional legislative authority necessary?

Response. As indicated in Legal opinion 76-7, most SPAs lack direct authority over operational agencies. Thus, compliance with Section 223(a) (12) and (13) will require the establishment of agreements with operating agencies using a variety of methods, options and means to accomplish these requirements.

The monitoring reports indicate that states are: (1) Completing the monitoring with in-house SPA staff; (2) working with other state agencies who have responsibilities for monitoring, such as youth authorities; Department of Corrections, and State jail inspectors; (3) contracting with private non-profit groups such as schools of social work, and criminal justice institutes; and (4) using data available through juvenile officers' associations, uniform crime reports, and court services.

The Act requirements and guidelines concerning the SPA responsibility are clear. Monitoring, data collection and compliance are state and local issues. The SPAs are responsible for monitoring and compliance issues. If necessary, they may enter into agreements with appropriate state, county and/or local operating agencies to obtain the necessary information. However, it appears that many localities see little purpose in cooperating with the SPAs in the collection of this data when they see no benefit to their program or operations. Thus, if additional legislative authority is necessary, it would be at the state and local level.

Question 2. Why isn't two years an adequate period within which to require the deinstitutionalization of status offenders?

Response. While the JJDP Act currently requires all States participating in the formula grant program to deinstitutionalize status offenders within two years, the testimony before the Committee and other available information indicates that a time extension is appropriate and necessary. Absent some flexibility regarding the deadline for compliance, many of the 46 states and territories currently participating in the Act may have to withdraw or have their eligibility terminated. The termination or withdrawal of states who have made a good faith effort to meet the Act's requirements would serve no purpose and might well set back present efforts to reform the juvenile justice system.

Other factors which must be considered in assessing why two years isn't adequate for deinstitutionalization of status offenders include:

(a) *Level of Funding*: To date, $77 million have been awarded under the formula grant program. In the first year of the program, $9.25 million was available to the States; $24.5 million in FY 76 and $43.3 million in FY 77. These figures represent considerably less funds than were anticipated by the States. The limited funding coupled with the Act's requirements have had a great impact on State's participation as well as on compliance with the deinstitutionalization requirement. Those States which have elected not to participate in the Act cite limited funding and extensive requirements as key factors in their decision not to participate. Those states which are participating have continually voiced their concern over the problem of revamping the juvenile justice system with such a small amount of resources. For example, one State estimated that the cost of meeting the requirements of deinstitutionalization and separation could cost one hundred times the amount of Federal funds which participation in the Act would bring into the state. For many states, the $200,000 minimum allocation required under the Act has become the maximum. In fact, in FY 77, 13 states received the $200,000 allocation, and 8 more received less than $500,000.

While most states have had to focus their funds almost exclusively in the deinstitutionalization area due to the two year time limit, there are numerous other requirements imposed on the States by the Act. These requirements include: separation of juveniles and adults in detention and correctional facilities; monitoring to ensure separation and deinstitutionalization; detailed study of State needs; and coordination of services to juveniles, to name a few. One

key to full participation and successful implementation is obviously adequate funding.

(b) *State Juvenile Codes:* Participation in and compliance with the Act's requirements has necessitated major efforts at the State level directed toward revision of juvenile codes regarding status offenders and separation of juveniles and adults in detention and correctional facilities. While some states had statutes in these areas prior to the passage of the Act, some states have passed and more are attempting to pass juvenile code revisions to assist their efforts in achieving compliance. The need for such legislative changes has impacted state compliance with the deinstitutionalization requirement.

(c) *Monitoring Data*: Lack of data in states regarding status offenders and children in custody has made it difficult for states to adequately plan for deinstitutionalization of status offenders as well as monitor compliance at the state and local level. The initial monitoring reports submitted by participating states on December 31, 1976, indicated that many states are experiencing difficulty in collecting data to fully indicate the extent of their progress with the deinstitutionalization and separation requirements.

(d) *Coordination of Services to Juveniles:* The deinstitutionalization mandate requires states to establish workable mechanisms to increase coordination between youth serving agencies within states. The need for coordination coupled with unfamiliarity with the Act requirements, produced delays in program development and implementation.

Question 3. What extent does the Federal Bureau of Prisons contract for the placement of federal prisoners in facilities that commingle juveniles and adults, contrary to the thrust of Sec. 223(a)(13)?

Response. LEAA/OJJDP doesn't have this information available and we suggest that you contact Ms. Constance T. Springmann, Assistant Administrator, Detention and Contract Service Branch, Bureau of Prisons, 320 First St., N.W., Washington D.C., 724–3171.

Question 4. Do we know how many federal dollars are currently expended to sustain the secure placement of non-offenders, such as neglected or dependent children or status offenders? Wouldn't such an assessment be an appropriate priority of the Coordinating Council?

Response. We do not currently have this information available. The difficulties of determining these expenditure levels are due, in part, to the lack of reliable data from the states regarding the placement and treatment of status offenders and, in part, to the difficulties associated with imposing reporting requirements on general units of government and other recipients of federal funds.

The need for this information in formulating federal policy is critical. While the Coordinating Council is currently at a transition point, LEAA is committed to the development of the Council as a strong and viable organization for the coordination of policies, programs, and priorities among federal departments and agencies which administer juvenile programs. As the Coordinating Council develops a plan of action and formulates goals and objectives, the identification of federal funding which sustains the secure placement of non-offenders will be an appropriate priority.

Question 5. Would you please submit the definitions of correctional institutions, detention facilities and other related terms, so they can be included in the Committee Report on S. 1021?

Response. A copy of the guideline containing the requested definitions is appended.

[Appendix to Responses to Senator Bayh's Questions (Question 5)]

DEFINITIONS

Section 223(a)(12)–(14)

Chap. 3/Par. 52i(4), page 57, is amended to read as follows:

"(4) *Implementation.*—The requirements of this section are to be planned and implemented by a State within two years of the date of its initial submission of an approved plan, so that all status offenders who require care in a facility will be placed in shelter facilities rather than juvenile detention or correctional facilities."

Chap. 3/Par. 52i(5), pages 57–58, is amended to read as follows:

"(5) *Plan Requirement.*—(a) Describe in detail the State's specific plan, procedure, and timetable for assuring that within two years of the date of its initial submission of an approved plan, status offenders, if placed in a facility, will be placed in shelter facilities rather than juvenile detention or correctional facilities. Include a description of existing and proposed juvenile detention and correctional facilities.

(b) A *shelter facility*, as used in Section 223(a)(12), is any public or private facility, other than a juvenile detention or correctional facility as defined in paragraph 52k(2) below, that may be used, in accordance with State law, for the purpose of providing either temporary placement for the care of alleged or adjudicated status offenders prior to the issuance of a dispositional order, or for providing longer term care under a juvenile court dispositional order."

Chap. 3/Par. 52k(2) and (3), pages 59–60, are redesignated as Par. 52k(3) and (4) respectively. A new Par. 52k(2) is inserted to read as follows:

"(2) For purposes of monitoring, a juvenile detention or correctional facility is:

1. any *secure* public or private *facility* used for the *lawful custody* of *accused or adjudicated juvenile offenders;* or

2. any public or private facility used primarily (more than 50 percent of the facility's population during any consecutive 30-day period) for the lawful custody of accused or adjudicated *criminal-type offenders* even if the facility is non-secure; or

3. any public or private facility that has the bed capacity to house twenty or more accused or adjudicated *juvenile offenders or non-offenders*, even if the facility is non-secure, unless used *exclusively* for the lawful custody of *status offenders* or non-offenders, or is *community-based;* or

4. any public or private facility, secure or non-secure, which is also used for the lawful custody of accused or convicted *criminal offenders.*

For definitions of underlined terms, see Appendix I, paragraph 4 (a)–(m).

Where State law provides statutory distinctions between permissible and impermissible placements for alleged and adjudicated status offenders that are compatible with the above definition, the LEAA Administrator may, at the request of the State planning agency, consider a waiver of the express terms of the definition and substitution of the compatible State statutory provision(s)."

Appendix I, item 4, page 3, is redesignated item 5. A new item 4 is inserted to read as follows:

"4. *DEFINITIONS RELATING TO PAR. 52. SPECIAL REQUIREMENTS FOR PARTICIPATION IN FUNDING UNDER THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.*

(a) *Juvenile Offender*—an individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations as defined by State law.

(b) *Criminal-type Offender*—a juvenile who has been charged with or adjudicated for conduct which would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(c) *Status Offender*—a juvenile who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(d) *Non-offender*—a juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes, for reasons other than legally prohibited conduct of the juvenile.

(e) *Accused Juvenile Offender*—a juvenile with respect to whom a petition has been filed in the juvenile court alleging that such juvenile is a criminal-type offender or is a status offender and no final adjudication has been made by the juvenile court.

(f) *Adjudicated Juvenile Offender*—a juvenile with respect to whom the juvenile court has determined that such juvenile is a criminal-type offender or is a status offender.

(g) *Facility*—a place, an institution, a building or part thereof, set of buildings or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned and/or operated by public or private agencies.

(h) *Facility, Secure*—one which is designed and operated so as to ensure that all entrances and exits from such facility are under the exclusive control of the staff of such facility, whether or not the person being detained has freedom of movement within the perimeters of the facility or which relies on locked rooms and buildings, fences, or physical restraint in order to control behavior of its residents.

(i) *Facility, Non-secure*—a facility not characterized by the use of physically restricting construction, hardware and procedures and which provides its residents access to the surrounding community with minimal supervision.

(j) *Community-based*—facility, program, or service means a small, open group home or other suitable place located near the juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning, operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, and other rehabilitative services.

(k) *Lawful Custody*—the exercise of care, supervision and control over a juvenile offender or non-offender pursuant to the provisions of the law or of a judicial order or decree.

(l) *Exclusively*—as used to describe the population of a facility, the term "exclusively" means that the facility is used only for a specifically described category of juvenile to the exclusion of all other types of juveniles.

(m) *Criminal Offender*—an individual, adult or juvenile, who has been charged with or convicted of a criminal offense in a court exercising criminal jurisdiction."

Senator CULVER. Our next witness is Arabella Martinez, Assistant Secretary, Department of Health, Education, and Welfare. I understand that you are accompanied by Jeanne Weaver, Acting Commissioner of the Office of Youth Development, HEW.

Again, in the interest of time, Ms. Martinez, we would appreciate it if you would be kind enough to try to summarize your remarks.

STATEMENT OF ARABELLA MARTINEZ, ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT, HEW, ACCOMPANIED BY JEANNE WEAVER, OFFICE OF YOUTH DEVELOPMENT [1]

Ms. MARTINEZ. Thank you, Mr. Chairman.

I am pleased to have the opportunity to testify on the Runaway Youth Act, title III, and to advise you that we have submitted legislation to Congress to provide a 1-year extension of this program. During this extension, we intend to assess our role in relationship to youth and their families and consider future action in this area.

As you know, the Runaway Youth Act was a response of Congress to a growing concern about a number of young people who were running away from home without parental permission and who, while away from home, were exposed to exploitation and to other dangers encountered by living alone in the streets.

This Federal program helps to address the needs of this vulnerable youth population by assisting in the development of an effective community-based system of temporary care outside the law enforcement structure and the juvenile justice system.

Until recently, there were no reliable statistics on the number of youth who run away from home. The National Statistical Survey on Runaway Youth, mandated by part B of the act and conducted during 1975 and 1976, found that approximately 733,000 youth between the ages of 10 and 17 annually runaway from home for at least overnight.

[1] See p. 69 for Ms. Martinez's prepared statement.

We would like to submit that report for the record.[2]

Ms. MARTINEZ. During the past 3 years, we have found that the youth seeking services are not the stereotyped runaway of the sixties—the runaways who leave a stable, loving home to seek their fortunes in the city or to fill a summer with adventure.

Runaways of the seventies, in contrast, are the homeless youth, the youth in crisis, the pushouts, and the throwaways. The severity of the problems facing runaway youth today is clearly indicated by the statistics related to why they run away from home.

Two-thirds of the youth seeking services from HEW-funded projects cited family problems as the major reason for seeking services. These problems included parental strife, sibling rivalries and conflicts, parental drug abuse, parental physical and sexual abuse, and parental emotional instability. Nearly an additional one-third of the youth were experiencing problems pertaining to school, interpersonal relationships, and legal, drug, alcohol or other problems.

In many communities the HEW-funded projects constituted the only resource youth can turn to during their crises. During fiscal year 1977, $8 million has been made available to provide continuation funding to the 131 current community-based projects. These projects include the National Runaway Switchboard, a toll-free hotline serving runaway youth and their families through the provision of a neutral communication channel as well as a referral resource to local services.

The projects funded by HEW are located in 44 States, Puerto Rico, Guam, and Washington, D.C. It is anticipated that these projects will serve more than 57,000 youth and their families during fiscal 1977.

Each project is mandated by the act to provide temporary shelter, counseling, and after-care services. Counseling services are provided to individual, group, and family sessions. Projects provide temporary shelter, either through their own facilities or by establishing agreements with group and private homes. Many of the programs have also expanded their services to provide education, medical and legal services, vocational training, and recreational activities.

At the termination of the service provided by the project, approximately 49 percent of the youth served return to their primary family home, with an additional 26 percent being placed with relatives or friends.

Senator CULVER. You mentioned there are 733,000 runaway known today in America.

Ms. MARTINEZ. That is true, annually.

Senator CULVER. On a roughly annual basis.

Ms. MARTINEZ. Yes.

Senator CULVER. Of that number, how many are currently availing themselves of the existing 131 community-based projects?

Ms. MARTINEZ. Approximately 57,000.

Senator CULVER. Only 57,000 out of 733,000 are currently getting some sort of formal care?

Ms. MARTINEZ. It is about 4.6 percent.

Senator CULVER. That is 4.6 percent of the eligibles.

[2] The report The National Statistical Survey on Runaway Youth is being retained in committee files.

You are now in the process of giving us a breakout of recidivism on the 4.6 percent that actually are subjected to this process; right?

Ms. MARTINEZ. Not recidivism, sir.

Senator CULVER. I mean they run away again.

Ms. MARTINEZ. No, no. We are saying that they return home.

Senator CULVER. Well, of the 4.6 percent being serviced, how many return home after shelter experience?

Ms. MARTINEZ. Approximately 49 percent——

Senator CULVER. How many youngsters return home?

Ms. MARTINEZ. If we serve 57,000 people, we are talking about returning home approximately 27,000 or 28,000 youngsters.

Senator CULVER. What happens to the other half?

Ms. MARTINEZ. Half of the 733,000 runaways really run away to——

Senator CULVER. Excuse me; I am not making myself clear.

How about the other half of the 4.6 percent that you handle?

Ms. MARTINEZ. Another 26 percent of those are placed with relatives or friends or in foster care or other residential homes or independent living situations. So, we are talking about a total of around 75 percent that are placed in another setting. Twenty-five percent either return to the streets or someplace else.

Senator BAYH. Of the 733,000 runaways, are those individual boys and girls, young men and women, who have run away at least once; or is commingled in there a number of people who have a tendency to run away two or three times? Are we talking about 733,000 different individuals; or are we talking about acts of running away?

Ms. WEAVER. We are talking about individuals, 733,000 young people who are away from home at least overnight per year.

Senator BAYH. In the study, did I understand you to say that you were not going to examine the problem of recidivism?

In other words, of the 57,000, how many of them run away a second or third time? That is one way of telling whether or not a program is working, or whether we are kidding ourselves.

Senator CULVER. You said that there are essentially 25 percent that you lose again.

Senator BAYH. Those are the ones that are not returned home——

Ms. MARTINEZ. Those are the people who either do not return home or are not placed in another situation, 25 percent. So, we were not, I would say, successful with those 25 percent.

Senator BAYH. Mr. Chairman, I think we also need to know this: Having returned them to their home or having returned them to a relative or to some other setting, do they run away again?

Ms. MARTINEZ. We would like to provide that information to you for the record.

[The following information was subsequently received for the record:]

The National Statistical Survey on Runway Youth found that approximately 10 percent of the youth who were interviewed had run away from home more than once during the same year. In the Survey, running away was defined as being away from home at least overnight without the consent of the parent(s) or legal guardian. However, it should be noted that only 2 percent of the total number of youth interviewed during the Survey had received services from an OYD-funded project. More precise data on the number of runaway episodes on the part of the youth served by the OYD-funded projects; the number of youth who run again after receiving services from the OYD-funded projects; and, the num-

ber of youth who return to OYD-funded projects for additional services are being compiled and will be available in late fall.

Senator BAYH. In other words, we think our program is working, but if it is not we would like to know. One way of telling is, of those we reach and of those we place, how many are we successful with. Is that a fair question?

Ms. MARTINEZ. We only serve in the crisis situation. It is a very immediate kind of service. It is not long-term service.

The program has not been designed to provide long-term service. So, if there is recidivism, it is because we have not been able to have a great deal of impact because of the nature of the service. It is not long-term counseling. We do not have the resources to do that.

We are very concerned within HEW about the severe problems experienced by the young people whom we are serving. Currently, we are examining the special needs of runaway youth due to factors such as race, ethnicity, age, and sex.

We are also looking at the techniques and methods for providing services to prevent the occurrence of runaway behavior. Most importantly, we are exploring the provision of services to youth within a broader, national social services strategy which will minimize the fragmentation of service and maximize the impact.

We therefore believe that it is essential that we more precisely identify the service needs of youth experiencing crisis and examine the most appropriate vehicles to deliver services to these youth and their families. As part of this effort, we must also carefully examine whether services for runaways and their families should be provided separately from services for youth and families experiencing other problems.

Based on the review of the information generated from our current studies and from an examination of the role of HEW in the provision of services to the broader population of young people, we proposed to determine what modifications are required to respond to the changing needs of these people. We invite your participation in this process and hope we will be able to work together to develop a sound strategy.

For this reason, we are requesting only a 1-year extension of the act.

I will try to answer any questions you have.

Senator CULVER. As I understand it, the 1-year extension is to afford you an opportunity to really look at the internal administrative service delivery activities of the entire department in terms of welfare generally and of the interrelatedness of the problem.

Ms. MARTINEZ. That is true, but especially in the Office of Human Development.

Throughout the Department we are looking at what the programs are and who they serve and how they serve them.

Senator CULVER. What funding level are you requesting?

Ms. MARTINEZ. We have requested the same level as last year, $8 million. In addition to that $8 million, we have been providing from our research budget, under section 426 of the Social Security Act, another $1 million for research and demonstration services. Plus, we have the salaries and expenses allocation for the program.

Senator CULVER. What is the current level of coordination between the Office of Youth Development and the Office of Juvenile Justice and Delinquency Prevention?

Ms. MARTINEZ. I am going to let Ms. Weaver answer that.

Ms. WEAVER. Currently, we sit on the Federal Coordinating Council, which LEAA chairs. In addition, we are working rather closely with them on the issue of deinstitutionalization and have jointly funded a research project to look at the impact of deinstitutionalization on HEW programs and services.

Senator CULVER. How substantively meaningful has this interagency coordination been?

Ms. WEAVER. I feel the value of the coordination has often been in the work we have been able to undertake together around specific issues, such as deinstitutionalization.

Senator CULVER. Do you think you can really address this problem without considering this in a larger social context of family problems and welfare? Are we really taking off a slice here of a narrow nature without considering this in a larger social context of family problems situation?

Ms. MARTINEZ. I think one of the major problems we have in HEW—and maybe in other Federal departments—is the kind of categorization and fragmentation of programs. I do not believe that we can address any of the problems of youth in a runaway youth program; we are addressing one part of the problem and one piece of an individual and are not addressing the needs of families of which these young people are a part.

We are looking forward to examining the whole issue of families next year and eventually, to have a White House Conference on Families. As you probably are aware, HEW programs and most Federal programs are not addressed to families but are addressed to the particular individual client. I think that has been a problem generally throughout the Government.

Senator CULVER. Do we have anything that addresses the subject of families in the entire Federal structure?

Mr. MARTINEZ. Not really; and that is why we are asking for——

Senator CULVER. You mentioned in your checklist of runaway motivation that three things really were directly attributable to parental breakdown. We have how-to-do-it books on every subject except how to be a parent in America and what the responsibilities are of the social aspects of being a parent.

Ms. MARTINEZ. I think that families are under a great deal of stress. I do not think we have dealt with the problems of families. Somehow we just thought families could make it on their own—that if the Government intervened, it would mess things up.

Senator CULVER. We have hardly provided an inspiring model for more than they are messed up now in America, given the statistics on divorce rates and suicide rates among young people. It is hardly a roaring success with Government out.

Ms. MARTINEZ. I would agree.

Senator CULVER. We have hardly provided an inspiring model for the rest of mankind.

Have you seen any noticeable change in the trends? We attributed so much of the youth unrest to the social response from our Vietnam agony. Now that that situation has subsided; have we seen a difference in the trend lines? Do we have a new generation of youth who

are not really victimized by that particular problem? Do you see any difference in volume of runaways?

Ms. MARTINEZ. We never knew who the runaways were before. Now we are getting statistics.

We do not know whether there are more runaways now than there were during that particular era, we do not have that kind of information because the National Statistical Survey on Runaway Youth was just completed.

My feeling about the reaction to the Vietnam war was that that it was a very healthy reaction by youth. That was the kind of thing for which youth stood up and were counted. They had some values and some philosophy.

I think what we are seeing now is that the kids who are in trouble are not in trouble on the basis of——

Senator CULVER. I was not questioning the social value of that protest. As a matter of fact, I was extremely supportive of it.

My question was how much was attributable to their political family problems, antisocial or abnormal conduct and the need to adopt a different environment and lifestyle attributable to that particular situation, as distinguished from a more fundamental, general, different set of motivations? Was that just a marginal contributing number to this staggering statistic?

Ms. MARTINEZ. I really do not know.

Ms. WEAVER. It is difficult to identify precisely the numbers who were affected by that period. I think the young people we are serving now have much more serious problems. These problems can be attributed not only to the family but to other institutions in our society which are not providing the services that the youth need.

Senator BAYH. Ms. Martinez, you are asking for a 1-year extension; that is all?

Ms. MARTINEZ. That is correct, sir.

Senator BAYH. Last year, under an administration which was not committed to this program, the White House asked for a 3-year extension—or HEW asked the White House. President Ford killed it altogether and took the money out of the budget.

President Carter has reinstated the dollar figure, which is basically the $9 million that you referred to. The Secretary is going to ask for a 1-year extension. You are explaining that that is because you really want to see how comprehensive the program should be before you come up with asking for an extension on a new program.

Is that a synopsis of your feeling?

Ms. MARTINEZ. Yes; we are doing this with all of our programs.

Senator BAYH. May I point out an inconsistency that you perhaps are not aware of? Under the Budget Act, it requires that new legislation be proposed at least a year in advance of the expiration of the old program.

You are asking for a 1-year extension. If you only ask for a 1-year extension, then, to conform to what the law says, as far as the Budget Act is concerned, at the same time you ask for the 1-year extension under the law you have to provide for the new program.

How do you get around that? It seems to me a 2-year extension is the minimal amount that you have to ask for if you are going to be able to do the job and conform to the law.

Ms. MARTINEZ. We think it would be a shame to have to wait 2 years to have any impact upon the legislation and upon the program. Yet we really have not had time to examine the program and decide what changes might be appropriate.

Of course, it is not just this particular legislative package. We feel that if we could have that extra time we could develop a better proposal, working with your Committee, and that we would be able to have impact sooner than 1980.

Senator BAYH. I am sure this measure could be improved upon. I am sure this subcommittee will look at what has happened and have some suggestions; I am sure you will.

I do not know how familiar you are with the legislative process; but just saying that you are going to extend it for 2 years does not mean that you cannot come up here a day after 1 year and submit a whole new program, and that could be passed and take effect as soon as the normal legislative process occurs and the President signs the bill.

Are you aware of that? You are not precluded from making any recommendations or impacting the program just because you extend it for 2 or 3 years or whatever it might be.

You are going to be violating the law in October—just plain violating the law. You do not want to. The law says that you are duty-bound to submit a new program at the same time you ask for an extension. I do not know how you are going to keep from violating the law unless you have an extension longer than 1 year.

Ms. MARTINEZ. Sir, I certainly do not want to violate the law. I hope that somebody would bail me out of jail on that one.

Senator BAYH. Hopefully, you won't have to go to jail; that is why I am suggesting this.

Senator CULVER. Maybe just a runaway shelter.

[Laughter.]

Ms. MARTINEZ. As you know, we are caught in a double bind here because we are deeply concerned that the legislation does not address what we consider to be the broader needs of youth. We want to have some impact if we can come up with a proposal before the legislation expires, we would certainly do that. I have no objection to that.

Senator BAYH. It is fair to say that your reason for opposing extension beyond 1 year is your desire to be able to come up as soon as possible with revisions, extensions, and improvements of the present act? Understanding that you have that right anyhow, you would have no hesitation for us extending for longer than 1 year, if one of our reasons for doing that is to keep you out of jail?

Ms. MARTINEZ. If that is the reason; yes, sir.

Senator BAYH. That is not the only reason.

I have another question. The percentage of runaways was what?

Ms. MARTINEZ. It is 4.6 percent.

While this is a low figure, it is important to note that about one-half of the 733,000 youths who run away actually do not run away to the streets; they run away to extended family members or to friends. So, we are talking about more than 9 percent who we actually serve of those who really run away and are on the streets. It is still not a high figure.

Senator BAYH. I understand that the authorization level is part of the desire to only extend as long as it is necessary to revise the program. But, unless you feel this program has not made any contribution at all—do you feel that this program has not made any contribution at all to the children that it has reached?

Mr. MARTINEZ. I think it has made an enormous contribution, in terms of its crisis intervention. And, again, this is only one kind of service. Even with those kinds of restrictions, it has made a significant contribution.

Senator BAYH. Let me suggest that, maybe through the 1-year extension, we ought to raise the target level. In other words, we ought to be asking for more than the $9 million through that extension period so that we can reach more than 4.5 or 9 percent of the young people.

I am very sympathetic with your feeling and the feeling expressed by the chairman's questions and remarks. Runaway houses do not solve the problems of children. If you could solve the problems of children, you would not have 733,000 run away.

It has been our experience—and I think this will change some, but not completely—that you will find that you are going to be confronted by other people within HEW. They are demanding a piece of HEW's pie. As the chairman points out, we have people across the river that are really getting a piece of the pie that ought to be going to HEW.

It seems to me that one of our responsibilities as legislators is to take advantage of those programs that seem to have a real public acceptance and ride those as hard as we can to get as many dollars in those areas as we can. We were faced, in the past administration, with an administration that was making major retreats in the area of dealing with children's problems. Here is one that we almost forced them to take because it was publicly accepted.

I would hope that, during your study of how you can put together a comprehensive youth program, you take into consideration the fact that in the runaway area you have a particularly sensitive area which the public has been made very aware. Do not restructure it so as to deny us the opportunity to get as many dollars in that program, because the public accepts it and is aware of it, in the hopes that those dollars will automatically go someplace else.

I would like to think that that might be the case. But, unfortunately, I do not think it is going to change that much.

Am I making myself clear?

In other words, the reason for structuring that program was not the feeling that this was going to solve the problems of kids.

Ms. MARTINEZ. I think we need to have this program. I think we need more programs for youth. My feeling, in general, is that we have ignored our youngsters and that many of the problems are symptoms of being ignored.

Within that context, I seriously believe that we have not paid attention to what has been going on in society and what has happened to both the structure and functions of families. I want very much to address those issues.

Senator BAYH. Have you gotten far enough along in your study to have an opinion as to whether the inclusion of homeless youths, as

I have included in the bill that I have introduced, is appropriate? Do you support that?

Ms. MARTINEZ. The inclusion of homeless youth?

Senator BAYH. Yes.

Ms. MARTINEZ. Under the Runaway Youth Act?

Senator BAYH. Under the Juvenile Justice and the Runaway Youth Act.

Ms. MARTINEZ. Should we include them?

Senator BAYH. Yes.

Ms. MARTINEZ. I have not really studied that; but it would seem to me that if there are homeless youths, we ought to provide services for them. Exactly in what manner, I am not sure.

Senator BAYH. Why don't you study the way we have included it in the act and see what your opinion is.

I must say I think we are going to find a much different environment of cooperation, Mr. Chairman, working with Ms. Martinez.

Ms. MARTINEZ. You have a social worker on your hands.

Senator CULVER. What is the breakdown of that 733,000 in terms of sex? What is the percentage of young girls?

What is the percentage of young girls?

Ms. WEAVER. I would have to refer to the statistical survey to give you the exact figures. But, much to our surprise, there are more young men running away; almost 52 percent are young men.

Senator CULVER. Is that a trend which is increasing?

Ms. WEAVER. This is the first study that will provide baseline data. Prior to this study, it was our feeling—and I think the feeling on the part of the public—that young women run away from home more often than young men. The study has shown that not to be the case. Young women do seek services more frequently than young men, however.

Senator CULVER. Statistically, they come to your attention more.

They sent out a questionnaire to some small businessmen recently, Senator Bayh. They asked them to fill out a questionnaire on their degree of compliance with nondiscrimination in personnel hiring practices. The first question was, "How many employees do you have broken down by sex?" The answer came back, "None; our problem is alcoholism."

[Laughter.]

I have no further questions of this witness. Do you, Senator Bayh?

Senator BAYH. No, Mr. Chairman.

Senator CULVER. We do thank you very much. We look forward to working with you in the months ahead. Thank you.

Ms. MARTINEZ. Thank you.

Senator CULVER. Our next witnesses appear as a panel.

I request of the panel that you be good enough to make a brief summary of your position. We will make your prepared statements a part of the record.

Under the Senate rules, we have to recess this committee very soon. We will be having more extensive oversight hearings later in the year. I know the expertise and background that you bring to this subject area will be of continual benefit to us.

In the interest of time, I would respectfully request your cooperation.

STATEMENT OF ROLAND LUEDTKE,[1] NATIONAL CONFERENCE OF STATE LEGISLATURES, LINCOLN, NEBR.

Mr. LUEDTKE. Thank you, Mr. Chairman, I am very delighted to be here.

Prior to assuming the job of speaker in the Nebraska Legislature, I served 6 years as chairman of the judiciary committee of my State. That acquaints me with the general problem that you are wrestling with.

I am here representing the National Conference of State Legislatures, some 7,600 State legislators from all of the 50 States. I am trying to represent their policy position here today.

One of the things I think that you have heard over and over again is getting at the juvenile delinquency problem first and then we will not have so many other problems. I know that is an oversimplification of the problem, but I think it is one that we on the State level have to emphasize. For decades, our criminal justice system has placed more emphasis on dealing with crime after it has happened, after it has been committed.

I speak of things that you are well aware of: equipping police with fancy equipment, multiplying the capacity of courts, making correctional facilities more acceptable to the programs which the various States have, dealing with individuals trying to rehabilitate them, and that sort of thing.

In my opinion, this particular point illustrates the backward logic that has plagued our criminal justice system. That is that we do not start at the beginning. If we could stop it at the point of juvenile justice, where the people go into the tunnel of the criminal justice system, we would not have the myriad of problems that we have later on.

That is an oversimplification, Mr. Chairman, but I want to say it at the outset because I think it is primary to our purpose here.

One thing that really plagues us is the fact that, as you well know, a number of States have refused to participate in the program that we are talking about because they felt that the Federal requirements were too strict and unreasonable. It is this lack of participation, Mr. Chairman, that alarms me most.

I am distressed because of the fact that, presently, Federal requirements are actually discouraging some States—my own State, in particular—from participating. I think, Mr. Chairman, that since you are from Iowa you realize the problems of sparsely populated areas in States. So, when we get into areas like deinstitutionalization of status offenders, we have severe problems of administration on the local level. Whether it be county, city, or State level, we have to wrestle with that at that end.

We are within the nose-punching range. That is the reason why we come to you and say we need more than 2 years. This is one of the areas I wish to address myself to.

Another change that we would like to talk about is the change which concerns 223A(3) of the Juvenile Justice Act. That is the one that involves State juvenile advisory groups. We support the change which, I believe, was proposed by Senator Bayh in S. 1021.

[1] See p. 71 for Mr. Luedtke's prepared statement.

This requires an advisory group to advise State legislatures. Of course, you see the interest of State legislators in that approach. We feel that it is long overdue. This partnership between State and Federal Government from Congress to the State legislature should take place. This is an excellent area in which to make it work.

Speaking for my State and all State legislators, we feel that this is one area where the legislator's role is so important when it actually comes to getting down on the line and putting it down for fiscal matters. We have to continue these programs, as you know. Here is where we need this input. We would stress that point, Mr. Chairman.

Our policy position also goes along, I am sure, with some of the people on this panel who are going to recommend changes in the distribution of funds in section 224B, which allows the Federal Government now to retain 25 to 50 percent of the bulk of funds we feel should be distributed through State and local mechanisms.

We are talking about changing the formula, perhaps, from 25 to 50 percent down to a flat 15 percent rate.

We say this because of the fact that, realistically, you do not solve problems in Washington, D.C. You can set up the programs. You do not solve problems in Lincoln, Nebr., for that matter. You solve them out at what I call nose-punching range, down at the local level.

That is the reason that we feel the bulk of these funds are going to have to end up there. We do not want to discourage the people in getting them, but that is where it has to be done.

The other thing I want to talk about in this respect is that we feel that, with regard to our friends who are going to speak here from the counties and cities, we, from State legislatures obviously feel that that ought to be channeled, as far as subsidy goes, through the State legislature rather than direct subsidies from the Federal level to the other local governmental level. This is because of the fact that we have to be responsible for administering local government; counties, cities are the creatures of the individual State.

We feel very strongly that we should use the Federal portion of the Federal Juvenile Delinquency funding through the State. County, city, local political subdivisions should come to the State, through the State legislature, to—I am emphasizing "State legislature" because of some of the LEAA problems that have existed with regard to the participation of State legislatures in the fiscal end of these governmental units.

I know county and city officials have the same problems that State officials do in this regard, particularly the legislative end of it.

I think, other than that, Mr. Chairman, I would conclude my remarks. I think I have hit most of the points in my prepared statement.

Senator CULVER. Thank you very much.

Donald Payne is our next witness.

STATEMENT OF DONALD PAYNE, DIRECTOR, BOARD OF CHOSEN FREEHOLDERS, NEWARK, N.J., REPRESENTING THE NATIONAL ASSOCIATION OF COUNTIES.[1]

Mr. PAYNE. Thank you, Mr. Chairman.

I am Donald Payne from Newark, N.J. I am director of the Board of Chosen Freeholders, Essex County, and chairman of our subcom-

[1] See p. 73 for Mr. Payne's prepared statement.

mittee on juvenile justice for the National Association of Counties.

I have also had the distinction of serving as president of the National Board of YMCA's. I was also involved greatly with the initial enactment of the legislation in 1974.

Mr. Chairman, the National Association of Counties was an early supporter of the Juvenile Justice and Delinquency Prevention Act. We supported it when it was first introduced; we support its reauthorization today.

Comments on a number of specific amendments to the act are incorporated in our formal statement, which I would appreciate having incorporated in the record of these hearings.

I would like this opportunity to address a single concept included in our statement because I think it will be of particular interest to the committee. It is the need for programs to deinstitutionalize status offenders from secure detention and to separate juveniles from adults in traditional facilities. That need has been well-documented.

The recent study of children's defense fund, outlining in sometimes graphic and painful terms what happens to youngsters placed in adult jails, points to a national disgrace. The recidivism rates are but a dramatic manifestation of this dilemma. What, then, is the answer?

We think a major part of the answer lies within the provision of the Juvenile Justice Act. But, for lack of notice, emphasis, or funding, it has not been sufficiently recognized.

We call, Mr. Chairman, your attention to the State subsidy programs outline in section 223(10)(H) of the act.

Mr. Chairman, we suggest that the State subsidy programs, given proper legislative emphasis and adequate funding, could be a useful and highly successful tool in achieving the results desired in section 223(12) and 223(13) and thereby open the door to more States participating in the act.

State subsidy programs of one kind or another currently exist in at least 17 States and give us reason to think they may be an effective weapon in this instance.

This proposal will accomplish three objectives. It will, first of all, provide additional moneys to encourage deinstitutionalization. Second, it would make it possible for many States not currently participating in the act because of financial barriers precluding compliance with section 223(12) and 223(13) to do so.

Third, we feel it would allow States already participating in the act to concentrate efforts on deinstitutionalization while not neglecting other important programs encouraged by the act.

State subsidy programs have a number of attributes deserving of attention. Once instituted, they tend to become long-term programs. They intimately involve not only the States, but a myriad of local public and private agencies concerned with juveniles in a program in which they have a direct interest.

This will not be just another Federal program with Federal dollars to be used while they last on short-term endeavors. State subsidy programs require substantial commitment by local governments, commitment likely to engender serious efforts. Consequently, the proposed program will encourage partnership between the public and private sectors as well as intergovernmental cooperation.

They encourage long-term planning and coordinate not only governmental resources and programs, but, of those substantial efforts sponsored and managed by nonprofit organizations, which in many communities provide the bulk of services directed toward juveniles. We believe that, if State subsidies did no more than encourage coordination, cooperaton, and planning, they would have served well.

Subsidy programs are versatile and can be used to encourage a wide variety of specific goals. States currently utilizing subsidy programs use them to finance community alternatives to incarceration, approaches to youth development and delinquency prevention, diversion programs, and coordinated youth services at the county level.

We have included some descriptions of how subsidy programs work, as an addendum to this testimony.

Mr. Chairman, in conclusion, the National Association of Counties respectfully urge that Congress give serious consideration to establishing a new title to the Juvenile Justice and Delinquency Prevention Act, one that would provide for an independently funded program of State subsidies which would reduce the number of commitments to any form of juvenile facility and also increase the use of nonsecure community-based facilities, thereby reducing the use of incarceration and detention of juveniles and encouraging the development of an organization and planning capacity to coordinate youth development and delinquency prevention services.

We urge that the title be funded separately to infuse new and needed funds directly into the program, encouraging decentralization, deinstitutionalization, and the care of children deinstitutionalized or diverted from institutions.

Such an effort would illustrate to State governments that the Federal Government considers deinstitutionalization of sufficient importance to warrant a special fiscal and legislative effort by Congress and, implicitly, by State and local governments as well.

We are suggesting funding of $50 million the first year, $75 million the second year, and $100 million for the third year.

We have included specific draft language as an addendum to our prepared testimony. It requires a great deal of work by legislative staff; nevertheless, it will give you some sense of our intentions.

Features of this proposed program include incentives to State governments to form subsidy programs for units of general purpose local government to encourage decentralization and encourage organizational and planning capacities to coordinate youth development and delinquency prevention programs, fiscal assistance to States in the form of grants based upon the State's under-18 population, requirements that the State provide a 10 percent match, and that the State in turn may require a 10 percent match from participating local governments, provisions that subsidies may be distributed among individual units of local purpose government in those States not choosing to participate in the subsidy title, providing proper application is made.

In addition, there are provisions that allow funds to go to States. We feel very strongly that this new title, separately funded, would serve as incentives. We feel that it would really deal with the problem

of deinstitutionalization and separating youthful offenders from adult criminals.

Thank you.

Senator CULVER. Thank you very much.

Senator Bayh?

Senator BAYH. Mr. Chairman, I want to say to you and to the committee staff that the witnesses you have chosen for this panel and the second panel are characteristic of your sensitivity in this area and characteristic of what the subcommittee has tried to do to get citizen groups involved in turning this whole thing around and focusing our resources on preventing juvenile crime and providing a fairer juvenile justice system.

I want to salute you for it.

Senator CULVER. Thank you.

Next we will hear from Richard Harris.

STATEMENT OF LEE M. THOMAS, EXECUTIVE DIRECTOR, OFFICE OF CRIMINAL JUSTICE PROGRAMS, STATE OF SOUTH CAROLINA, ON BEHALF OF THE NATIONAL CONFERENCE OF STATE CRIMINAL JUSTICE PLANNING ADMINISTRATORS [1]

Mr. THOMAS. Thank you, Mr. Chairman.

I planned to be here with Mr. Richard Harris, but he is now testifying before the Senate Appropriations.

I am director of the criminal justice planning agency in South Carolina. I am Mr. Harris' counterpart in South Carolina.

I have been asked by my counterpart in North Carolina, Mr. Gordon Smith, to submit a statement on his behalf.[2] Mr. Smith and his Governor are vitally interested in this program. North Carolina is one of the States that has not participated in the program. They are very anxious to participate.

It is a real pleasure for our conference to have an opportunity to testify today. We testified when this legislation was first authorized in 1974. We supported it very strongly then and support it very strongly today.

There are several things I would like to speak to. First, I would like to say that our association supports very strongly the administration's bill that we are considering today, S. 1218, with several exceptions. One is the authorization level.

We very strongly support an authorization level of at least $150 million a year. We are suggesting a 2-year reauthorization so that the reauthorization of this program will coincide with the expiration of the Crime Control Act. Congress will have an opportunity to review both of those programs at the same time, in that they are closely tied together.

We have several recommendations we would make as to reauthorization. One specifically deals with deinstitutionalization. We feel that the issue of deinstitutionalization is vital and that the majority of the States, if not all of them, are committed to the issue of deinstitu-

[1] See p. 80 for Mr. Thomas' prepared statement.
[2] See p. 221 for Mr. Smith's statement.

tionalization and the objectives that are laid out in this particular legislation.

We feel, however, that the timeframe in the original bill, as well as some of the sanctions that have been considered by LEAA for noncompliance with those timeframes, are too stringent. We would recommend, then, that the deinstitutionalization timeframes and sanctions by somewhat modified—modified not only from the existing bill, but from the bill which you are considering as far as reauthorization is concerned.

We found that, while deinstitutionalization is an objective that we are all trying to accomplish, it has so dominated what we are all doing under this particular program that we have not been able to move forward with many of the other things that we wanted to try to accomplish under this program.

One of the major efforts that we felt we were going to be able to implement were a number of programs in the area of delinquency prevention. Yet, the majority of our resources have had to be directed to deinstitutionalization. While it is a laudible goal, there are other goals we want to try to accomplish in the area.

Specifically under deinstitutionalization, we would request the time frame be changed from 2 to 5 years. Under the Bayh bill, we note that there is an extension of 3 years there, which would be the same as our 5-year period. The only difference that we would recommend would be that each State have the opportunity to develop a plan which would be approved by the Office of Juvenile Justice for deinstitutionalization, specifying goals and time frames for each year, as to how they were going to reach 100 percent deinstitutionalization over that 5-year period. If they do not, their funds would be cut off under the Juvenile Justice Act.

We feel that this is a reasonable kind of approach. Each State is unique in its capabilities to deinstitutionalize. We would like for the administration to deal with each State and allow them the opportunity to develop a plan to deinstitutionalize in a 5-year time frame.

Second, as I have already noted, we feel that at least $150 million needs to be authorized on an annual basis for this program.

One of the problems we face under the program has been a lack of funds. Deinstitutionalization is a tremendously expensive program at the State and local level.

In my State, for instance, we are putting up a significant amount of State and local dollars to go along with what Federal dollars we are getting to accomplish this goal.

Senator CULVER. Of course, you know that is the intent. That is the incentive to deinstitutionalize.

Mr. THOMAS. We understand that.

We feel, though, that the low level of appropriation has been one of the factors that has contributed to a number of States not participating under the program. We feel that, if the carrot was a little larger, we could get more rabbits to jump.

We feel that the majority of the problems that we need to address are at the State and local level and that we have set up a mechanism at those levels to address the problem of the majority of the funds going to the State and local level. Therefore, we would suggest a 15 percent limit on the special emphasis funds so that the majority of

the funds flow down to impact on those problems that are right down at the grassroots level.

Finally, we would propose that one of the problems is the lack of direction by the administration in the implementation of this program in LEAA. We feel that that was part of a lack of commitment by the previous administration to the problems of juvenile justice and this program. However, we do not feel that that lack of direction and lack of commitment need to be solved by some of the changes that are proposed in S. 1021; that is setting up the Assistant Administrator in LEAA as a totally, basically independent office.

We feel that what is needed is central direction, not only to the juvenile justice program, but to the whole LEAA program to address the problems of juvenile delinquency and the juvenile justice system. We feel that can best be done by strengthening the role of the Administrator to work in coordination with the Assistant Administrator to carry out the mandates of this act.

We feel that under the new administration this will be done.

This concludes my remarks. I would be glad to answer any questions.

Senator CULVER. Thank you very much.

Our next witness is Margaret Driscoll. We welcome you here today.

STATEMENT OF MARGARET DRISCOLL, PRESIDENT, NATIONAL COUNCIL OF JUVENILE COURT JUDGES, BRIDGEPORT, CONN.

Ms. DRISCOLL. Thank you, Mr. Chairman.

On behalf of the National Council, I want to thank you and the committee for permitting us to testify before you on what we consider one of the most important pieces of legislation before the Congress now or in previous years.

I am also speaking, incidentally, as an experienced judge of some 17 years on the bench of the Connecticut Juvenile Court, with a jurisdiction which includes the area from the Massachusetts line to the New York line, and the western part of Connecticut. Included in its population are the wealthy, the poor, the middle class, industrial, rural, suburban, and urban areas. It has a population of some 1 million. So, I do not speak from any narrow kind of perspective on this whole question of juvenile justice.

First of all, let me say, not only personally but on behalf of the council, we think this Juvenile Justice Act has had significant impact on the juvenile justice systems of this country. First it has had an impact in improving the quality of justice as it is exercised by judges and juvenile justice personnel throughout the country. Through LEAA grants, our council has been able to train judges and juvenile justice personnel.

I think we may be the first judicial organization to train judges. We began training in the fifties. With LEAA funds, we have been able to expand those training programs so that we now have four 2-week college training programs at the University of Nevada. We have a 1-week graduate session at the same university or, sometimes, other places. We have national training programs with the National Legal Aid and Defenders Association, with the National Association of District Attorneys. We have also run management institutes for juvenile justice managers.

These were not funded by the LEAA, but attendance at them was funded through the State planning councils funded by LEAA. We had an indirect benefit.

That is why I would be a little concerned about putting all the emphasis on the local level and not enough on the national level. There is a lot of impact from the national level which filters down to the local level to people who are being trained through national programs.

We also have a research center in Pittsburgh which has been funded by LEAA to collect the data on juvenile justice operations that HEW used to collect. Included in that grant is a proposal to redesign the model so that the data that we get will be meaningful as well as uniform. Up to now, I think it has been almost meaningless.

I think there has been an enormous impact, as I said, from this program. The effect of the training programs, of course, depends on quality and on numbers. The way we might determine quality is in the fact that the numbers have risen from 1,127 in 1969 to 5,279 in 1976. That would mean at least that the reports of the quality are sufficient to attract increasing numbers of people.

Senator CULVER. What do those numbers refer to, Judge?

Ms. DRISCOLL. These are all of the people who have been trained by our national college training programs.

The 5,000 sounds like a lot, but we estimate that that is only one-third of all of the juvenile judges presently sitting have been through our program. That means that there is a lot more to be done. I could not agree with you more that the amounts that ought to be authorized for this program should be at least $150 million. We have a lot more work that ought to be done.

Prof. Robert Martinson is often quoted as the one who says that no treatment works in juvenile justice. In updating his research on recidivism, he discovered to his great consternation, that the rate for juveniles is actually under 30 percent.

That is only part of the story. On the State part, all of us in State juvenile courts and local juvenile courts have had all kinds of programs and resources and facilities made available to us through grants from the State planning commissions. In our own State, for example, we have been able to get a State director of probation services and a research director, both of whom we have built into our system now. They are now being paid for by the State.

We have also had several programs which are dispositional alternatives: vocational probation, a volunteer program, a court clinic, an intensive probation program, and an intake project which includes parent effectiveness training as well as guided group interaction and tutoring. All of these are measures which keep kids at home, at school, and out of trouble. We have found all of these to be very helpful to us in achieving this purpose.

You may ask what the success rate is. We do have a computer now in Connecticut. We found out through the computer that in 1976, 2,000 fewer children were referred to the Connecticut juvenile court than in 1975. This may be a——

Senator CULVER. Judge, could you give me those figures again?

Ms. DRISCOLL. It is 2,000 fewer children. We count children, offenses, and referrals. There were 2,000 fewer children referred to the Con-

necticut juvenile court in 1976 than in 1975. It was a figure of 13,000 as against 15,000. The pattern is continuing.

We are getting a decreasing number of referrals. In addition, in 1975——

Senator CULVER. Is this accounted for, in large part, because of the alternative social service agency availability and the success of that program rather than parental effectiveness training?

Ms. DRISCOLL. That is part of it.

Senator CULVER. But the largest is accountable by the redesign?

Ms. DRISCOLL. Yes. I am getting to the figure that is accounting, in part, by parent effectiveness training; that is the recidivism figures. But in this figure I think a lot of it is accounted for by the youth service bureaus and by the police screening programs, both of which are funded in part by LEAA funds. I think they must bear a major share of the credit for that kind of figure. But, on the recidivism figure, I think we can have some credit for that.

We show that 68 percent of all referrals in 1975 were first offenders. In contrast to some of the figures that have been bandied about nationally on status offenders, only 11 percent of all offenses—not offenders—referred to the Connecticut courts in 1975 were status offenses. That is not atypical with us. This is about the same figure we have been getting all along.

In fact, in our deinstitutionalization project our figures were so low some changes had to be made to get a bigger sample. They could not even find enough kids to get into the program.

As I say, we cannot pinpoint the cause of why we have these statistics. But I am sure all of these elements funded by LEAA have had impact. When you have resources and alternatives, it is possible, first, to keep kids out of the system and then, if they get in, to help them not return.

So, we want LEAA to continue. We want the Juvenile Justice Act to continue and to be funded at an even greater level than it is presently. However, we think there are some changes that ought to be made.

The changes revolve around the whole question of dealing with the status offender as the major question which ought to be dealt with by this Act. We are totally opposed to that kind of approach. We believe the whole concern with deinstitutionalizing only status offenders ought to be changed and expanded to deinstitutionalize all offenders.

Why should it be that children who commit status offenses ought to be treated humanely, and those who commit other kinds of offenses should not be treated humanely? Why should there be a difference in treating any of these youngsters?

The fact is that, under the present Act, the status offenders, who you are trying to protect, are really excluded——

Senator CULVER. What if you have a three-time rapist who is under 18? What about that category?

What is so arbitrarily comforting about 24 years, or whatever, without any discriminatory application of the nature of the offense of the individual involved?

What you are implying to me is that there is some magic in youth that we should not make this distinction. We ought to uniformly apply

this noninstitutionalized status treatment to everybody in that category.

That is what I understood you to say.

Ms. DRISCOLL. No. I thought I said that the emphasis ought to be on deinstitutionalizing all instead of some.

Our additional proposal is that those who commit repeated violent offenses ought to be separated, if anybody is to be separated, from other youngsters who commit other offenses.

The problem with this whole discussion is that the Act implies that what happens to a youngster ought to be dependent on the offense he commits. That is also the attitude in the criminal court and the adult criminal system. That is totally opposed to the juvenile court philosophy, which is that each youngster should be treated as an individual, that his total situation ought to be looked at to determine what is needed to keep that youngster from returning to the system.

If the 30 percent recidivism rate is accurate, then we are doing something that is right at least a majority of the time. If the 30 percent figure is accurate again, then what we ought to do is concentrate on reducing that figure to zero instead of picking out a child who commits this or that offense and saying that we are going to do one thing for this kid and put all the emphasis there.

You have already heard all the difficulties with the status offender provision. You have heard what one gentleman just finished telling you about how the concentration on the status offender problem has deprived us of the opportunity of really dealing with all the other problems.

Really, the major problem which the public sees is not as much the status offender as the violent offender. The violent offender is the one who hits the headlines. In Connecticut we had a legislative committee going all around the State to try to find out what the impact would be of removing status offenders from the system and what should be done about the whole juvenile court system. We had three people who wanted to remove status offenders.

We ended up with a proposal now in the legislature which we did not recommend, but which the legislators apparently did on the basis of feedback they got. It would extend the age for status offenders from 16 to 18 in Connecticut. So, we had a kind of reverse effect from all of this emphasis on status offenders.

I really think that the Act has the wrong end of the stick. If you are going to do anything effective that will have public effect, it ought to be on the other end, where the public is geting the bad effect, where they are getting youngsters who are repeating and are repeating violent offenses. There are resources to deal with this, but they are not enough. They are never enough.

The more money we can get, the more resources can be created to handle youngsters who have committed this kind of behavior on a repeated basis. But, until we get the emphasis on that, we will be putting it in the wrong direction. We will be wasting a lot of time and a lot of energy.

We have been doing this in Connecticut. We are in the deinstitutionalization project. I can tell you that it is one headache after another. We are glad to have more resources, but we really think that it would be better if we could spend this time and energy in trying to help the

youngsters who are causing the more serious problems in the community.

I also want to say to you that I think one of the major assumptions of this Act is that the ultimate evil is a secure placement instead of the dangers that confront kids who do run. One of the problems of philosophy here is those who feel that you do not need authority to deal with youngsters who are rebelling against authority. Yet, how else are you going to reach them?

You have already heard the figure of 25 percent who are not being reached by the so-called voluntary programs. It is our feeling that it is a mistake to try to remove authority from dealing with youngsters who are in rebellion against authority.

I am not going to take any more time except to thank you for letting me speak in the detail in which I have today. I urge this committee to do what I hope you are already going to do. That is to recommend not only the extension of the act with the amendments which we are suggesting—by the way, we are also suggesting a redefinition of "correctional facility." It would only apply to public training schools.

Right now, "correctional facility" includes any private group home or treatment agency, whatever. Status offenders, under the present act, cannot get into those facilities because they all have kids who have been adjudicated delinquent or are charged with delinquency. So, we are recommending a change in that definition and also a change in the community facility definition.

Under that definition, you require that the community and the consumer be included in the planning, operation, and evaluation of the program. Well, I do not know of any community-based facility that would meet all three of those requirements.

I think it is foolish to try to make the definitions so detailed and so narrow that, in effect, you are knocking out some very good community-based facilities.

I thank you again on behalf of the council. I hope that the act will be passed with the authorization at $150 million.

Senator CULVER. Thank you very much, Judge Driscoll. We appreciate very much your statement.

Our next witness is Marion Mattingly.

STATEMENT OF MARION MATTINGLY, NATIONAL ADVISORY COMMITTEE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION, BETHESDA, MD.[1]

Ms. MATTINGLY. Thank you, Mr. Chairman.

My name is Marion Mattingly. I am a member of the National Advisory Committee for Juvenile Justice and Delinquency Prevention. I am also a member of the Maryland State Advisory Committee, the Montgomery County Criminal Justice Coordinating Commission, and a number of other State and local committees in the State of Maryland.

I am here today representing the National Advisory Committee.

Juvenile justice and delinquency prevention is our highest priority. I would like to take this opportunity to emphasize some of the areas of greatest concern to our committee.

[1] See p. 85 for Ms. Mattingly's prepared statement.

Generally speaking, the committee supports many of the provisions of the administration's bill and of Senator Bayh's bill. In both sets of proposals, there are certain areas which we would like to see melded into the authorization.

Because of time constraints, I will touch briefly on these areas.

Senator Bayh's proposal for funding is far more realistic if the purposes of this act are to be really accomplished. Such funding will make it possible for the committee I represent and the coordinating council to do a far more effective job.

Our committee of 21 members and three subcommittees legislated has no full-time staff assigned. We share the services of two persons who have many other responsibilities. Additional staff is needed in order for us to work more effectively and in close cooperation with State advisory and other citizen groups.

This is an area that needs much closer attention than the committee has been able to give to it. The work of the coordinating council is essential any successful program on juvenile justice. We also believe that the number of job slots made available to the Office of Juvenile Justice and Delinquency Prevention has been unreasonably limited in light of the importance, complexity, and comprehensiveness of the responsibility assigned.

The committee fully supports the amendments which would clearly—and I do mean clearly—provide that the Assistant Administrator must be delegated not only the responsibility but also authority for all administrative, managerial, operational, and policy decisions. That authority is currently lacking.

The clarification of the question of full compliance is exceedingly important. Also, the committee endorses Senator Bayh's provision to include the Director of the National Institute of Drug Abuse, Director of Office of Management and Budget, and the Commissioner of the Office of Education as members of the coordinating council. This is not a part of the administration proposal. We feel it should be so that all agencies dealing with juvenile justice will be truly coordinating their efforts and so that there will be better understanding of the needs of the office, resulting in more appropriate budgeting.

We fully support Senator Bayh's amendment which would make clear the role of the State advisory committee to advise not only its supervisory board but also its governor and legislature.

The National Advisory Committee believes that it should be able to communicate directly with the President and with the Congress as well as the Administrator of LEAA. We believe that it is imperative that the maintenance of effort provision be continued. Leadership is the single most important quality for juvenile justice and delinquency prevention on every level.

In conclusion, I would like to thank the members of the subcommittee for the privilege of appearing before it today. I and any member of the committee would be glad to provide you, Senator, or members of your staff with any additional information you might wish.

Thank you.

Senator CULVER. Thank you very much.

I thank all of the panel very much. I had a number of questions which I think have been responded to by the various perspectives that are represented here. I do want you to know that we will carefully

review the full testimony you have provided us with during markup of this legislation.

Our second panel this morning will be next to testify.

I thank you very much for coming.

Mr. Mould?

STATEMENT OF CHRISTOPHER M. MOULD, GENERAL COUNSEL, NATIONAL BOARD OF YMCA'S

Mr. MOULD. Thank you, Mr. Chairman.

I appreciate the opportunity to appear before the subcommittee this morning.

I would point out that I am here in a representative capacity on behalf of Boys' Clubs of America, Camp Fire Girls, Girls' Clubs of America, Girl Scouts of the USA, the National Council of YMCA's, the National Federation of Settlements and Neighborhood Centers, the National Jewish Welfare Board, and Red Cross Youth Service Programs.

All of them endorse the prepared statement that we submit for the record.[1]

Mr. Chairman, these organizations were actively involved 4 years ago in the effort that went into seeking the enactment of the current Juvenile Justice Act. We are greatly concerned that it be renewed and extended for a minimum of 3 years.

It was noted earlier in the panel that preceded us that perhaps it would be best to have it go for 2 years so it would coincide with the expiration date of the Omnibus Crime Control and Safe Streets Act. We, frankly, think that would be unwise and would tangle up this very important program and act with a very different piece of legislation with different problems. I think we ought to keep them separate.

With respect to authorization levels, we would recommend that, for those 3 years ensuing, for the first year the authorization be $150 million; the second, $175 million; and the third, $200 million.

I do not know that it has been mentioned today, Mr. Chairman, but I think it is important that we bear in mind that the Juevenile Justice Act is not the only source of funds administered by LEAA which are going into juvenile justice programs. There is, as you are aware, a so-called maintenance of effort provision which requires in excess of 19 percent of the appropriations under the Safe Streets Act be devoted annually to juvenile justice programs in addition to funds under the Juvenile Justice Act.

We are concerned that, because that formula is a percentage formula and because the trend in funding of the Safe Streets Act is downward, that this is going to start reducing the total amount of funds available for juvenile justice and delinquency prevention unless we are very careful. We would urge that to the attention of the committee.

We feel very strongly, Mr. Chairman, that there has been substantial progress in the States toward deinstitutionalization of status offenders as required by the act for those States participating under the act.

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[1] See p. 88 for Mr. Mould's prepared statement.

We would strongly encourage retention of the current provision. We believe the States can meet the requirement if they are serious about it and they go to work on it. We feel it would be a backward step to loosen that requirement and discourage the kinds of efforts that are starting to be made to really accomplish the goal of the act.

We would further suggest, Mr. Chairman, that the present act be amended to enable 100 percent financing of programs and activities authorized under the act conducted by private, nonprofit agencies. The real world today is such that agencies like ours and our local affiliates are having a tough time surviving. Too many are operating on a deficit and are often having to resort to dwindling reserves where they have reserves at all.

When you combine the frequent imposition of a 10 percent up-front cash-match with the need—2 or 3 years down the pike—to take over 100 percent financing and continuation of LEAA-funded activities, it is a very heavy burden which impedes and, in many cases, makes impossible the participation of our kinds of agencies who have skills and commitment and a lot of dedicated volunteers ready to work in this area.

Thank you, Mr. Chairman.

Senator CULVER. Thank you very much.

Mr. Woodson, we are glad to welcome you here today.

STATEMENT OF ROBERT WOODSON, DIRECTOR, NATIONAL URBAN LEAGUE, CRIMINAL JUSTICE DIVISION, NEW YORK, N.Y.

Mr. WOODSON. Thank you, Mr. Chairman.

The National Urban League's criminal justice programs over the past 5 years have had the thrust of broadening the involvement of the minority community in the control and prevention of crimes, with particular emphasis on youth crime.

As you know, a large proportion of those young people caught in the system are minority youngsters. In fact, in the city of New York, white youngsters are considered "others" in our statistics.

During the past 5 years, we have come before the Congress and made testimony. We have cooperated with LEAA in an attempt to bring about solutions to some of the problems. However, I must confess that we believe one of the problems facing LEAA is a lack of sensitive, imaginative, and creative leadership. I do not know of any amendments to the act that can substitute for that.

We have found the Office of Juvenile Justice, along with the many other offices within LEAA, have been totally insensitive to the minority community. We do not know how you can begin to talk about solving the crime problem without significant involvement by the minority community. The absence of that involvement is often interpreted by some people as if minority people condone and support crime; we do not.

In response to this, the Urban League, on its own and with limited funding, convened a conference of several black criminologists providing a forum for them to share their insights and experience. There were 50 invited practitioners representing a variety of perspectives within the field. These were lay people on the street, ex gang members, as well as the commissioner for public safety for the city

of Atlanta, the commissioner of corrections for the State of New York. We had a broad cross-section to discuss these problems.

Later, in response to the trend toward a declaration of war in our young people, we convened a conference of present and former gang members to enlist their aid in finding solutions to the problems. In addition to this, in our own study we went around the country and solicited information from at least 50 programs.

We found that 30 of them had dealt with young people. Only 10 received any kind of Federal support. We have found, in Philadelphia, that a local organization operating with gang young people for the past 8 years has been successful in reaching 73 gangs representing 5,000 young people. The result is that there has been a decline from an average of 45 gang deaths per year in the city of Philadelphia down to a low of 7 this year.

Yet, programs like this do not receive Juvenile Justice Office funds. We have brought these programs to the attention of the Office. They have been totally immune to any type of discussions of funding these programs.

What we get is the runaround. Things are so bad that the Urban League does not encourage its affiliates or other related organizations to even apply for funds. One has to go through the applications process only to find that either you do not get a response back through the mail, or there is just total insensitivity.

Senator CULVER. Mr. Woodson, do you have a copy of the report of that conference?

Mr. WOODSON. Yes.

One report is going to be published in book form, Senator. It is going to be called Black Perspectives on Crime and the Criminal Justice System. That is going to be published by the G. K. Hall Co.

I do have for you a report that we prepared last year that Mr. Carl Rowan commented on in his column last week. It is called A Review of the Law Enforcement Assistance Administration's Relationship to the Black Community. It has a thorough analysis and highlights some of the problems.[1]

For instance, LEAA only has one minority person in any kind of policymaking position. Most of the blacks in LEAA are in the EEO Office. That organization has no power. We have no one in policy and planning that reviews—I can go on and on. The report states it much more eloquently than I can now.

Senator CULVER. That will be a part of the record.

Mr. WOODSON. Also, I would like to make part of the record two articles, one from the New York Times and one from the News, that describe the conference and also talk about some of the other problems.

Senator CULVER. Without objection they will be inserted in the record.[2]

Mr. WOODSON. Thank you.

Senator CULVER. We thank you very much for appearing here today, Mr. Woodson. We look forward to reviewing that report very carefully.

Flora Rothman is our next witness. We are pleased to welcome you here this morning.

[1] See p. 91.
[2] See p. 98.

STATEMENT OF FLORA ROTHMAN, CHAIRWOMAN, JUSTICE FOR CHILDREN TASK FORCE OF THE NATIONAL COUNCIL OF JEWISH WOMEN, NEW YORK, N.Y.[1]

Ms. ROTHMAN. Thank you, Mr. Chairman.

I will be as brief as possible. For the most part, our statement regards differences between S. 1021 and S. 1218. In each of the cases cited, we support the version S. 1021, most specifically in the area of strengthening the administration of the Office of Juvenile Justice and in expanding the National Advisory Committee role. I would point to a number of provisions that Senator Bayh has included in his bill which are not present in the other.

In regard to deinstitutionalization of status offenders, which is an area that the National Council of Jewish Women feels very strongly about, I would just like to say a few things.

One of the reasons we do feel so strongly is that, when we conducted our national study of the juvenile justice system in this country, our members were really quite shocked to find the large proportion of incarcerated children in this country who have not committed a crime; those are our status offenders.

Our concern with deinstitutionalization goes beyond the matter of humane treatment to the matter of justice. We feel that it has not been done.

As a result of the Juvenile Justice and Delinquency Prevention Act of 1974, a number of States are very actively pursuing that goal of deinstitutionalization and are quite close to it. My own State, New York, has already removed all status offenders from training schools and is proceeding to do the same with those who are in detention centers.

It is for this reason, the belief that it can be done, that we are quite distressed at attempts to weaken this provision. We feel that at some point we must fish or cut bait on the issue. We must be prepared to penalize those States which will not make the effort, lest we continue a pattern of further compromise rather than deciding we are going to stand by the principle.

Senator CULVER. That signal means there is a vote on the floor. I have about 7 minutes before I will have to go.

I feel embarrassed by that. I think it has hardly been fair to all of you on the panel; you have much to contribute. I want to emphasize we are going to look closely at all of the statements in the markup.

Second, we will be conducting extensive oversight this fall, which has not been done on the act yet. All of you may be asked to help us.

Ms. ROTHMAN. I have two more sentences.

We prefer funding at $150 million for the next year; and we wish you luck in the chairmanship of the subcommittee.

Senator CULVER. Thank you very much. I am very sorry that we have run out of time could I ask you to be good enough to submit your testimony for the record. Those of you who have not had a chance to speak I would be glad to meet with individually.

Mr. TREANOR. Could I suggest we take 30 seconds apiece?

Senator CULVER. Fine.

[1] See p. 99 for Ms. Rothman's prepared statement.

STATEMENT OF WILLIAM TREANOR, EXECUTIVE DIRECTOR, NATIONAL YOUTH ALTERNATIVES PROJECT[1]

Mr. TREANOR. Mr. Chairman, the National Youth Alternatives generally supports the Bayh amendments to the Juvenlie Justice Act.

We are working on behalf of alternative community-based youth serving agencies such as youth service bureaus, hot lines, drop in centers, runaway centers, youth employment programs, and alternative schools.

We do much of our work by alliances with statewide youth coalitions.

We support the increased authority of the assistant administrator and increasing the staff of that office.

We want to eliminate the hard match on grants.

We want to hold the line on compliance with the deinstitutionalization requirements of the 1974 act.

We want to increase the powers of the National Advisory Board and have youth workers represented on the National Advisory Board.

Also, we want to increase the powers of the State advisory board and place youth workers on the State advisory board.

Senator CULVER. Which are both included in the Bayh bill.

Mr. TREANOR. No, sir. The National Advisory is, for youth workers; but not on the State advisory board. I believe you need to take a look at that area.

Senator CULVER. Good.

Mr. TREANOR. We would like to see the 10 percent allotment of funds to the State advisory boards to make those obligations there.

Then, on the Runaway Youth Act, we support coordinated networks, the inclusion of short-term training, raising of the grants to $100,000 maximum, inclusion of a 24-hour telephone crisis service with funding up to three-quarters of $1 million. That is the program that Assistant Secretary Martinez mentioned.

On the appropriations question, we support $150 million minimum for the Juvenile Justice Act and the full $25 million that Senator Bayh asked for in his amendment. The current $8 million supports 130 programs. I point out only three in Iowa. Together, maybe they have $125,000 to serve the entire State of Iowa.

We think that $25 million is the minimal amount that is needed.

Thank you.

Senator CULVER. Thank you very much.

Next is Lenore Gittis Mittelman of the Children's Defense Fund.

STATEMENT OF LENORE GITTIS MITTELMAN, CHILDREN'S DEFENSE FUND, WASHINGTON RESEARCH PROJECT, INC.

Ms. MITTELMAN. Senator Culver, because there are a number of issues that I would like to address that I think have not really been addressed, at least from the perspective that the Children's Defense Fund has, I wonder if we could take advantage of your offer to meet with you for a short time sometime this afternoon or perhaps tomorrow? We would submit the testimony for the record, but meet with you on these issues.

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[1] See p. 101 for Mr. Treanor's prepared statement.

Senator CULVER. I would be very happy to do that.

I appreciate your cooperation and understanding.

Ms. MITTELMAN. Thank you.

Senator CULVER. We will work out a time to do that.

Ms. MITTELMAN. The issues that are of most concern to us are those issues surrounding the change in the deinstitutionalization requirement, those issues that are raised by changes proposed by both Senator Bayh and the administration, in changing "must" be placed in shelter facilities to "may" be placed in shelter facilities as far as status offenders are concerned, and many of the issues around the jailing of children.

Children's Defense Fund has issued a report that has been mentioned this morning. I have that for the committee.[1]

Senator CULVER. That also will be included in our records.

Our last cooperative witness is Mr. Kenneth Wooden.

STATEMENT OF KENNETH WOODEN, FOUNDER, THE NATIONAL COALITION FOR CHILDREN'S JUSTICE, PRINCETON, N.J.

Mr. WOODEN. Senator, I would prefer that you go vote and vote your conscience.

If possible, I would like 15 minutes of your time this afternoon.

Senator CULVER. We will try to work out something for both of you then, if it is all right.

Your statements will be made part of the record.

I do apologize to all of you. I have so much to learn, and you have so much to provide to me and the committee. I do not want to leave the impression that we are insensitive to your contribution or to your experience. We have to have the full benefit of that.

I do apologize for letting this thing get out of phase a little bit on the timing. I look forward to working with you in the months and years ahead and having your continued cooperation.

Thank you very much.

The hearing is adjourned.

[Whereupon, at 1:10 p.m., the hearing was adjourned, subject to call of the Chair.]

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[1] See p. 133.

APPENDIX

21-782—78——5

PREPARED STATEMENTS SUBMITTED FOR THE RECORD

STATEMENT OF JAMES M. H. GREGG, ASSISTANT ADMINISTRATOR, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, U.S. DEPARTMENT OF JUSTICE

Mr. Chairman, I am pleased to appear today before this Committee to urge your favorable consideration of legislation to reauthorize the Juvenile Justice and Delinquency Prevention Act of 1974. I am joined by Mr. Thomas J. Madden, General Counsel of the Law Enforcement Assistance Administration, and Mr. Frederick P. Nader, Deputy Assistant Administrator for the Office of Juvenile Justice and Delinquency Prevention.

As you know, the current Act is scheduled to expire at the end of the fiscal year. A proposal to extend the legislation was transmitted to Congress by the Attorney General on April 1, 1977.

In 1974, the Congress determined that the Law Enforcement Assistance Administration was the appropriate division of the Federal Government to administer an innovative new juvenile justice and delinquency prevention program and to coordinate the activities of all agencies which impacted on the serious youth crime problem. We have taken that mandate quite seriously and, with the help of a qualified and dedicated staff, have worked hard to assure effective implementation of the program. We look forward to continuing our efforts, and appreciate the concern of the Committee regarding this program.

In my statement today, I would like to discuss the progress made by LEAA in implementing the Act and then briefly address our proposal to reauthorize this important program.

Juvenile delinquency continues to be one of the most difficult problems facing the Nation. Many factors contribute to a child's becoming delinquent. Emotional, physical, and behavioral problems play a part, as do the frustrations a child meets in a disadvantaged environment. Once a youth is labeled delinquent, this label may itself stimulate further misconduct.

While the role of the Federal Government in solving these problems is appropriately a limited one, there is much that can be accomplished through a program which promotes coordination and cooperation at the federal, state, and local levels, permits innovation by both governmental and private agencies with the help of federal leadership, and provides for careful study of some of the problems we face. The Juvenile Justice and Delinquency Prevention Act of 1974 has given us the framework for such an effort.

LEAA, through the Office of Juvenile Justice and Delinquency Prevention (OJJDP), is attempting to build an effective program within the framework provided by the Act, utilizing resources available under both the Juvenile Justice Act and the Crime Control Act. I believe we have shown that the program can have a significant impact on certain aspects of delinquency and youths at risk of becoming delinquent.

The functions of OJJDP are divided among four divisions assigned major responsibility for implementing and overseeing the activities under the Juvenile Justice Act. Functional areas are State Formula Grant Programs and Technical Assistance, Special Emphasis Prevention and Treatment Programs, the National Institute for Juvenile Justice and Delinquency Prevention, and Concentration of Federal Effort. While these functions are closely interrelated, I will, for the convenience of the committee, organize my remarks according to these functional areas.

STATE FORMULA GRANT PROGRAM AND TECHNICAL ASSISTANCE

An aspect of the program established by the Act most crucial to its success is that providing formula grants to support state and local projects. Each participating state is entitled to an annual allocation of funds according to its relative population of people under age eighteen. Funds are awarded upon approval of a plan submitted by each state which meets the statutory requirements of the legislation.

To date, 77 million dollars have been awarded for the formula grant program. In fiscal year 1975, the first year of the program, 9.25 million dollars were made available and for fiscal year 1976, 24.5 million dollars were made available. The amount awarded rose to 43.3 million dollars in fiscal 1977.

LEAA is concerned, however, that these funds have not been expended as quickly as we would have preferred. Of the 33.8 million dollars made available for fiscal year 1975 and 1976, only two million dollars, or six percent, had been expended as of December 31, 1976. Furthermore, only 27 percent of the total formula grant funds for these two years had been subgranted for specific state or local projects.

The reasons for this delay are varied. The Act requires the creation of new planning mechanisms and advisory groups in each participating state. Many states have encountered difficulties in establishing these required structures. Also, the Act includes strict requirements that necessitate legislative action or significant executive involvement in some jurisdictions.

While there are indications that funds are being expended at an increasing rate, the Administration's proposed legislation seeks to correct some of the problems which have delayed the use of funds, as my further testimony will point out.

As required by the Act, at least two-thirds of each state's formula grant funds are expended through local programs. Not less than 75 percent of the available funds are used for advanced techniques in developing, maintaining, and expanding programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, and to provide community-based alternatives to juvenile detention and correction facilities.

Sections 223(a) (12), (13), and (14) of the Act are central to its operation. These deal with deinstitutionalization of status offenders, separation of juvenile and adult offenders, and monitoring of facilities. Ten states are currently not participating in the program. The primary reason mentioned by these states is concern regarding compliance with the Act's two-year time frame for deinstitutionalizing status offenders pursuant to 223(a) (12), and the absolute prohibition of regular contact between adult and juvenile offenders of 223(a) (13).

LEAA has also experienced some problems in assuring that the states meet the monitoring requirements of 223(a) (14). The initial monitoring reports were required to be submitted by participating states on December 31, 1976. Frankly, we were disappointed with the content of the majority of the reports received. Most states did not present adequate hard data to fully indicate the extent of their progress with the deinstitutionalization and separation requirements. In addition, few provided base-line data that would be needed, to demonstrate "substantial compliance" with deinstitutionalization after two years.

As I will subsequently discuss, the reauthorization bill which we have proposed will ease the deinstitutionalization requirement. This amendment, together with our commitment to continue the program, will probably result in some states reconsidering their decision not to participate because of the stringent deinstitutionalization requirement.

Regarding monitoring requirements, the states are being notified that LEAA expects fiscal year 1978 plans to indicate how accurate and complete data on deinstitutionalization and separation will be provided in the report due on December 31, 1977. This is crucial because under the self-reporting system, these data will be used to determine whether states which first participated in the program in 1975 will continue to be eligible for funding under the formula grant program. In addition, LEAA is making technical assistance available to assist those states that are having problems providing the monitoring information currently required by LEAA guidelines.

Both state and local efforts and national initiatives are aided with technical assistance provided by OJJDP. Help is given in the planning, implementation, and evaluation of projects. Technical assistance is also used to help participating jurisdictions assess their needs and available resources and then developing and implementing a plan for meeting those needs.

Technical assistance funds have been used to support our special emphasis initiatives in the areas of deinstitutionalization, diversion, and delinquency prevention. Awards were made to contractors with expertise in delinquent behavior and knowledge of innovative programs and techniques in the program area. Technical assistance also supports state planning agency activities to meet requirements of the Act.

A technical assistance plan has been prepared to support OJJDP functions. The program includes quarterly workshops for regional and central office staff. This

approach assures a proactive rather than reactive technical assistance stance by OJJDP, since all personnel are kept informed of developments in implementing the program, and the techniques which may be of assistance in improving the program.

SPECIAL EMPHASIS PREVENTION AND TREATMENT PROGRAMS

An important element of the OJJDP effort is the discretionary fund which is to be used by LEAA for special emphasis prevention and treatment programs. Funds are used for implementing and testing programs in five generic areas: Prevention of juvenile delinquency; diversion of juveniles from traditional juvenile justice system processing; development and maintenance of community-based alternatives to traditional forms of institutionalization; reduction and control of juvenile crime and delinquency; and, improvement of the juvenile justice system. In each area, program approaches are to be used which will strengthen the capacity of public and private youth service agencies to provide services to youths.

Parameters for development of Special Emphasis Program initiatives are as follows: Each program initiative will focus on a specific category of juveniles; a specific program strategy will direct this focus for achievement of concrete purposes within a specified time frame; sizeable grants will be awarded for two or three-year funding, based upon satisfactory achievement of specific goals at the end of each year; program specifications will require applicant conceptualization of approaches and delineation of problems to be addressed; projects will be selected in accordance with pre-defined criteria based upon the degree to which applicants reflect the ability and intent to meet program and performance standards; applicants may be private non-profit organizations or units of state or local government; program descriptions and performance standards will identify those elements essential to successful achievement of program objectives and operate as a screening device; the development of the objectives and goals of each program initiative is based on an assessment of existing data and previous research and evaluation studies; each program is designed so that we can learn from it and add to our knowledge of programming in that area; selections are made through review and rating of preliminary applications. This results in selection for full application development of those proposals considered to most clearly reflect elements essential to achievement of program objectives.

Using this approach, four special emphasis initiatives have already been announced. The first major initiative was announced in March 1975 and involved programs for the deinstitutionalization of status offenders. Over 460 applications were received for programs to provide community-based services to status offenders over two years. By December 1975, grants totalling nearly twelve million dollars were awarded.

Of the thirteen projects funded, eleven were action programs to remove status offenders from jails, detention centers, and correctional institutions over two years. Nearly 24,000 juveniles will be affected in five state and six county programs through grants which range up to 1.5 million dollars. Of the total funds awarded, nearly 8.5 million dollars, or 71 percent of the total, will be available for contracts and purchase of services from private nonprofit youth serving agencies and organizations.

A second special emphasis program was developed to divert juveniles from the criminal justice system through better coordination of existing youth services and use of community-based programs. This program is for those juveniles who would normally be adjudicated delinquent and who are at greatest risk of further juvenile justice system penetration. Eleven grants, totalling over 8.5 million dollars, have been awarded for two-year programs. As a result of planning and coordination with the Department of Housing and Urban Development, local housing authorities in HUD's Target Project Program have been encouraged to participate in the diversion program. OJJDP gave special consideration in project selection to those programs which reflected a mix of federal resources in achievement of mutual goals.

Several months ago, 3.2 million dollars was transferred to the U.S. Office of Education through an interagency agreement to fund programs designed to reduce crime and violence in public schools. The Teacher Corps received two million dollars for ten demonstration programs in low income areas directed specifically at use of teacher skills to help students plan and implement workable programs to improve the school environment and reduce crime. The Office of Drug Abuse Prevention received funds to train and provide technical assistance to sixty-six teams of seven individuals to initiate local programs to reduce and control violence in public schools. The drug education training model and train-

ing centers will be utilized. OJJDP also expects to award a $600,000 grant later this year for a School Crime Resource Center.

An announcement and guideline has been issued for a program to prevent delinquency through strengthening the capacity of private nonprofit agencies to serve youth who are at risk of becomig delinquent. Over 300 applications have been received. The Office expects to award 14–18 grants totalling 7.5 million dollars for this program. Grantees will be national youth-serving agencies, local combinations of public and private youth-serving agencies, and regional organizations serving smaller and rural communities.

Examples of other special emphasis inititaives include awards to the State of Pennsylvania to remove juveniles from Camp Hill, an adult prison facility; female offender programs in Massachusetts; arbitration and mediation programs involving juvenile offenders in the District of Columbia; and projects in support of the American Public Welfare Association's efforts to coordinate local youth programs.

OJJDP has planned four additional special emphasis program initiatives for fiscal year 1977, as follows:

The Serious Offender Program will be designed to rehabilitate the serious or chronic juvenile offender. It is expected that projects will help develop links between organizations in the offenders' communities. A national evaluation will examine the overall effectiveness of the program, as well as each alternative treatment strategy.

A major purpose of the Youth Gangs Program will be to develop and test effective means by which gang-related delinquency can be reduced through development of constructive alternatives to delinquency closely coordinated with applications of authority.

The Neighborhood Prevention Program will focus on improving the planning of programs at the neighborhood level and development of new action programs which can impact on the youth of particular neighborhoods.

The Restitution Initiative will develop and test means of providing for restitution by juvenile offenders to the victims of their offenses. The program will examine the rehabilitative aspect of restitution, as well as the impact on victims receiving this redress.

Tentative plans for fiscal year 1978 call for demonstration programs in the areas of Youth Advocacy, Alternative Education, Probation, Standards Implementation, and Alternatives to Incarceration.

NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

The program areas which I just mentioned are not only included because of the special emphasis given them in the Juvenile Justice Act, but also because they have been identified as needed programmatic thrusts in research sponsored or reviewed by the National Institute for Juvenile Justice and Delinquency Prevention. Prior to announcement of any special emphasis program, the Institute provides an assessment of the state-of-the-art in the topic area and develops a concise background paper for the use in the program announcement.

The four major functions of the Institute are information collection and dissemination, research and evaluation, development and review of standards, and training. As an information center, the Institute collects, synthesizes, publishes, and disseminates data and knowledge concerning all aspects of delinquency. Three topical Assessment Centers deal with Delinquent Behavior and Its Prevention, the Juvenile Justice System, and Alternatives to Juvenile Justice System Processing. Each center gathers data, studies, and information on its topic area. A fourth Coordinating Center integrates all of this information and will produce an annual volume entitled *Youth Crime and Delinquency in America.*

The Institute has a long-range goal of developing a comprehensive, automated information system that will gather data on the flow of juvenile offenders throughout the juvenile justice systems of selected jurisdictions. A reporting system regarding juvenile court handling of offenders has already been sponsored.

A broad range of research and evaluation studies are being sponsored by the Institute. These studies will add to the base of knowledge about the nature of delinquency and success in preventing, treating, and controlling it. In the area of prevention, projects will be encouraged which increase our understanding of social factors that promote conforming behavior and legitimate identities among youths and permit evaluation of innovative approaches to inducing such behavior.

The Institute sometimes funds unsolicited research projects that address areas not included in the established research program. Unsolicited concept papers

are reviewed twice each year. Other funds are set aside for unique research opportunities that cannot be created through solicitations. These might consist of opportunities to conduct research in natural field settings such as those that would result from legislative changes, or to add a juvenile delinquency research component to a larger project funded by another source.

The Institute is participating in LEAA's Visiting Fellowship Program. Under this program, up to three Fellows conduct research on juvenile delinquency issues while in residence at the Institute.

In recent years, increasing attention has been paid to the possibility of a relationship between learning disabilities and juvenile delinquency. Current theory and knowledge were investigated and a report completed under an Institute grant. While a relationship seems to exist between learning difficulty and juvenile delinquency, there remains an absence of experimental evidence. Research has been funded to further investigate this area.

Another Institute-sponsored study seeks to determine the relationship between juvenile and adult offenses. The thirteen-month study will conduct extensive analyses of data collected on 975 males born in 1945 in Philadelphia. A further study has been undertaken to examine a birth cohort study of 14,000 males and 4,500 females born during 1958 to determine the nature and patterns of delinquency among those examined.

The Institute's efforts in the area of evaluation have concentrated on maximizing what may be learned from the action programs funded by OJJDP, on bolstering the ability of the states to evaluate their own juvenile programs and to capitalize on what they learn, and on taking advantage of unique program experiments undertaken at the state and local levels that warrant a nationally sponsored evaluation.

The Juvenile Justice Act authorizes the Institute to evaluate all programs assisted under the Act. Efforts focus largely on evaluating major action initiatives funded by OJJDP. To implement the approach of OJJDP that program development and evaluation planning must be conducted concurrently, the Institute undertakes three related activities for each action program area: developmental work; evaluation planning; and implementation of the evaluation plan.

Institute staff are currently reviewing the recommendations of the Advisory Committee on Standards, a Subcommittee of the National Advisory Committee for Juvenile Justice and Delinquency Prevention. A paper will be prepared describing action programs which could be undertaken by the Office to implement the standards. Development of an implementation strategy will provide direction for OJJDP activities in coming years.

The Institute has broad authority to conduct training programs. Training is viewed as a major link in the process of disseminating current information developed from research, evaluation, and assessment activities. It is also an important resource for insuring the success of the OJJDP program initiatives.

Two main types of training programs are being utilized. National training institutes held on a regional basis acquaint key policy and decision-makers with recent results and future needs in the field of delinquency prevention and control. Training institutes are also held to assist local teams of interested officials concentrate youth service efforts and expand program capacities in their communities. Workshops and seminars are held on a variety of juvenile justice and delinquency prevention issues, techniques, and methods.

The Project READ training program was designed to improve literacy among the Nation's incarcerated juveniles. Over 4,000 youths were tested on reading ability, mental age, and self-concept. During the brief period of four months, the average juvenile tested gained one year in reading ability, seven months in mental age, five points in self-concept, and had a better appreciation of the reading process. This project is now in its second year.

Continuing funding is being provided to the National College of Juvenile Court Judges to provide training for 1,150 juvenile court judges and related personnel such as probation officers and district attorneys.

CONCENTRATION OF FEDERAL EFFORTS

Under the terms of the Juvenile Justice Act, LEAA is assigned responsibility for implementing overall policy and developing objectives and priorities for all Federal juvenile delinquency programs. Two organizations were established by the Act to assist in this coordination. The Coordinating Council on Juvenile Justice and Delinquency Prevention is composed of the heads of Federal agencies most directly involved in youth-related program activities and is chaired by

the Attorney General. The National Advisory Committee for Juvenile Justice and Delinquency Prevention is composed of persons who, by virtue of their training and experience, have special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice. One-third of the 21 Presidentially-appointed members must be under age 26 at the time of their appointment.

The Coordinating Council has met eight times. Early meetings focused on general goals and priorities for Federal programs. Later meetings concentrated on policy options and the development of a Federal agenda for research into juvenile delinquency issues. The most recent meeting was held jointly with the National Advisory Committee.

The *First Comprehensive Plan for Federal Juvenile Delinquency Programs*, developed by the Coordinating Council, provided the foundation for future programming and addressed the roles of each agency in the overall strategy. The plan provides policy direction and a description of preliminary steps necessary before large scale program and fiscal coordination is attempted.

In February 1977, the *Second Analysis and Evaluation of Federal Juvenile Delinquency Programs* was submitted to the President and Congress. This report contains a detailed statement of criteria developed for identifying and classifying Federal juvenile delinquency programs.

Integrated funding and programmatic approaches have been initiated among Federal agencies in selected projects. In one example, the Department of Housing and Urban Development cooperated with OJJDP's diversion program by providing funding to locales chosen as sites for diversion projects. The Department of Labor worked with OJJDP to establish priorities for CETA funds utilized for youth involved in OJJDP discretionary grant programs. An additional cooperative effort I previously mentioned is the transfer of OJJDP funds to the Office of Education to initiate programs to combat school violence.

The National Advisory Committee has also met eight times. It has focused primarily on the orientation of members to their roles, their relationship to OJJDP and other juvenile programs, and the development of a workplan. Three subcommittees have been established: the Advisory Committee for the National Institute, the Advisory Committee on Standards for the Administration of Juvenile Justice, and the Advisory Committee for the Concentration of Federal effort. The Standards Committee has submitted two reports on its activities and findings to the President and Congress.

Upon recommendation of the National Advisory Committee and in cooperation with the Coordinating Council, OJJDP contracted with a private consulting firm to develop a major project to facilitate the coordination and mobilization of Federal resources for juvenile delinquency programming in three jurisdictions. The Coordinating Council and the National Advisory Committee participated in selecting demonstration sites and both organizations are currently monitoring program progress.

The Juvenile Justice and Delinquency Prevention Amendments of 1977.— I would like to turn now, Mr. Chairman, to the legislation proposed by the Administration to reauthorize the 1974 Act.

The Juvenile Justice and Delinquency Prevention Amendments would extend the authority of LEAA to administer the program for an additional three years. Several amendments are included which are designed to strenghten the coordination of Federal efforts. The Coordinating Council would be authorized to assist in the preparation of LEAA annual reports on the analysis, evaluation, and planning of Federal juvenile delinquency programs. LEAA runaway programs would be coordinated with the Department of Health, Education, and Welfare's programs under the Runaway Youth Act.

To insure that each state planning agency receives the benefit of the input of the Advisory Groups established pursuant to the Act, our bill would also amend Title I of the Crime Control Act. The chairman and at least two other members of each state's Advisory Group would have to be appointed to the state planning agency supervisory board.

The Administration's proposal would make significant changes in the formula grant program. The 1974 Act, as you know, requires that status offenders be deinstitutionalized within two years of a state's participation in the formula grant program. Our bill would grant the Administrator authority to continue funding to those states which have achieved substantial compliance with this requirement within the two-year statutory period and have evidenced an unequivocal commitment to achieving the objective within a reasonable time.

The use of in-kind match would be prohibited by the Administration bill. However, assistance to private nonprofit organizations would be authorized at up to 100 percent of the approved costs of any program or activity receiving support. In addition, the Administrator would be authorized to waive the cash match requirement, in whole or in part, for public agencies if a good faith effort has been made to obtain cash match and such funds were not available. No change would be made to the provision requiring that programs receiving satisfactory annual evaluations continue to receive funds.

Special emphasis school programs would be required to be coordinated with the U.S. Office of Education under the proposal. A new category of youth advocacy programs would be added to the listing of special emphasis programs in order to focus upon this means of bringing improvements to the juvenile justice system.

The bill would authorize the Administrator to permit up to 100 percent of a state's formula grant funds to be utilized as match for other Federal juvenile delinquency program grants. This would increase the flexibility of the Act and permit maximum use of these funds in states which have been restricted in fully utilizing available Federal fund sources. The Administrator would also be authorized to waive match for Indian tribes and other aboriginal groups where match funds are not available and could waive state liability where a state did not have jurisdiction to enforce grant agreements with Indian tribes. This parallels provisions now included in the Crime Control Act for other LEAA programs.

The Administration proposal would authorize appropriation of 75 million dollars for programs under the Act in fiscal year 1978, and such sums as may be necessary for each of the two following years. The maintenance-of-effort provision, applicable to juvenile delinquency programs funded under the Crime Control Act, would be retained. The retention of this provision underscores the Administration's commitment to juvenile justice and delinquency prevention programming.

Finally, the proposal would incorporate a number of administrative provisions of the Crime Control Act as applicable to the Juvenile Justice and Delinquency Prevention Act. This would permit LEAA to administer the two Acts in a parallel fashion. Incorporated provisions would include formalized rulemaking authority, hearing and appeal procedures, civil rights compliance, record-keeping requirements, and restrictions on the disclosure of research and statistical information.

Mr. Chairman, that concludes my formal presentation. We would now be pleased to respond to any questions which the committee might have.

STATEMENT OF ARABELLA MARTINEZ, ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Mr. Chairman and Members of the Subcommittee, I am pleased to have the opportunity to come here today to discuss the Runaway Youth Act, Title III of the Juvenile Justice and Delinquency Prevention Act of 1974, and to advise you that we are submitting legislation to Congress to provide a one year extension of this program. During this extension, we intend to assess our role in relation to youth and their families and to consider future action in this area.

As you know, I have recently come to the Federal Government. Although I have not had direct personal experience with the runaway youth program during its first three years, I am familiar with its operation. Therefore, I will present an overview of the activities conducted under its authority and will conclude by identifying some concerns about the Act which we are now addressing within HEW.

The Runaway Youth Act was a response of the Congress to a growing concern about a number of young people who were running away from home without parental permission and who, while away from home, were exposed to exploitation and to the other dangers encountered by living alone on the streets. This Federal program helps to address the needs of this vulnerable youth population by assisting in the development of an effective community-based system of temporary care outside the law enforcement structure and the juvenile justice system.

Until recently no reliable statistics were available on the number of youth who run away from home. The National Statistical Survey on Runaway Youth, mandated by Part B of the Act and conducted during 1975 and 1976, found that

approximiately 733,000 youth between the ages of 10 and 17 annually run away from home for at least overnight. Many of these young people are on the streets, surviving without any form of assistance, and are continuously exposed to the vagaries and dangers of contemporary street life. These youth, due to their circumstances of being alone and friendless with little money, are left with few choices for their survival—frequently living in condemned buildings or out in the open, trading their bodies for friendship or food, and violating the law just to meet their basic daily needs.

During the past three years, we have found that the youth seeking services are not the stereotyped runaway of the 60's—the runaways who leave a stable, loving home to seek their fortunes in the city or to fill a summer with youthful adventures. Runaways of the 70's in contrast, are the homeless youth, the youth in crisis, the "pushouts" and the "throwaways." These youth have no home; or they have left home to avoid physical, sexual, or emotional abuse; or they have been thrown out of their home by their parents or guardians. For many of these youth, leaving home is the only viable alternative. As a rule, they are fleeing from what they believe is an intolerable situation so they may attempt to live in a less painful, disruptive environment.

The severity of the problems facing runaway youth today is clearly indicated by statistics related to why they run away from home. Almost two-thirds of the youth seeking services from the HEW-funded runaway projects cited family problems as the major reason for seeking services. These problems included parental strife, sibling rivalries and conflicts, parental drug abuse, parental physical and sexual abuse, and parental emotional instability. Nearly an additional one-third of the youth were experiencing problems pertaining to school, inter-personal relationships, and legal, drug, alcohol or other health problems.

In many communities, the HEW-funded projects constitute the only resource youth can turn to during their crises. During FY 1977, eight million dollars have been made available to provide continuation funding to the 131 current community-based projects. These projects include the National Runaway Switchboard, a toll-free hotline serving runaway youth and their families through the provision of a neutral communication channel, as well as a referral resource to local services. The projects funded by HEW are located in forty-four States, Puerto Rico, Guam, and Washington, D.C. It is anticipated that these projects will serve more than 57,000 youth and their families during FY 1977.

Each project is mandated by the Act to provide temporary shelter, counseling, and aftercare services, as required, to runaway youth and their families. Counseling services are provided through individual, group, and family sessions. Projects provide temporary shelter either through their own facilities or by establishing agreements with group and private homes. Many of the programs have also expanded their services to provide education programs, medical and legal services, vocational training, and recreational activities either directly or through linkages with other community agencies.

At the termination of the services provided by the project, approximately forty-nine percent of the youth served return to their primary family home, with an additional twenty-six percent being placed with relatives or friends, in foster care or other residential homes, or in independent living situations.

We are very concerned within HEW about the severe problems experienced by the young people whom we are serving. It is clear to us that the problems of the population being served by the Runaway Youth Act have changed—many times they are indications of dysfunction within the family structure. Running away from home is a response of youth to the problems they are encountering within the family setting. Pushing youth out of their home environments or encouraging them to leave is often the response of the parents. A brief period of temporary shelter and counseling cannot adequately address the needs of these youth.

Additionally, it has also become clear to us that family problems are not the only cause of youth running away from home. Running away is a manifestation of problems youth are encountering in contemporary society. Young people are experiencing crises related to school, peer relationships, lack of employment, and poor health. For these youth, too, a brief period of temporary shelter and counseling cannot adequately assist them in dealing with their problems.

Currently, we are examining the special needs of runaway youth due to factors such as race; ethnicity, age; and sex. We are also looking at the techniques and methods for providing services to prevent the occurrence of runaway behavior. And most importantly, we are exploring the provision of services to youth within

a broader national social services strategy which will minimize the fragmentation of services and maximize their impact.

We, therefore, believe that it is essential that we identify more precisely the service needs of youth experiencing crises and examine the most appropriate vehicles to deliver services to these youths and their families. As part of this effort, we must also carefully examine whether services for runaways and their families should be provided separately from services for youth and families experiencing other problems.

Based on the review of the information generated from our current studies and from an examination of the role of HEW in the provision of services to the broader population of vulnerable young people, we propose to determine what modifications are required to respond to the changing needs of these vulnerable youth. We invite your participation in this process and hope we will be able to work together to develop a sound strategy. For this reason, we are requesting only a one-year extension of the Act.

Thank you. I will be glad to answer any questions you may have.

STATEMENT OF ROLAND LUEDTKE, CHAIRMAN, CRIMINAL JUSTICE AND CONSUMER AFFAIRS COMMITTEE, NATIONAL CONFERENCE OF STATE LEGISLATURES, LINCOLN, NEBR.

Mr. Chairman, it is my pleasure to appear before you and the distinguished members of the Subcommittee on Juvenile Delinquency of the Judiciary Committee.

I am here representing the National Conference of State Legislatures which is comprised of the nation's 7,600 state legislators and their staffs from all fifty states. I am chairman of the committee on Criminal Justice and Consumer Affairs, and my remarks today will present the policy of this committee and the State-Federal Assembly.

On behalf of the National Conference of State Legislatures I would like to reaffirm our support for the objectives of the Juvenile Justice and Delinquency Prevention Act of 1974. If Congressional hearings are similar to our state legislative hearings, I am certain that at every hearing witnesses have testified that juvenile delinquency is the most important problem in our criminal justice system today. I feel strongly about delinquency prevention because our efforts to help young people before they become career criminals can dramatically change the future for thousands of our citizens.

The National Conference of State Legislatures has consistently supported the Juvenile Delinquency Act as evidenced by our attached policy position. On the basis of this policy, I would like to offer recommendations to this subcommittee on a few of the Act's provisions and suggest some additional changes. As you undoubtedly know, a number of states have refused to participate in this program, because they felt the federal requirements were too strict and unreasonable. This lack of participation by some states bothers me, because every state in this nation has an acute need to deal with juvenile delinquency. The requirements of sections 223(a)(12) and 223(a)(13) are the primary obstacles to participation by these states. Before I suggest changes to these provisions I want to stress that I fully support the objectives of these two sections and firmly believe that states and localities should deinstitutionalize status offenders and should not place juveniles in the same correctional facilities with adults. I feel, however, that Congress should understand the difficulties states and localities have had in complying with these provisions. The federal law should be sensitive to good faith efforts by states and localities which may fall short of total compliance. I would therefore, like to suggest the following changes to these sections.

First, amend Section 223(a)(12) as proposed by deleting the word "must" and inserting the word "may" before the phrase which requires that status offenders "must" be placed in shelter facilities. Second, requiring compliance with these two sections in two years is unreasonable and unlikely to occur in very many jurisdictions. The federal government should recognize good faith efforts by states to achieve compliance with these provisions throughout their jurisdictions. But we must deal with the reality that total compliance can not be achieved in each of the thousands of jurisdictions in every state in two short years. For these reasons we suggest the language be changed to require substantial compliance within a three year period and full compliance in a five year period.

Another change we advocate concerns section 223(a) (3) and the state Juvenile Advisory Groups. We support the change proposed by Senator Bayh in S. 1021 which would require this advisory group to advise the state legislature on Juvenile Delinquency matters. Speaking for myself and my colleagues in the fifty state legislatures I can assure you that we appreciate this recognition of the legislator's role in juvenile delinquency prevention and our need to be fully informed of activities related to the Juvenile Delinquency Act within our state. This amendment, making the expertise and information of the advisory groups available to the legislatures, would provide a valuable resource for legislators as they structure and refine their state's juvenile delinquency program.

Our policy position also recommends changes to the distribution of funds enumerated in section 224(b) which currently allows the federal government to retain 25% to 50% of the funds for its special emphasis programs. In a program which is premised on the block grant approach, the bulk of funds should be distributed through state and local mechanisms. We therefore, recommended that the current language be changed from a 25% to 50% range to a flat 15% of funds for federal programs.

Mr. Chairman, you are likely to hear from representatives of counties advocating federal incentives for state subsidies to local units of government. Personally, I favor subsidies to local units of government for the prevention of juvenile delinquency. Our objection to these proposals is that they would use a portion of the federal juvenile delinquency funds to reward or penalize states which provide their own general fund subsidies to counties. Because of varying financial conditions among the states, some states may be able to subsidize local prevention and correctional programs while other states have insufficient revenues to provide subsidies. It is for these reasons that we think it is inappropriate for the federal law to provide rewards and/or penalties to the states for this type of activity. It is our feeling that if counties need and want state general fund subsidies from their own state legislatures they should then present their cases to the state legislature and seek state funds directly without relying on the federal government to mandate state action.

Mr. Chairman and members of the committee I feel that the success of this program to a large extent depends on the commitment of funds by Congress and the President. Since the passage of this landmark act in 1974, we in the states have been disappointed by the lack of commitment in the federal executive branch. The Crime Control Act programs of the Law Enforcement Assistance Administration have always been more important to the previous administration than were the juvenile delinquency efforts. In my opinion this illustrates the backwards logic which has plagued our criminal justice system for decades. We place more emphasis on dealing with crime after it has been committed, by equipping police with fancy equipment and multiplying the capacity of our courts and correctional facilities to deal with individuals who have already made a career out of crime. In my opinion if we are to ever curb the intolerable rate of crime in the U.S. we must engage in efforts to curb juvenile delinquency. It is the juvenile we can help and steer away from a lifetime of crime. If we miss the opportunity to provide assistance to a young person we have probably forgone the chance to rehabilitate that person at a later date. The startling fact that over fifty percent of the arrests in this country are of youngsters between the ages of 10 and 17 is sufficient evidence to warrant a concentrated federal-state effort to prevent and deter juvenile delinquency.

From my experience in the Nebraska legislature and my discussions with lawmakers from other states, I can assure you that efforts to prevent juvenile delinquency is one of our top priorities, both in reforming delinquency laws and in funding new programs. In my own state of Nebraska, we are beginning an extensive revision of our juvenile delinquency laws this year. Rather than enacting piecemeal measures, we intend to review our entire juvenile code, including an examination of the status offender issue and modernizing juvenile courts procedures. We hope to adopt a comprehensive code reforming Nebraska's juvenile justice system.

States are also experimenting with an endless number of programs. In Louisiana, for example, the state legislature funded a juvenile delinquency program which created a youth development association in New Orleans. This type of program, providing recreational and reading services to youngsters in the community, is necessary if we are to give young people alternatives to the life of delinquency. The rate of unemployment among teenagers is at a record

high and minority teenage unemployment exceeds 50 percent. If we do not provide constructive alternatives for these unemployed young people, we should not be surprised when they engage in acts of delinquency. Another important feature of this New Orleans program is reading assistance, because studies of juvenile delinquent in correctional institutions have shown that they have a very low reading ability. It is also known that reading ability is a problem with students who drop out of school. If we are to give these young people a chance to compete in our society and help them avoid criminal activity, then we must help them gain the necessary skills to compete.

After eight years of LEAA crime control programs Congress should now realize that there is no short term solution to our crime problem. The best we can hope for is to improve our system of justice, engage in prevention of crime, and hope to reduce long range criminal activity. If we continue to accept these intolerable levels of unemployment for teenagers and do not engage in massive prevention efforts in our schools and communities we can only expect our crime problem to continue.

On behalf of the state legislators, you can be assured of our support in these efforts to curb juvenile delinquency. We will do our best to reform state laws and provide programs in our states, and hope that you will assist us in these endeavors.

STATEMENT OF DONALD PAYNE, DIRECTOR, BOARD OF CHOSEN FREEHOLDERS, ESSEX COUNTY, NEW JERSEY, REPRESENTING THE NATIONAL ASSOCIATION OF COUNTIES

Mr. Chairman, I am Donald Payne, director, Board of Chosen Freeholders, Essex County, New Jersey, past president of the National Board of Y.M.C.A.'s, and chairman of the National Association of Counties'[1] Policy Subcommittee on Juvenile Justice. I am here today to present testimony with respect to S. 1021, the Reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974.

The National Association of Counties was an early supporter of the Juvenile Justice and Delinquency Prevention Act. We supported it when it was first introduced for much the same reasons we support its reauthorization today. The act offers the single most promising federal commitment to our national effort to salvage thousands of our youngest citizens from the ravages of a deteriorating system of juvenile justice: A system that incarcerates young people for status offenses; a system that jails youngsters with adult criminals; a system which often denies children basic human rights.

The act itself addresses these issues in a number of ways. Most importantly, it provides substantial focus on prevention, on keeping children from even entering the juvenile justice system that has proven to be so harmful to their developing into responsible members of society.

At the last annual convention of our association, our members adopted a new, and we think, progressive juvenile justice and delinquency prevention platform. Our policies reflect a growing awareness on the part of the nation's counties that the juvenile justice system in our country is desperately in need of reform and that county government has both a responsibility and an opportunity to help affect that reform. In some respect, I believe our policies are even more progressive than is the act we are here to talk about today. Our policies call for the complete removal of status offenders from the jurisdiction of the juvenile court, a program of state subsidies, about which I will speak in a moment, and a call to counties to actively develop organizational and planning capacities for the coordination and regulation of youth development and delinquency prevention services in the community.

Mr. Chairman, much of the debate that has taken place with respect to this law has revolved around two highly controversial provisions: Provisions which are given much of the blame for a number of states not having participated in the act. These provisions are section 223(12) and (13) which mandate that

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[1] The National Association of Counties is the only national organization representing county government in the United States. Through its membership, urban, suburban and rural counties join together to build effective, responsive county government.
The goals of the organization are to:
Improve county governments;
Serve as the national spokesman for county governments;
Act as a liaison between the nation's counties and other levels of government;
Achieve public understanding of the role of counties in the federal system.

status offenders must be placed in shelter facilities rather than detention or correctional facilities, and the complete separation of juvenile and adult offenders within secure institutions. We are pleased to note that one of the proposed amendments, if adopted, will improve section 223(12) by making the use of shelter facilities optional rather than mandatory, but it will not solve the problem which discourages full compliance, and consequently, participation in the act.

This proposed amendment recognizes that there are worthwhile alternatives for status offenders other than shelter facilities. Certainly, placing the child safely in the home would have to be assigned the highest preference.

Another proposed amendment would extend the time limit to five years for deinstitutionalizing status offenders—provided a state was in "substantial compliance" after two years. Substantial compliance is defined as 75% deinstitutionalization. We believe that to demand a blanket 75% compliance for each state within two years without regard for their differing resources is unrealistic, particularly in light of the history of appropriations for his act.

These changes aside, it is admitted that in some instances there is outright philosophic opposition to the concepts put forth in sections 223(12) and 223(13). But more commonly, the dollar costs of compliance are so prohibitive that some states have chosen not to participate in the act at all. This is an extremely sad commentary considering what we know about the condition these sections seek to remedy. The situation the act addresses is not simply that of the youngster already in jail or detention but of the youngster who may well end up in jail if the community fails to provide community based services designed to prevent juvenile delinquency.

The dilemma for many communities is that services for youngsters are intertwined with the juvenile justice system. A child must too often penetrate the system before he can receive help. In my state of New Jersey we already have a law requiring the physical separation of status offenders from delinquent children. Status offenders must be housed separately in a non-secure shelter facility.

The problem however, is that we do not have a system in place to prevent a child from going to shelter in the first instance. Only 3 counties in our state out of 21 have a youth service bureau: Only 35 municipalities out of 600 have youth service bureaus. We clearly need a grassroots network of organizations to coordinate youth services and to direct youngsters and their families in needed services—prior to any contact with the system.

The National Association of Counties strongly supports the concepts articulated in section 223(12) as per the proposed amendment and section 223(13), but the fact remains that these paragraphs, while correctly identifying goals, do not point to a realistic financial strategy by which those goals may be achieved. The fact remains that in states and communities that do not already have community based programs and shelter facilities to divert status offenders from the juvenile justice system, or which do not have separate facilities for those already incarcerated, or who may be incarcerated in the future, the act offers little financial hope for achieving compliance.

The reasons are simple: In fiscal 1977, $75 million dollars were appropriated for financing all of the programs of the Juvenile Justice and Delinquency Prevention Act. Only part of that money was directly available for use by local governments. Of that which was available, programs seeking alternatives to incarceration for status offenders or for providing separate facilities for those who have been incarcerated, had to compete with a myriad of other worthwhile endeavors for scarce resources. The result was that many counties without well developed programs or resources were not able to come up with the substantial investments required to comply with section 223 (12) and (13).

I want to emphasize that we think there is implicit in section 223(12) and section 223(13) an obligation on the part of the communities attemping to comply with these sections, that there be established within those communities organizational and planning capacities to coordinate youth development and delinquency services. It seems to us to be senseless to make individual reforms for children already in trouble if we do not somehow address preventive programs in a serious manner, or if services for troubled children are not properly provided. To accomplish this, we must insure that we have agencies and voluntary services in place that are capable of meeting the needs of young people prior to any contact with the juvenile justice system.

The need for programs to deinstitutionalize status offenders from secure detention and to separate juveniles from adults in traditional correctional facilities has been well documented. The recent study of the children's defense fund outlining in sometimes graphic and painful terms what happens to youngsters placed in adult jails points to a national disgrace. The recidivism rates are but a dramatic manifestation of this dilemma. What then is the answer?

We think a major part of the answer lies within the provisions of the Juvenile Justice Act, but for lack of notice, emphasis, or funding, it has not been sufficently recognized. We call your attention to the State subsidy programs outlined in section 223(10)(H) of the act.

Mr. Chairman, we suggest today that State subsidy programs, given proper legislative emphasis and adequate funding, could be useful and highly successful tools in achieving the results desired in section 223(12) and section 223(13) and thereby open the door to more States participating in the act. State subsidy programs of one kind or another currently exist in at least seventeen States and give us reason to think they may be effective in this instance.

State subsidy programs have a number of attributes deserving of attention. Once instituted, they tend to become long term programs. They intimately involve not just the States but the myriad of local public and private agencies concerned with juveniles in a program in which they have a direct interest. We no longer have just another Federal program with Federal dollars to be used while they last on short term endeavors. State subsidy programs require substantial commitment by local government-commitment likely to engender serious efforts.

Consequently, State subsidy programs encourage partnerships between the public and private sectors as well as intergovernmental cooperation. They encourage long term planning and coordination not only of governmental resources and programs, but of those substantial efforts sponsored and managed by non-profit private organizations which in many communities provide the bulk of the services directed toward juveniles. We believe that if State subsidies did no more than encourage coordination, cooperation, and planning, they would have served as well.

State subsidy programs are versatile and can be used to encourage a wide variety of specific goals. States currently utilizing subsidy programs use them to finance (a) community alternatives to incarceration, (b) approaches to youth development and delinquency prevention, (c) diversion programs and (d) coordinated youth services at the county level.

We have included some descriptions of how subsidy programs work as addendum "B" to this testimony for your information.

Mr. Chairman, the National Association of Counties respectfully urges that Congress give serious consideration to establishing a new title to the Juvenile Justice and Delinquency Prevention Act: One that would provide for an independently funded program of State subsidies which would (a) reduce the number of commitments to any form of juvenile facility, (b) increase the use of non-secure community based facilities, (c) reduce the use of incarceration and detention of juveniles, (d) encourage the development of an organizational and planning capacity to coordinate youth development and delinquency prevention services.

We urge that the title be funded separately to infuse new and needed funds directly into programs encouraging deinstitutionalization and the care of children deinstitutionalized or diverted from institutions. Such an effort would illustrate to State governments that the Federal Government considers deinstitutionalization of sufficient importance to warrant a special fiscal and legislative effort by the Congress, and implicitly, by State and local governments as well.

We have included specific draft language as addenum "A" to this testimony, which while requiring a great deal of work by legislative draftsmen, nevertheless will give you some sense as to our intentions. Features of the proposed program include:

Incentives to State governments to form subsidy programs for units of general purpose local governments to encourage deinstitutionalization and encourage organizational and planning capacities to coordinate youth development and delinquency prevention services,

Fiscal assistance to the States in the form of grants based upon the State's under 18 population,

Requirements that the State provide a 10% match and that the State in turn may require a 10% match from participating local governments,

Provisions that subsidies may be distributed among individual units of local general purpose governments in those States not choosing to participate in the subsidy title providing proper application is made,

Submission of a plan by the States to LEAA for implementation of the subsidy program,

Provisions that allow funds to go to States with existing subsidy programs to either expand those programs or begin new programs consistent with the purposes of the new title,

Prohibitions against the use of Federal monies to replace existing funding in States already having subsidy programs,

Requirements that private nonprofit agencies be prime participants in subsidy programs through contracts with local governments,

Authorizations for the next three years of $50, $75 and $100 million respectively.

Significantly, the concepts we have outlined have been developed in cooperation with such organizations as the National League of Cities, the National Council on Crime and Delinquency and the National Youth Alternatives project.

Mr. Chairman, we have carefully reviewed the proposed amendments to the act incorporated in S. 1021 and find that we are in substantial agreement with most of them. The authority of the Assistant Administrator for Juvenile Justice does indeed need to be strengthened and more specifically defined in order to better fulfill the intentions of the Congress in creating that position, and we are pleased to see substantial language to this end. We are all aware of the difficulties that an absence of such an emphasis has had in the past.

Efforts to extend the act for an additional five years are certainly in order. Our problems are not going to disappear overnight and a substantial commitment by the Federal Government will both increase confidence in the endurance of the program and provide the basis for much needed long term planning.

We believe the authorization levels set forth in the bill further indicate the Congress' commitment to helping solve the problems inherent in our juvenile justice system and represent realistic levels of dollars that can be wisely spent. In our testimony before the House Appropriations Subcommittee two weeks ago we called for full funding of the Juvenile Justice and Delinquency Prevention Act, using the authorization figures of S. 1021 as a basis. We have made a similar appeal to the Senate Appropriations Committee.

NACo continues to support the preference for the allocation of unused formula grant monies for special emphasis grants in those States that have chosen not to participate in the programs sponsored by the Act. We do not believe that States and their local governments that choose not to participate because they are not able to comply with certain portions of the act should be penalized by not receiving funds for worthy projects. Should they be, it would be the juveniles in those States who would be most affected, not the elected officials who can not or will not comply with the act.

New provisions which would allow up to 100% of a State's formula funds to be used as matches for other Federal juvenile delinquency programs are also welcome. State and local governments continue to suffer the effects of the recession and will long after the private economy has recovered. This provision will allow greater flexibility and encourage better funded juvenile justice programs.

Despite the many improvements in the act, only a few of which we have commented upon, there are still areas deserving of additional congressional attention. For example, provision has not been made for the representation of either State or local elected officials, other than judges, on the national advisory committee. We think this omission crucial in light of the role elected officials play in our juvenile justice system. Their participation would lend credibility and emphasis to recommendations made by the committee and would help ensure that the committee's recommendations were carefully considered by LEAA. We believe a proposed requirement that some members of the committee have experience in the juvenile justice system is a step in the right direction, but why not go one step further and provide for those with broad governmental experience participate as well.

We also note, in the same vein, that provision has not been made for the representation of local elected officials on the State planning agency advisory groups. We think the State planning agency is thus denied a valuable source of experience and subsequently support for its efforts. It seems logical to us that the entire juvenile justice community be surveyed with respect to State plans

and that wtihout local elected officials an important segment of that community is ignored.

We would also recommend changes in those provisions that provide for planning monies. Reports have been received that planning monies have not been passed through to local governments in some States. We believe there should be a mandatory pass through of these planning funds just as there is for formula allocations. Planning is every bit as important at the local level as it is at the State level. If there are no planning monies, programs are implemented without adequate coordination or evaluation. Dollars for juvenile justice programs are scarce. We can ill afford not to use them wisely. Shortchanging local governments in planning research and evaluation monies is inconsistent with the purposes of the act.

Furthermore, we strongly urge increasing the overall amounts of planning funds to regional planning agencies and units of local government. The 15% currently provided, even when it reaches the local level, is not sufficient to meet planning needs.

Mr. Chairman, we commend the Congress in its dedication to address the problems of juvenile justice in a forthright manner. We have reason to believe the new administration is equally committed. County governments look forward to a new partnership with the Federal Government in this effort.

In closing, the National Association of Counties urges reauthorization of the Juvenile Justice and Delinquency Prevention Act and requests that serious consideration be given to inclusion of a new title providing for a program of State subsidies to better accomplish the purposes of the act.

ADDENDUM A

Draft: Language for new title to Juvenile Justice and Delinquency Prevention Act of 1974.

Delete paragraph 10 H of Section 223, Title II; include this language as a new title IV and renumber everything thereafter.

TITLE IV STATE SUBSIDIES

PURPOSE OF TITLE

This title provides a federal incentive for the establishment of voluntary state programs that will, through the use of subsidies to units of general purpose local governments:

(a) reduce the number of commitments of juveniles to any form of juvenile facility as a percentage of the state juvenile population;

(b) increase the use of non-secure community based facilities as a percentage of total commitments to juvenile facilities; and to

(c) reduce the use of secure incarceration and detention of juveniles;

(d) encourage the development of an organizational and planning capacity to coordinate youth development and delinquency prevention services and to ensure for service delivery accountability.

FEDERAL ASSISTANCE

The Administrator is authorized to make grants to states to accomplish the purposes of this title. Funds are to be allocated annually among the states on the basis of relative population of people under the age of eighteen pursuant to regulations promulgated under this part. Funds for part (d) will only be provided if, in the opinion of the Administration, states are in substantial compliance with one or more of parts (a), (b) or (c) listed above; or if the administrator is satisfied that there are currently being conducted programs to achieve the goals outlined in (a), (b) or (c).

Funds remaining unallocated at the end of a fiscal year shall be reallocated among participating states, as defined in this title, in a manner consistent with and in proportion to the original grants to those states.

Financial assistance extended to the states under this title shall be predicated upon a state contribution to the subsidy program of not less than 10% of the amount determined to be that state's share of the federal monies available under this title.

States may not withhold amounts in excess of their own contribution for administration of the subsidy program.

MONIES ALLOCATED TO NON-PARTICIPATING STATES

Monies that are earmarked for particular states under the allocation formula, but which remain unallocated because those states do not choose to participate in the program, shall be deposited in a general discretionary fund under the direction of the Administrator.

Those monies will be used to fund, upon application as provided by regulations promulgated under this title, programs sponsored by individual units of general purpose local government in those states not participating in the program. The funds available for this purpose must be used in non-participating states, but, at the discretion of the Administrator, not necessarily in the proportion mandated by the original allocation formula. The Administrator will, however, be responsible for ensuring that funds from the discretionary fund established by this title be distributed equitably among the states and that their use be consistent with the purposes of this title.

Those units of general purpose local government in participating states that submit acceptable applications for assistance under this title may, at the discretion of the Administrator, be required to provide a match, not to exceed 10% of the total federal dollars provided; and that match, if required, will be consistent with all monies provided under this program within that state.

PARTICIPATING STATES

States will be required to give notice to the Administrator of their intention to participate in this program within 30 days of the enactment of this title. In those states where an act of the legislatures are not in session, the Administrator will hold funds for those states in trust until 30 days after the convening of that legislature to ensure the opportunity for participation.

PLAN FOR PARTICIPATION

Following notification of the Administrator of an intent to participate, each state will have 120 days to submit an acceptable plan to the Administrator for the establishment of a state subsidy program consistent with the purposes of this title. The Administrator may, at his discretion, extend the 120 day planning period, when it is in the best interests of the states and the federal government.

An acceptable plan will include programs that will promote the purposes of this title, will utilize the contracted services of private non-profit youth services agencies to promote the purpose of this title, will provide adequate reporting and auditing requirements to ensure the expenditure of funds are consistent with the intent of this title, and will comply with regulations promulgated under this title.

DRAFTING OF THE STATE PLAN

The state subsidy plan submitted to the Administrator will be the product of a joint and cooperative effort by officials of state government, representatives of general purpose units of local government within the state and spokesman for private non-profit youth service agencies within the state.

The Administrator will notify states of the acceptability of their plans within 30 days of their receipt. Plans which are not acceptable will be commented upon by the Administrator and the states given opportunity to resubmit.

THE SUBSIDY PROGRAM

Local government programs receiving funds through state subsidy programs must be consistent with the purposes of this title. States requiring matches from participating units of general purpose local governments may not require that those matches exceed 10% of the federal monies in each project funded. States are not required to stipulate such matches. Experimentation among the states is encouraged with various kinds of subsidy programs.

STATES WITH EXISTING SUBSIDY PROGRAMS

States which have already instituted subsidy programs may participate fully in the program established by this title. Funds from this title may be used to expand existing programs in those states already having programs or they may be used to start new programs so long as all programs utilizing these monies are

consistent with the purposes of this title. Federal funds may not be used to replace existing state or local efforts in existing subsidy programs.

PARTICIPATION OF PRIVATE AGENCIES

This title recognizes the important role private non-profit youth service agencies can and should play in resolving delinquency related community problems. Units of general purpose local governments receiving funds under this program are urged and encouraged to utilize private non-profit youth agencies to help accomplish the purposes of this title through contracted services when feasible. Nothing in this title shall give the federal government control over the staffing and personnel decisions of private facilities receiving funds under this program.

AUTHORIZATION OF APPROPRIATIONS

To carry out the purposes of this title there is authorized to be appropriated $50 million for the fiscal year ending September 30, 1977; $75 million for the fiscal year ending September 30, 1978; and $100 million for the fiscal year ending September 30, 1979.

ADDENDUM B

California

California operates a $21 million program of probation subsidies: counties apply to be reimbursed for each youthful offender they keep at home who would otherwise go to a state institution. The state then pays the county the per capita, per day expense that would have been incurred. The state also offers a $2.8 million subsidy program for residential and day-care programs (provided in 24 of California's 58 counties). The Department of Youth Authority also administers $200,000 in special program funds, and is now trying to pry loose some state money for a new subsidy program that would fund local youth service bureaus.

Minnesota

The Minnesota Community Corrections Act of 1973 provides state funds to counties or groups of counties with populations of 30,000 or more that write a comprehensive plan for community corrections. This plan must apply to offenders of all ages.

The formula by which funds are distributed is based on per capita income, per capita taxable value, and per capita expenditures for each 1,000 people in the population for corrections, and the percentage of county population between 6 and 30 years old. (This formula matches a county's correctional needs to its ability to pay, and makes up the difference).

By allowing groups of counties to get together and develop a plan, Minnesota opens up the possibility of comprehensive services to rural counties.

Missouri

Missouri passed legislation a year ago that mandated the Division of Youth Services to provide subsidies to local governments for the development of community-based treatment services. But the state has not yet appropriated money to launch the subsidy program. Missouri's Division of Youth Services is working within the limits of the funding it has now to start the subsidy program, and is looking for other sources of money.

New York

New York appropriated $20 million this year to cities and counties that develop both a plan for comprehensive youth services, and the means to carry it out. Counties may receive $4.50 for each resident under 18 years old if they meet eligibility requirements and file a County Comprehensive Plan. A maximum of $75,000 is available for County Youth Service Bureaus. Counties put up a dollar for each dollar they receive.

To encourage developing and carrying out a comprehensive plan, the state charges counties 50 per cent of the cost of keeping the youth they send to state institutions.

Virginia

Virginia has had a program of subsidies to counties for 25 years, but only in the past five has the program been well-funded. The state reimburses 80 per cent of the costs incurred by counties to develop youth service programs. The state will also reimburse 66 per cent of staff salaries, 100 per cent of operating costs,

and 50 per cent of capital expenditures (to $100,000) for community residential programs.

The state offers to administer local programs directly, and assume all costs except for housing, furnishings, and maintenance. Virginia makes special funds available to courts for alternative boarding of children in facilities or foster homes, and for transportation, court-ordered tests, and diagnosis.

Virginia plans to spend $40 million in the next two years for community based youth programs.

STATEMENT OF LEE M. THOMAS, EXECUTIVE DIRECTOR, OFFICE OF CRIMINAL JUSTICE PROGRAMS, STATE OF SOUTH CAROLINA, ON BEHALF OF THE NATIONAL CONFERENCE OF STATE CRIMINAL JUSTICE PLANNING ADMINISTRATORS

Mr. Chairman, and distinguished members of the Committee.

On behalf of the National Conference of State Criminal Justice Planning Administrators and as Executive Director of the Office of Criminal Justice Programs of the State of South Carolina, I both welcome and appreciate this opportunity to provide you with oral and written testimony on the matter of the reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974.

The national conference

The National Conference of State Criminal Justice Planning Administrators represents the directors of the fifty-five (55) *State* and territorial criminal justice *Planning Agencies* (SPAs) created by the states and territories to plan for and encourage improvements in the administration of adult and juvenile justice. The SPAs have been designated by their jurisdictions to administer federal financial assistance programs created by the Omnibus Crime Control and Safe Streets Act of 1968 as amended (Crime Control Act) and the Juvenile Justice and Delinquency Prevention Act of 1974 (Juvenile Justice Act). During Fiscal Year 1977, the SPAs have been responsible for determining how best to allocate approximately 60 percent of the total appropriations under the Crime Control Act and approximately 64 percent of the total appropriations under the Juvenile Justice Act. In essence, the states through the SPAs are assigned the central role under the two Acts.

National conference perspective

The National Conference fully supports reauthorization of the Juvenile Justice Act and continuation of the administration of Title II of the Act by the Law Enforcement Assistance Administration (LEAA).

However, the National Conference believes (a) certain requirements of the Act must be modified to encourage realization of the *totality* of the objectives of that measure and (b) the level of federal assistance directed to the Act must be substantially increased to that end. The National Conference agrees in principle with S. 1218, the Administration's bill to extend and amend the Act. Specifically, the National Conference supports four major amendments to the Juvenile Justice Act of 1974:

(1) the Act should be extended for two years at $150 million per year;

(2) Section 223(a)(12) should be amended to require deinstitutionalization of status offenders over a five year period, with annual benchmarks to be established for each state through individual agreements made by LEAA with each state;

(3) Section 224(b) should be amended to limit LEAA's special emphasis program to no more than 15 per centum of the funds appropriated for Part B of Title II; and

(4) Section 223(a)(17) of the Act regarding special arrangements for state and local employees should be stricken.

Need for Federal assistance

As we in the states have refined the art of criminal justice planning and research, one shocking fact has become increasingly clear: juvenile delinquency is a problem far more serious than many seem to believe—and it is growing worse each year. Although youngsters from ages 10 to 17 account for only 16 percent of our population, they account for fully 45 percent of all persons arrested for serious crimes. More than 60 percent of all criminal arrests are of people 22 years of age or younger.

The State Planning Agencies have applied increasing amounts of funds to address juvenile problems, and the programs which we have developed have begun

to reshape the nation's youth service systems. The states have placed emphasis on deinstitutionalization of status offenders, segregation of juvenile from adult detainees in correctional institutions, community-based programming including shelter-care and foster-home placement, youth service bureaus, and other programs aimed at diverting juveniles away from the formal criminal justice system. These are the types of programs which have been developed by the states during the past eight years. This is where the emphasis has been and where it is expected to continue to be.

We firmly believe that more programs and more new ideas are needed. The philosophy in these programs is that juvenile delinquency should be addressed at the community level and that large institutions do not serve the rehabilitative needs of most juveniles. The community-based programs, which have been establishd to date, have been too few in number to show substantial impact on juvenile crime. The public demands results and quite frankly, we sense the beginnings of hardening public attitudes in dealing with juvenile offenders. Those who once supported a community-based approach may, out of sheer frustration, soon demand a return to institutionalization. We are uncomfortably close to coming full circle.

In a number of cities, conflicts are already beginning to develop between law enforcement officials frustrated by large numbers of juveniles arrested and released by the courts, and juvenile justice officials equally exasperated by the lack of sentencing and programming alternatives. There have, in some cases, been efforts directed at the establishment of new maximum security institutions for juvenile offenders. We do not believe this is the answer, but it is a manifestation of an uneasiness in our cities and counties, about which something must be done.

We believe that community-based programs contribute to a reduction in juvenile crime, and we continue to look to the Juvenile Justice Act as a means to that end. We urgently need the Juvenile Justice Act to be reauthorized and appropriations increased to expand our efforts. The job of reducing juvenile delinquency has already begun in the states, but it cannot be expanded as rapidly as is desirable or improved without the additional resources that should be provided pursuant to a reauthorized program.

Reauthorization period and funding level

We support the reauthorization of the Juvenile Justice Act for a two year period at $150 million per year.

The National Conference believes that because juvenile crime and delinquency is essentially a local problem it is best addressed at the local level. The Juvenile Justice Act is primarily a block grant program which authorizes federal funding and technical assistance based on problems identified and strategies formulated at the local level. We feel that it is important that the federal government continue to provide this financial and technical assistance without federal direction and control.

The two year authorization is recommended so that the Juvenile Justice Act and the Crime Control Act will both terminate at the end of Fiscal Year 1979. This will enable Congress to reconsider the two Acts simultaneously so that the substantive direction and administration of the two Acts can be made mutually supportive. Moreover, a two year reauthorization period will provide the Carter Administration with a reasonable period of time in which to assess the juvenile justice program and develop a long-range plan. The two year extension would also provide the Congress with approximately four years' experience from which to evaluate the operational and administrative activities under the Juvenile Justice Act prior to having to make major structural changes.

The National Conference recommends that the program be authorized at a level of $150 million per year, which is the same as the last year of the authorization of the present enabling legislation. The purpose of the Juvenile Justice Act is to increase funding for juvenile delinquency. The Crime Control Act also provides funds for this purpose. Increased authorization and appropriation levels for the Juvenile Justice Act should not result in equivalent decreases in authorization and appropriation levels for the Crime Control Act, as has occurred in the past. Congress should not play a shell game with appropriations for the two Acts.

Deinstitutionalization

We have every indication that states, even those not participating in the formal grant portion of the Juvenile Justice Act, support the concept that "juveniles who are charged with or who committed offenses that would not be criminal if committed by an adult should not be placed in juvenile detention or correctional

facilities". However, a major factor for the 15 jurisdictions which decided not to participate in the formula grant portion of the program in FY 1975, the 14 in FY 1976 and the current 10 in FY 1977, and for the slow rate of subgranting and expenditure of formula grants funds in participating states has been related to the deinstitutionalization requirement.

Some states thought they knew what the requirement meant, and concluded they could not "in good faith" make a commitment to a requirement for which they had insufficient resources and time to comply. Other states were truly puzzled over the meaning of the section which was "clarified" in different ways over a period of two years. Still other states felt they could in good conscience make "a good faith effort and commitment to deinstitutionalization, but they were fearful of sanctions if the requirement was not achieved. Many states were unwilling to move forward until there was an indication that significant federal funding would be provided. Given the Ford Administration's efforts to stifle the program through the appropriations process, many states were not willing to move until a clear indication of the direction of federal funding emerged from the battle between Congress and the President.

The National Conference believes that the deinstitutionalization requirement of Section 223(a)(12) must be modified in such a way that the states will have a reasonable time and resources to comply. The National Conference's recommendations take the following form.

(1) The states should have five years of program participation to deinstitutionalize. Many states had no or few resources available for caring for status offenders outside of institutions at the time of the passage of the Act. It takes significant time to get the political commitment behind a major reduction effort, to develop a network of service, and to have appropriate delivery mechanisms. Two or three years is simply not enough time to produce the required ingredients.

(2) Each state is extremely different. Appropriate, phased milestones for each state should be negotiated by the state and LEAA. This would enable there to be established reasonable and enforceable benchmarks for each state.

(3) The alternatives for deinstitutionalization should be broad. Placement in a shelter facility eliminates such community-based alternatives as (a) placement back in the parental home or in the home of a relative or friend, (b) a foster home, (c) a day placement or, (d) a school placement.

(4) The sanction for non-compliance should not be so severe that states who are philosophically and politically committed to deinstitutionalization would not dare to risk participation. We recommend that the most severe sanction for failure to achieve deinstitutionalization of status offenders be denial of future formula grant funding. If states are threatened with having to repay formula grant money and/or losing juvenile delinquency "maintenance of effort" money under the Crime Control Act, we are certain even more states will decide to drop out of the Juvenile Justice Act program.

We believe that with a reasonable deinstitutionalization requirement and adequate Juvenile Justice Act funding close to 100% of the states and territories will participate in the program. Moreover, a reasonable requirement and sufficient funding would also permit states to use some of the Act monies on other juvenile justice priorities. States which elected to participate in the program created by the Juvenile Justice Act have found it difficult, indeed impossible, to do more with the current level of appropriations than address the deinstitutionalization and separation requirements. The National Conference believes these are worthwhile ends, but it believes also, as did Congress in legislating the Act, that strong initiatives must be undertaken to strengthen the juvenile justice system and prevent delinquency as well as to deinstitutionalize status offenders and segregate adults and juveniles. The Juvenile Justice and Delinquency Prevention Act is currently in name only an act to improve juvenile justice and prevention delinquency.

Special emphasis

The National Conference supports an amendment to Section 224(b) that would limit the special emphasis program to not more than 15 percent of the funds appropriated for Part B. We believe that the major portion of the money and LEAA's effort should be in support of the formula grant. Since the delinquency problem is essentially local, the major funding should be under the control of state and local officials. The National Conference believes that there should not be two different standards for discretionary programs under the two Acts. We do not know of any meaningful policy distinction which would limit LEAA to 15 percent under the relevant parts of the Crime Control Act but permit up to 50

percent of funds under Part B of the Juvenile Justice Act. The 15 percent limitation would create the same standard for both Acts.

Employee protection

The National Conference recommends that Section 223(a)(17) of the Act be stricken. Existing state and local laws appear to be adequate to cover this area. It is also inappropriate for federal legislation to deal with local and individual employee relations, especially in areas which are likely the subject of collective bargaining agreements. Units of state and local government should not be required by the federal government to be the employer of last resort. When employees are no longer needed, units of state and local government should not be required to keep them on and thereby create sinecure positions.

Comments on S. 1218

The National Conference is generally *supportive* of S. 1218. It makes a number of substantive and technical amendments which should improve the implementation of the Act. What follows are some specific comments on a few key provisions of S. 1218.

(1) The National Conference *supports* Section 2 (4). The additional word should clarify that the subsection deals with federal agencies and prohibits LEAA mandating state units of government to comply.

(2) The National Conference *opposes* Section 3(4). We would prefer the current language of Section 222(d). The " in kind" matching provision for the juvenile justice program should be preserved. At a time of severe state and local fiscal dislocation, it is counterproductive to increase financial burdens on state and local communities. However, we support the exception for private, non-profit organizations. Much of the money under the Act is to start up new private, non-profit operated programs in local communities. These programs will frequently be run by newly formed or resource poor charitable corporations which cannot provide match. The newly proposed Subsection (e) is not applicant if the present "in kind" is retained.

(3) *We support* Section 3(5). The major amount of juvenile delinquency rehabilitation and prevention programs operate at the local level.

(4) The National Conference *supports* the intent of Section 3(13), but would suggest that the better way to clarify this matter would be to strike the phrase "but must be placed in shelter facilities," ending the sentence after words "correctional facilities." This change provides the states with greater flexibility and eliminates any misunderstanding that placing a child in a statutorily undefined entity called a shelter facility is the only alternative to institutionalization. Moreover, if the words "shelter facilities" are used, LEAA must define the words later. Any such definition would run the danger of excluding some appropriate alternatives to institutionalization.

(5) The National Conference would *add* a section striking Sections 223(a)(17) for the reasons set forth earlier.

(6) The National Conference *opposes* Section 3(14). As indicated earlier, we would modify the deinstitutionalization requirement by providing the states five years to achieve the target, with annual benchmarks decided upon through negotiations between LEAA and the individual states.

(7) The National Conference would *add* a section that limited the special emphasis program to not more than 15 percent of the funds appropriated for Part B for the reasons set forth in the earlier discussion.

(8) The National Conference *opposes* Section 3(24)(f). We support the present language of the Act. We believe that funds not required by a state or which become available following administrative action to terminate funding should be reallocated by Section 222(b) as formula funds and not as special emphasis funds to those participating states which have shown an ability to ultilize the funds.

(9) The National Conference *opposes* Section 5(1) for the reasons explained supra. Rather, the National Conference calls for a two year authorization of $150 million per year.

(10) The National Conference *opposes* Section 5(4) which would require the chairman and two other members of the advisory group to become members of the state supervisory board. While we support the purpose of the amendment to assure appropriate coordination of the two groups, we feel that it should be left to each state to work out the appropriate liaison relationship. We feel that the composition of the state supervisory boards should not be changed again as it has been by amendments in 1970, 1973, 1974 and 1976 to the Crime Control

legislation. This change should have been required, if meritorious, during the reauthorization of the Crime Control Act in 1976. Because state supervisory boards are now required by the 1976 amendments to be established by statute, this amendment would require fifty-five jurisdictions to go to their legislatures to secure the change. This will create significant implementation problems in some states.

Comments on S. 1021

The National Conference is generally *opposed* to S. 1021. It makes numerous substantive and technical amendments which would make more complex the operation of the Juvenile Justice and Crime Control Acts. What follows are some specific comments on key provisions of S. 1021.

(1) The National Conference *opposes* Sections 2(1), 2(2), 2(5), 2(6), 2(7), 2(9), 2(10), 2(24), 3(1), 3(41), 3(44) and any other sections which wrest control of the Juvenile Justice Act from the direction of the Administrator and vests it in the hands of the Assistant Administrator in charge of the Office of Juvenile Justice and Delinquency Prevention.

A major problem with the Office of Juvenile Justice and Delinquency Prevention has been that it has virtually been a separate agency within LEAA, over which the former LEAA Administrator exercised very little control. The Office has operated largely independent of the rest of LEAA in such areas as guidelines development, monitoring, financial management and program development. What is needed is far greater control and coordination by the Administrator over this entity running adrift.

Present Section 201(d) of the Juvenile Justice Act indicates that all powers of the Assistant Administrator are subject to the *direction* of the Administrator. Throughout the Act authority is vested in the Administrator. Examples are Sections 202, 203, 204, 221, 223 (c) and (d), 224, 225, 226, 228, etc. In practice, the Administrator has failed to exercise that power, but delegated it to the Assistant Administrator. Section 527 of the Crime Control Act permits the Assistant Administrator under the direction of the Administrator to coordinate juvenile justice activities. Some people have interpreted this section as giving final authority to the Assistant Administrator. Since this interpretation is problematic, perhaps Section 527 is better deleted than retained. In light of all the sections of the Juvenile Justice Act, it was never intended that the Assistant Administrator would every have dictatorial powers.

Rather than deleting the power and authority vested in the Administrator as suggested by S. 1021, perhaps it should be increased by adding the words "and control" after the word "direction" and deleting Section 527 of the Crime Control Act.

S. 1021 would cause further separation and confusion at both the LEAA and state level. There would likely be two bureaucracies rather than one, with different administrative procedures, programmatic priorities and operating philosophies. At many points of operation, the criminal justice system is the same for adults and juveniles. The same crime prevention, police, courts resources and activities deal with juveniles and adults. It is artificial to conceive of the activities of these agencies as entirely separate. If the two LEAA programs are permitted to operate separately, one LEAA policy for adults could conflict with another LEAA policy for juveniles. We don't need a double-headed hydra.

Additional reasons for the National Conference's opposition to the bill concern sections 2(3), 2(4), 2(5), 2(7) and 2(9) of S. 1021 which further add to the weight of bureaucracy by increasing the number and pay of high level executives. Section 2(28) creates another grant making organization.

(2) The National Conference specifically opposes Sections 2(9), which would add a Section 202(f). This new section would grant the Assistant Administrator open ended powers, making the Assistant Administrator the "czar" of juvenile delinquency. As a result the formula grant program could become only an illusory block grant program since all effective power would rest with the Assistant Administrator.

(3) We oppose Section 3(3) which would prohibit a state from increasing a grantee's matching share over a period of time, leading to a full assumption of cost at the end of an appropriate period.

(4) The National Conference opposes Section 3(4) which would require 10 percent of the formula grant to be allotted to the state advisory group and Section 3(8). It makes no sense to fragment the fund administration and increase the number of decision-making bodies. Either the state supervisory board is the appropriate decision-maker, or it is not. An advisory group with grant-making

authority is no longer advisory. Why increase the administrative costs of the program?

(5) The National Conference *opposes* Sections 3(6) and 3(7) changing the requirements for the advisory groups. Constant changes in direction in composition requirements only lead to increased frustration, changing group dynamics and upheaval. The new people called for by Sections 3(6) and 3(7) can already be members of the advisory groups. However, by making these new requirements, changes will occur in most advisory groups; and a period of reeducation will have to occur before effective action can be undertaken.

(6) The National Conference *opposes* Sections 3(20), 3(21), 3(22), 3(23) and 3(28). Rather than lessening the requirements for deinstitutionalization of status offenders, these sections increase the burdens and harshen the sanctions. As a result, the number of states that opt to continue participation in the program can be expected to decrease dramatically.

(7) Section 3(29) is opposed. Funds not applied for should be reallocated as formula funds to participating states.

(8) The National Conference opposes Section 5(1). We believe that a two year authorization of $150 million per year is advisable.

In summary, the National Conference can find little good to say about S. 1021. It makes a few technical improvements which are the same or similar to S. 1218. However, the vast majority of provisions, if enacted, will cause maladministration and non-participation. Because of the plethora of changes recommended, many provisions were not commented upon as they could be.

Mr. Chairman, you have heard from a representative of counties advocating federal incentives for state subsidies to local units of government. We, like the National Conference of State Legislatures, *oppose* this proposal. The objection is that the program would use a portion of federal funds to reward or penalize states which provide their own general fund subsidies to local government. Because of varying financial conditions among the states, some states may be able to subsidize local prevention and correctional programs while other states have insufficient revenues to provide subsidies. We find it abhorrent that the federal government should be asked to mandate state governments be required to subsidize local government. It is our feeling that units of local government should present their cases to the state legislatures and seek state funds directly without relying on the federal government to mandate state action.

Mr. Chairman, the National Conference appreciates the opportunity you have provided to us to make our views known.

Attached for your information is a copy of the National Conference's proposed amendments.

PROPOSED AMENDMENTS

(1) Amend Section 204(f) to read: "The Administrator may require, through appropriate authority, *Federal* departments and agencies . . ." (additional word italicized).

(2) Amend Section 223(a) by substituting the word "develop" for the word "implement".

(3) Modify Section 223(a)(12) to indicate that deinstitutionalization should be achieved within 5 years, with reasonable annual benchmarks agreed upon by LEAA and the state planning agency. Delete the phrase "but must be placed in shelter facilities".

(4) Delete Section 223(a)(17).

(5) Amend Section 224(b) to read "not *more than 15* percentum of the funds appropriated . . ." (change italicized).

(6) Amend Section 261(a) to provide for a two year authorization at $150 million per year.

STATEMENT OF MARION W. MATTINGLY, MEMBER, NATIONAL ADVISORY COMMITTEE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION, BETHESDA, MD.

Mr. Chairman: I am pleased to appear before this subcommittee as a representative of the National Advisory Committee on Juvenile Justice and Delinquency Prevention. The Committee urges the Congress to reauthorize the Juvenile Justice and Delinquency Prevention Act of 1974 and has voted on a comprehensive set of recommendations regarding this legislation. These recommendations were submitted to Senator Bayh, then chairman of the Senate

Subcommittee to Investigate Juvenile Delinquency, at his request, on March 11, 1977.

The National Advisory Committee was created by the Juvenile Justice Act as part of a congressional emphasis on improving the coordination of Federal juvenile delinquency programs. The Committee has 21 Presidentially appointed members with wide ranging experience in the fields of youth, juvenile delinquency, and the administration of juvenile justice. By law, one third of the members must be under the age of 26 at the time of their appointment. This provision has brought to the group the views and special concerns of the young in formulating public policy and in developing programs for delinquency prevention and juvenile justice. Committee membership is further strengthened by a requirement that a majority cannot be full-time Federal, State, or local government employees. The Committee's makeup thus includes members from a number of private agencis whose support and activities are essential for the successful implementation of the Act.

The National Advisory Committee has three major subcommittees: The Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice; the Advisory Committee for the National Institute for Juvenile Justice and Delinquency Prevention; and the Advisory Committee on the Concentration of Federal Effort, all of which have met frequently and developed specific recommendations in their areas respective responsibility.

The full Committee has met nine times. Early meetings served to orient the Committee to the range of Federal programs and to its relationship to the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and other Federal programs. Later meetings focused on specific issues in juvenile justice and on particular programs. The Committee developed a set of recommended research priorities for the National Institute, formulated national standards for juvenile justice which have been submitted to the Congress and the President, and prepared a set of objectives to guide the Committee's activities over the next year. The Committee considers the standards on juvenile justice to be one of its major accomplishments and to be a significant contribution to the improvement of juvenile justice. The Committee is pleased that the office feels this way as well, and will use the standards as a guide for program and coordination activities. It is the strong hope of the Committee that through the demonstration and evaluation of the concepts contained in the standards, they will become strongly supported by the Congress and other Federal youth service programs. The Committee also prepared and submitted its first report to the Administrator of the Law Enforcement Assistance Administration on September 30, 1976 which includes 13 recommendations for improving the Federal juvenile delinquency prevention effort.

Before discussing specific recommendations of the National Advisory Committee I would like to commend the OJJDP staff for doing an outstanding job in attempting to carry out the purposes of the 1974 Juvenile Justice. However, I would like to state for the record that the number of job slots made available to OJJDP for support of the Act has been unreasonably limited in light of the importance, complexity, and comprehensiveness of the responsibilities assigned.

I would now like to highlight a few of the recommendations of the National Advisory Committee. as they are relevant to the proposed legislation:

Congress and the President should support full funding for the 1974 Juvenile Justice Act, including money for appropriate staffing of the National Advisory Committee and the Coordinating Council on Juvenile Justice and Delinquency Prevention;

The various agencies and bodies working in the juvenile justice and delinquency prevention fields should make delinquency prevention as well as juvenile justice a high priority in their programs and activities:

States and localities should develop supportive services for status offenders. Juvenile courts should not be involved in such cases unless all other community resources have failed:

The President and the Attorney General should give the highest possible priority to the work of the Coordinating Council on Juvenile Justice and Delinquency Prevention.

To improve Federal coordination of delinquency programs, the Office of Management and Budget should be added to the membership of the Coordinating Council.

Let me turn now to the National Advisory Committee's specific recommendations on the legislation under consideration.

The Committee believes that the 1974 Act represents a landmark achievement in helping prevent delinquency by removing inappropriate youths from the juvenile justice system and by providing them with alternative methods of care. The Act provides a needed framework for combining the delinquency prevention efforts of Federal, State, and local governments with those of the private sector. Thus, the Committee endorses the general philosophy and provisions of the Act and recommends its reauthorization with only relatively minor changes. The Committee believes that LEAA should continue to have jurisdiction over the Act. LEAA's legislative mandates and organizational structure are closely related to those of the Act and the Committee believes that LEAA's administration has facilitated the Act's implementation.

The Committee strongly recommends that the Presidentially appointed Assistant Administrator who heads OJJDP be delegated all administrative, managerial, operational, and policy responsibilities related to the Act. The Committee believes that some of these responsibilities, which have been carried out to date by the LEAA Administrator, should more appropriately be delegated to the Assistant Administrator in charge of this important national office. Under the present arrangement, the Assistant Administrator bears the responsibility without having the corresponding authority.

Another Committee recommendation concerns the makeup of the Coordinating Council. The Council is charged with making recommendations to the Attorney General and the President with respect to the coordinaton of overall policy and development of objectives and priorities for all Federal juvenile delinquency programs. The Committee believes that several additions to the Council's membership would enable it to carry out these functions more effectively. Therefore the Committee recommends that the Directors of the Office of Management and Budget, and the National Institute on Drug Abuse, as well as the Commissioner of the Office of Education be included on the Council.

The Committee has several recommendations concerning the matching requirements of the Act. The Committee believes that there should be a 10 percent hard match required for units of government but that the Assistant Administrator should be permitted to waive matching requirements for private nonprofit agencies. These agencies are critical to the successful implementation of the Act, representing the efforts of millions of citizens whose services could not be bought at any price. Furthermore, the involvement of these groups in providing services for youths offers an alternative to costly and often stigmatizing processing by the juvenile justice system. Many of the private nonprofit agencies operate on severely limited budgets and would not be able to participate in the Act if the match requirements were strictly adhered to. The Committee also recommends that the Assistant Administrator should have authority to waive the matching requirements for Indian tribes and other aboriginal groups and to waive State liability and to direct Federal action where the State lacks jurisdiction to proceed.

The Committee has noted that some States have been reluctant to participate in the Act's formula grant program because of the requirement that participating States deinstitutionalize all status offenders within two years. The Committee believes that this problem could be lessened and more States influenced to deinstitutionalize status offenders if the Assistant Administrator were granted the authority to continue funding if the State is in substantial compliance with the requirement and has an unequivocal commitment to achieving full compliance. The Committee has also developed clearcut guidelines defining conformity.

A number of other amendments suggested by the Committee are:

Require that State advisory committees advise the Governor and State legislatures as well as State planning agencies regarding juvenile delinquency policies and programming;

Provide that the subcommittees of the National Advisory Committee are subordinate to the parent body;

Broaden the scope of the Runaway Youth Act to include other homeless youth;

Transfer responsibility for the Runaway Youth Act to OJJDP;

Improve the coordination of OJJDP's programs with the Office of Education;

Improve advocacy activities aimed at improving services to youth affected by the juvenile justice system;

Improve government and private programs for youth employment;

Continue the maintenance of effort provision.

Mr. Chairman, this concludes my formal presentation. I would like to thank the Committee for the opportunity of testifying and I would be pleased to respond to any questions the Subcommittee may have.

STATEMENT OF CHRISTOPHER M. MOULD, GENERAL COUNSEL, NATIONAL COUNCIL OF YMCA'S, ON BEHALF OF THE NATIONAL COLLABORATION FOR YOUTH, NEW YORK, N.Y.

Mr. Chairman, on behalf of the National Collaboration for Youth, I want to thank you and the Subcommittee for the invitation to testify before you on renewal and extension of the Juvenile Justice and Delinquency Prevention Act of 1974. We welcome the opportunity to share our views on juvenile justice and delinquency prevention—a matter of increasingly critical importance to this nation. This testimony is endorsed by the organizations listed at the conclusion.

It was a mutual concern over escalating delinquency and the future of young Americans that led twelve national youth serving organizations to join together as the National Collaboration for Youth about four years ago. The member organizations are:

Boys' Clubs of America, Boy Scouts of America, Camp Fire Girls, Inc., 4–H, Future Homemakers of America, Girls Clubs of America, Inc., Girl Scouts of the U.S.A., National Board of YWCA, National Council of YMCAs. National Federation of Settlements and Neighborhood Centers, National Jewish Welfare Board, Red Cross Youth Service Programs.

Our organizations collectively are serving in excess of 30 million boys and girls from a diverse and broad cross-section of this nation's young people from rural and urban areas, from all income levels and from all ethnic, racial, religious and social backgrounds. We cite this to make the point that our organizations represent valuable resources that can be tapped in cooperative ventures with federal leadership and funding. We have the experience of working with children and youth, many of whom are poor—poor in economic resources, poor in spirit, poor in opportunity, children who are alienated, children who are troubled, and children who get into trouble, very real trouble.

We have the expertise of tens of thousands of full-time professional staff, both men and women, who believe in the importance of their work in youth development, who are particularly committed to the need for diverting children from our outmoded American juvenile justice system.

We have the service of hundreds of thousands of volunteers, men and women dedicated to helping young people grow and develop into contributing citizens in their own right. They are people who realize that this is the only next generation we've got.

We also have the support of hundreds of thousands of concerned business and professional leaders across the country. These people serve on our local and national boards of directors. These are men and women of substance, who genuinely care and actively support programs designed to help the youth of America.

And we have billions of dollars in capital investment in equipment and facilities. Billions of program dollars have been expended by our organizations. But only within the last decade have we fully recognized and begun to focus on the youth who are most troubled and alienated. We have had to broaden our more traditional approaches to begin to include concentrated efforts with those in the greatest need. Through national leadership turning the spotlight on the problems of the poor, we have increasingly used our resources to provide positive program opportunities and environments for a wider spectrum of young people. With the addition of adequate federal leadership, direction and funding, these resources could be multiplied many times over in their effectiveness in reaching girls and boys who most need help.

Our first priority, at the inception of the National Collaboration for Youth, was enlisting the Federal government in a comprehensive effort to prevent and treat youth delinquency. Legislatively, our hopes were fulfilled in 1974 with enactment of Public Law 93–415, in great measure a tribute to the leadership of Senator Bayh. Our cause was immeasureably assisted as well by Senator Mathias.

It is of course that Act, the Juvenile Justice & Delinquency Prevention Act, which expires this year.

Mr. Chairman, we strongly endorse the renewal and extension of Public Law 93–415. We would urge the Congress to make this extension at least three years in duration.

The need for this legislation is, if that is possible, even more profound now than at the time of its original enactment. The news media provide us with an hourly and daily litany of school violence, substance addiction, gang resurgence,

vandalism and violent crime sufficient to persuade even the most casual observer that this country is failing on a massive scale to meet the needs of its young people. The price being paid in terms of deaths, injuries, property damage and, most important, wasted human potential is staggering.

The price in taxes for school security and repair, for increased police manpower, for incarceration facilities and correctional personnel, etc., is itself of monumental proportions.

While the Juvenile Justice Act is no panacea, it does provide a Federal commitment for the first time to address youth delinquency and its prevention head-on. It does provide the tools with which we can start to fashion services and programs for young people to maximize their positive human development. It does mandate the collaboration of the public and the private sectors on prevention and treatment of delinquency, a partnership indispensable to any progress. It does put the Congress on record as saying that prevention is the indisputable key to the reduction and elimination of youth delinquency. It does authorize desperately needed funds.

Has the full potential of the Act been proven since its passage? By no means. The time has been too short and the appropriations too small. Moreover, the previous Administration was actively opposed to funding of the Act and in numerous ways administratively delayed and impeded implementation of the Act. Furthermore, many states opted not to participate in funding under the Act because the appropriations were so small that the allocable dollars did not justify the required administrative and programmatic efforts.

Remarkably, almost three years since the Act was passed, LEAA has yet to award its first grant specifically for prevention of delinquency!

On the positive side, the Act has induced numerous states to make definite progress toward the deinstitutionalization of status offenders. The requirement of the Act that participating states complete that process is, in our view, both sound and of major importance. We do not favor a relaxation of the existing deinstitutionalization requirement, confident as we are that LEAA can and will be reasonable in its enforcement thereof.

The Act has served to initiate a valuable planning process in participating states, to identify needs, to set priorities and to allocate resources specifically to prevent and treat delinquency. As required by the Act, that planning process is beginning to bring together the public sector and the private non-profit sector, a too rare event in the annals of criminal justice planning.

LEAA funding has enabled ten of the Collaboration's member agencies and six other major national voluntary agencies to jointly undertake, with their respective local affiliates, action to build up the capacity of the private voluntary agencies to deliver needed community based services, in partnership with public agencies, to status offenders in Tucson, Arizona; Oakland, California; Spokane, Washington; Spartanburg, South Carolina; and a service district in Connecticut.

The progress evident at these and other sites toward deinstitutionalization of status offenders would not have occurred absent the Act's requirement. Retention of that requirement and development of these public/private partnerships to enhance capacity to deliver a variety of supportive services to status offenders is critical if deinstitutionalization is to be achieved and if status offenders are to have their chance to become positive and responsible members of society.

Without the renewal of P.L. 93-415, Mr. Chairman, such approaches to prevention and treatment of delinquency will wither on the vine. The beginning of hope for the future of many young people will sputter out if this landmark legislation is allowed to expire, erasing a vital Federal commitment to young people and depriving promising initiatives of the wherewithall to continue.

We are, of course, heartened by the new Administration's proposal to renew the Act for another three year period, following its recommendation to maintain Fiscal Year 1978 funding at the $75 million level of Fiscal 1977 instead of the prior Administration's proposal of $35 million. We are further encouraged by Senator Bayh's continued commitment to young people as evidenced in his introduction this session of S. 1021 and his continued service on this Subcommittee.

The subject of funding for implementation of the Act has greatly concerned us from its enactment and continues to do so. The appropriations made so far pale in comparison with authorization levels. As indicated earlier; a significant number of states either delayed participation under the Act or opted not to participate because the available funds were not worth the effort.

Mr. Chairman, this government directly spends more money annually on sport fishing and wildlife than is appropriated for this Act which is focused on helping and protecting our very own children. The annual expenditure per capita to incarcerate a juvenile offender far exceeds the cost of a year at Harvard University! We spend infinitely more on processing and jailing offenders than we do on preventing the offenses from occurring.

Our spending priorities are not supportable when we look at what is happening to our young people who are our only future.

We urge your leadership to secure authorizations of $150 million, $175 million and $200 million respectively to fund the Juvenile Justice Act for the next three fiscal years. Such levels will hopefully induce non-participating states to elect to participate and will begin to allow a level of effort commensurate with the scale of the nation's delinquency problem.

We would respectfully point out to this Subcommittee that should there be an erosion of the dollars available for juvenile justice expenditures under the Omnibus Crime Control and Safe Streets Act, the recommended authorization levels for the Juvenile Justice Act would, to that extent, be less than what is needed. This is a very real concern of ours since the "maintenance of effort" requirement earmarks a percentage of the total Safe Streets Act appropriation for juvenile justice rather than a specific sum. Accordingly, if the downward trend of the Safe Streets Act appropriations continues, the amounts earmarked for juvenile justice expenditure will correspondingly diminish. We need your leadership to assure that this does not work to reduce, rather than increase, the aggregate dollars available for juvenile justice initiatives.

Related to the critical subject of dollars is the issue of so-called matching requirements under Section 222(d) of P.L. 93-415. Our organizations and our local affiliates have experienced LEAA imposition of a hard cash 10% match. In many cases this has either made the undertaking of new initiatives impossible or in others very onerous.

In today's real world, private non-profit organizations are doing well if they operate on a break even basis. Too many are operating at a deficit and drawing on limited and dwindling reserves. Contributions and other revenues are not keeping pace with inflation. As costs escalate, our sector cannot, as business can, simply pass on those costs to the recipients of our services.

As we struggle to simply maintain our level of services, we do not have the spare cash to match a grant to enable us to initiate new services or expand established programs. Moreover, we always face the dilemma of financing the continuation of programs and services once LEAA funding terminates, which is typically two or three years from the first award. The combination of the up-front cash match and the limited duration of funding allowed by LEAA in practice, in too many cases, effectively precludes private non-profit agencies from undertaking badly needed new initiatives.

For these reasons, we would urge this Subcommittee to amend Public Law 93-415 to provide for 100 percent funding of approved costs of assisted programs or activities of private non-profit organizations.

We would also ask that this Subcommittee communicate to LEAA an intent that programs assisted under the Act not be limited to two or three years' funding provided that such programs or activities are, on the basis of evaluation, accomplishing their stated and approved objectives.

As this Subcommittee well knows, the best of legislation can founder in implementation due to the manner and means of executive administration. In the case of the Juvenile Justice Act, we have experienced ongoing problems as to the manner and means of its administration at LEAA too numerous to totally enumerate here.

In our experience, the Assistant Administrator and the Office of Juvenile Justice & Delinquency Prevention have been wholly dominated and subordinated by LEAA superstructure and the bureaucratic patterns and policies developed for administering the Safe Streets Act. The Juvenile Justice Act and the office it created, have, in practice, been treated by LEAA leadership as a mere appendage to its mainline criminal justice programs and their mandate, the Safe Streets Act. Implementation of the Juvenile Justice Act has almost been smothered in inappropriate regulations, policies, and guidelines developed for the very different Safe Streets Act program and simply engrafted onto the Juvenile Justice program and office.

We would respectfully suggest that vigorous Congressional oversight of LEAA's administration of the Act is needed. An example would be the need to assure

the establishment by LEAA of a credible system for monitoring LEAA's compliance with Section 261(b) of the Juvenile Justice Act, the so-called "maintenance of effort" provision.

The Act should be amended to give the Assistant Administrator the authority to make grant awards under the Act instead of reserving that authority to the Administrator. The Assistant Administrator is presumed to have special knowledge of the juvenile justice field which the Administrator cannot be presumed to possess.

Through legislation, or other appropriate means, the initiative of Congress is needed to assure adequate staffing of the Office of Juvenile Justice generally, and particularly for the support of the Federal Coordinating Council and the National Advisory Committee created by the Act. The staff for the National Advisory Committee ought to be accountable to the Committee Chairperson. We would urge amending the Act, with regard to the states, to require that the chairperson of the required state advisory committees and perhaps one or two other members of such committees be made members of the state supervisory boards overseeing criminal justice planning. This should give greater assurance that the work of the state advisory committees is not carried on in splendid, but relatively impotent isolation from decision making.

Mr. Chairman, we are mindful that young people are the nation's greatest natural resource and that this places a special responsibility on this Subcommittee as it carries out its mandate. Most of those young people cannot vote and therefore are without a voice in public policy deliberations and decisions. This fact underscores the very crucial role this Subcommittee has in protecting the present and future of American young people. We have every confidence you will fully meet that responsibility.

Our organizations, with years of experience working directly with youth, would welcome the opportunity to be of assistance to this Subcommittee as it works to assure that young people are given the opportunity to achieve their fullest human potential.

Thank you Mr. Chairman.

This statement is endorsed by the following organizations: Boys' Clubs of America, Camp Fire Girls, Inc., Girls Clubs of America, Inc., Girl Scouts of the U.S.A., National Council of YMCAs, National Federation of Settlements & Neighborhood Centers, National Jewish Welfare Board, Red Cross Youth Service Programs.

A Review of the Law Enforcement Assistance Administration's Relationship to the Black Community

(By Robert L. Woodson, Director, Administration of Justice, National Urban League, Inc., New York, N.Y.)

The National Urban League is an interracial, nonprofit, and nonpartisan community service and civil rights organization. Throughout its 65-year history, the League has been committed to the achievement of equal opportunity for all Americans. That commitment has been and continues to be carried out through a constantly expanding network of 104 affiliates located in 34 states.

We welcome this opportunity to express the National Urban League's concerns and views on the Law Enforcement Assistance Administration's re-authorizing legislation under consideration by this Subcommittee. The thrust of the testimony today will be to emphasize and encourage you to recognize the enormous potential for community involvement, especially minority community involvement, in crime control and prevention. Specifically, the League's position is that as this Subcommittee amends the Crime Control Act of 1973, it will recognize that community involvement should be a mandatory and substantial part of LEAA's activity.

The "War on Crime" has been one of the few battles in our history in which the black community has not been enlisted. Some years ago, the Administration prematurely declared a victory in that war. But, then and now, on urban fronts throughout the country, thousands of poor and black people continue to be disproportionately victimized by crime. The lack of black participation in the crime fight has created the false impression that the black community condones crime and protects criminals. Crime prevention, however, is a high priority in the black community. As the level of crime and fear increases in communities

throughout the nation, minority group organizations have exercised leadership and focused much of their energy on direct involvement in combating crime.

Officials in the law enforcement field have long recognized the importance of active citizen/community support in crime prevention. Yet, attempts to officially introduce the "community perspective" into the criminal justice system have met with indifference, limited technical/funding support, and on occasion, open resistance. The Law Enforcement Assistance Administration (LEAA), as a primary vehicle for innovation, reform and progress in the criminal justice system has failed to recognize or support minority citizen involvement in the crime fight.

The Urban League has a particular interest in community participation in crime prevention; crime has had a particularly ravaging effect on the black community. The reported 17 percent increase in crime during 1974 has been doubly felt in low-income and minority communities.

According to studies on crime victimization conducted in 13 American cities, blacks and other minorities are more than four times as likely to be victimized by crime as whites. Low and moderate income families experience significantly higher rates of robbery and aggravated assault.[1] The studies also indicated that at least one-half of all crimes committed are not reported. The victims' most commonly cited reason for not reporting a crime were that they felt "it was not worth it", or that nothing would be accomplished. This high incidence of unreported crimes provides only a small measure of citizen disenchantment and distrust of the criminal justice system.

The black community has been multiply victimized by crime. First, by the disproportionately high incidence of crimes against it; second, by the disproportionate numbers of black men and women imprisoned in a correctional system plagued with inequities and abuses; third, by the revaging social and economic costs of crime; fourth, by the crime-induced fear and suspicion that permeates our communities at a time when we need community unity; fifth, by the unwillingness of the criminal justice system to solicit and support the input of informed citizens and community organizations; and sixth, by national policies that fail to address the root causes of crime—poverty, unemployment, discrimination, inadequate housing, education and health care.

The facts and figures on crime in America are harsh realities for the black community:

Criminal homicide, perpetrated by blacks on blacks, is particularly severe. Of an estimated 1,500 homicides committed in New York City in 1974, 545 of the victims were black; 67 of those victims were slain by whites or members of other racial groups.[2]

Youth, under nineteen years old, commit over 40 percent of all violent crimes and 70 percent of all poverty crimes in the nation. In the black community, the potential for juvenile crime is further exacerbated by the high rates of joblessness among our youth. If current trends continue, more than half of the nation's black youth will be out of work over the next 5 years.

About 40 percent of the State and Federal prison population is black. In 1973, nearly 83,000 of the 204,000 inmates in State and Federal correctional insitutions were black—a disproporionately high percentage when we note that blacks constituted less than 12 percent of the overall U.S. population.

The costs of crime and imprisonment depletes our communities of vitally needed manpower and economic resources. It has been estimated that every 1 million unemployed workers cost the nation about $16 billion in lost revenues and productivity. Today, there are roughly 400,000 inmates in Federal, State, local and juvenile penal institutions. Per capita expenditures on each person ranges from $9,600 to $12,000 per year. As citizens engaged in meaningful, lawful employment this prison population could put over $7 billion back into our economy.[3] In addition, as taxpayers, we bear not only the costs of imprisonment, but also the costs of welfare and social services to which the prisoners' families and dependents are forced to turn. During the course of a year, our correction institutions receive some 2.5 million persons (in-

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1 "*Criminal Victimization Surveys in 13 American Cities*," U.S. Department of Justice, Law Enforcement Assistance Administration, National Criminal Justice Information and Statistics Service, June 1975.

2 "Black on Black Crime: Why Do You Tolerate the Lawless?", Speech delivered by Roosevelt Dunning, Deputy Commissioner, New York City Police Department, Dec. 7, 1975.

3 "Prisoners in State and Federal Institutions on December 31, 1971, 1972 and 1973." Law Enforcement Assistance Administration National Criminal Justice Information and Statistics Service, May 1975.

mates, probationers, parolees) and an additional 5.8 million family members are affected.[4]

And what of the victims of crime? Each criminal act has a tragic but immeasurable impact upon the victim. It is difficult to quantify the emotional as well as economic cost to the survivors of a slain loved one, the trauma experienced by a victim of robbery, assault, or rape. The crime victimization study, referred to previously, revealed that persons from families earning less than 3,000, or in the $3,000 to $7,499 range, were more apt to be crime victims. Nearly one-third of the robberies and larcenies perpetuated on these victims involved losses of between $50 and $250. A significant proportion of the crimes also led to serious injury and hospitalization of the victim.

The dangers of criminal victimization for school children and those working within schools—particularly those serving low-income and minority students—are high. In 1975, on school property juveniles committed 100 murders, 9,000 rapes, 12,000 armed robberies and 204,000 reported assaults on other students and teachers. In addition, school age children were responsible for more than $600 million in damage to school property. A proportionately higher number of these incidences occurred in the 104 largest school districts that service about 60 percent of all minority pupils.[5]

Ordinary crimes against business cost an estimated $16 billion a year. In 1973, the Small Business Administration estimated that losses to small firms from vandalism alone totaled $800 million annually. Black businesses, generally undercapitalized, can ill-afford the costs of extensive crime prevention and detection measures. Minority entrepreneurs, involved in local retail operations, suffer four to five times greater injury from crime than white business in the larger business/corporate community.

In this period of national economic down-turn, no community, least of all black and poor communities, can afford the costs of destroyed or stolen property, slain loved ones, personal injuries, disruption of families, imprisonment and other ills wrought by crime.

The criminal justice system should be the nation's first line of defense against crime. However, in minority communities, citizens must balance their concerns between escalating crime and their historical experiences with inequity and contradictions in the law enforcement system. The increasing numbers of poor and black people in correctional facilities appear to support the notion that wealth and race, more than the nature of guilt or character of a crime, are key determinants of who goes to jail and how long they are imprisoned. Our experience and observations also indicate that the allocation of police resources and the responsiveness of law enforcement officials to various communities are measured by these same key determinants.

Minorities, who are disproportionately the first victimized by crime and the most penalized for criminal activity when apprehended, are the least represented in the staffing and management of our criminal justice system. The Law Enforcement Assistance Administration, our one national vehicle for innovation and reform in the criminal justice system, has a dismal internal staffing pattern. Our review of reports obtained on LEAA employment patterns reveals that of the 184 employees at EAA's professional, administrative and management levels (above GS 14–16), only nine are black. In the key Office of Management and Planning—where decisions on grant priorities and policies are made—there are no blacks in administrative or management positions. In LEAA's central and regional staff offices, of the 196 employees below GS–6 grade level, some 106 are from minority groups.

LEAA, itself, recognizes the lack of minority participation among criminal justice practitioners. In 1968, the National Advisory Commission on Civil Disorders conducted a study of 28 police agencies and found that while the black population in cities surveyed was 24 percent, the median figure for black law enforcement personnel was only about 6 percent. Today, of nearly 600,000 employees with State and local law enforcement agencies, throughout the nation only 21,000, or about 3.5 percent are black. Little more than 1 percent of the judges in the U.S. court system are black.[6] Despite some marked advances over the last decade, minority representation in professional staff levels of correctional institutions remains limited.

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[4] Greenberg, D. "The Problem of Prisons," American Friends Service Committee, 1970.
[5] Juvenile Justice Digest. February 13, 1976.
[6] Black Law Journal, "Black Representation in the Third Branch," winter 1971.

LEAA's 406(e) Curriculum Development Programs allocate funds to universities and colleges for the development of substantive criminal justice curricula. A consortium of seven predominantly white colleges and universities each received, over a 3-year period, $750,000 for their criminal justice curriculum development efforts and their coordinating office received $350,000 over the same period. Nearly $5.7 million was awarded to this consortium over a three-year period. In contrast, a consortium of nine black universities and colleges was recently awarded a nominal grant of $750,000 over a 14-month period—or $64,000 a year for each school in the black consortium versus $250,000 per year for each school in the white consortium.

The need for greater recognition of black colleges as potential resources for development of criminal justice programs is evidenced by the fact that of the 85 four-year black colleges and universities in the United States, they enroll over 40 percent of all black students and present 70 percent of the bachelor degrees received by black graduates. Further, according to reports by the American Council on Education, the number of blacks enrolled in white institutions has been steadily declining since 1970.

The Law Enforcement Education Program (LEEP) provides financial support to colleges for the education of persons employed by police, courts, correction facilities and other criminal justice agencies. LEEP assistance provides an opportunity for men and women working in criminal justice fields to improve their professional competence and upgrade their general performance. Students preparing for criminal justice careers may also take advantage of the program. Historically, LEEP's program emphasis has been on in-service training.

This emphasis, we believe is misdirected. Pre-service training and education programs targeted into the Southeast and Southwest sections where predominately black colleges and universities are located and where the size of the law enforcement labor force is generally smaller would certainly help fill the well-documented need for accelerated recruitment of black personnel into criminal justice professions.

An intensified pre-service training effort would allow greater participation by minority colleges and universities ultimately resulting in the creation of a strengthened affirmative action initiative.

The National Urban League, through its Administration of Justice Division, has attempted to increase the direct participation of the black community in a broad range of criminal justice activities. We have developed extensive experiences in administering criminal justice programs. In 1970, with a grant from New York City's Department of Corrections, the Urban League conducted a correction officers training program—training 700 raw recruits, 480 experienced correction officers and assistant deputy wardens. This demonstration project, designed to upgrade the correction officers' skills and sensitivity to inmate problems, resulted in the establishment of the nation's first training academies for correctional officers.

In cooperation with the Law Enforcement Assistance Administration, the National Urban League conducts a Law Enforcement Minority Manpower Project. Operating in 10 cities, the project has, since its inception in 1973, recruited 12,025 minorities who were counselled to pass appropriate civil service examinations in the criminal justice field, and placed 5,159 blacks and Hispanics in law enforcement and related jobs. The project recently produced a major documentary film on opportunities in the criminal justice field.

At the community level, the Urban League conducts a highly successful pretrial diversion program in Chester, Pennsylvania. This "Community Assistance Project," utilizing a community based staff which includes ex-offenders, resolves family disputes and neighborhood conflicts through arbitration. The early resolution of such disputes is important in that these conflicts normally account for 50 percent of all police homicides and result in the arrest and incarceration of participants as well as spectators.

The trend toward increased citizen involvement in crime prevention is especially marked in poor urban neighborhoods with high crime rates. However, many public and private nonprofit community organizations lack the funds to establish an ongoing institutional capacity to alert citizens to crime trends, mobilize residents to watch and report criminal activity, improve police-community communications and responsiveness, and deploy aid to victims. Poor and black communities across the country recognize the fact that neighborhood efforts to alleviate crime must not deter national efforts to combat the root economic and social causes of crime.

The National Urban League is greatly encouraged by the crime prevention activities of national organizations such as the National Center for Urban Ethnic Affairs, the Center for Community Change, their local affiliates and other community-based groups. A number of significant models for community action and involvement have emerged:

The Woodlawn Organization (TWO), a black community service and economic development group in Chicago's South Side section has trained and employed a neighborhood security force for nearly eight years. This 18-man force is employed to guard TWO's economic development and business interests. These include a major housing development (Jackson Park Terrace), a 504-unit housing project (Woodlawn Gardens), a shopping plaza and supermarket. In addition, the organization last year initiated a block watchers project in which local residents reported suspicious activities to the police. Ad Hoc escort services for the elderly have also been provided.

BUILD, a black community-based non-profit service organization in Buffalo, N.Y., operates a half-way house for ex-offenders; issues periodic community alerts on crime—flyers designed to elicit community cooperation in providing evidence and information to local police investigations; and conducts ad hoc counseling services for victims of crime and a referral-advocacy service in cases of alleged police brutality. BUILD has also participated in an in-depth study of discrimination in Buffalo's jury selection process, participated in negotiations during the Attica Prison revolt, and conducted a police precinct and court monitoring effort, using resident volunteers.

A community-based Crisis Intervention Program has been established in Philadelphia, Pa. For 10 years prior to its establishment in 1975, juvenile gangs in Philadelphia murdered an average of 30 or more people a year. Nearly all of the victims were young and black. Last year, that death rate dropped by half, principally the result of efforts of the Crisis Intervention Program—a program run largely by former gang members.

The East Los Angeles Community Union (TELACU), an alliance of eleven predominantly Chicano International unions and twelve independent community groups, has been highly successful in curbing gang violence within a local housing project. The Casa Marvilla organization (a member of TELACU) operates a gang dispersion program which provided family crisis intervention and counseling for gang members, and involves the youth in the development and construction of a new 504-unit housing project that will replace the current dilapidated public housing. In addition, TELACU played a key role in developing a HUD sponsored Security Patrol. This service, established in 1971, is staffed by young men who reside in the housing projects or surrounding neighborhoods. Since the initiation of the Tenant Security Patrol, there has been an appreciable decline in criminal activity (burglaries, assaults, violent disputes, etc.) within the projects.

In New Haven, Conn., SAND, a community organization, employs and involves a 200-member juvenile gang in constructive community services—rehabilitation of houses, support services for the elderly, community organizing, job training and other worthwhile efforts.

In Chicago, 2 years ago, a core group of 40 women built the Coalition of Concerned Women in the War on Crime. They established a program called "Operation Dialogue" in which neighborhood residents, churches, local police began meeting in small groups to express their concerns and ideas on resolving the problem of crime in Chicago. The group, now has some 1,500 members and, in cooperation with the police, has distributed information on neighborhood crime trends and patterns; and assisted block clubs in formulating crime prevention strategies. The group has also aggressively challenged discrimination in the police department.

In New York City, a variety of citizen-based crime prevention models have been developed. An estimated 6,000 volunteers are involved in child safety patrols throughout the city. Police have reported a marked reduction in street crimes during the hours of these parent patrols. More than 3,000 taxies are equipped with two-way radios connected to a base station and New York City radio police dispatcher. This program, using individual drivers, provides an added measure of self-protection for the drivers and provides citizens with additional eyes and ears against criminal activities on the streets.

The Block Association of West Philadelphia adopted intensive crime prevention strategies that include: use of piercing freon horns by volunteer-

neighborhood patrolers; help and counseling for crime victims: assistance to ex-convicts; and the organizing of youth social functions. At least 25 block groups belong to the association. In the four years of the program's operation, crime in the neighborhoods involved has been reduced, the decline in property values has been reversed, and the neighborhoods have shown much greater stability.

A national organization, the National Urban Coalition, in conjunction with the Field Foundation, funded the Lawyer's Committee for Civil Rights Under Law to conduct a major critique of LEAA programs (1969 to 1972). The report, entitled "Law and Disorder" has been a major tool for community involvement.

The preceding examples of positive citizen/community involvement in crime prevention provide only a modest indication of the potential for success of diverse community models for participation in the criminal justice system.

In 1974, Donald E. Santarelli, former Administrator of LEAA, observed that:

"It is time for us to carry out the will of the Congress through the LEAA program, to become the spokesmen and advocates of the people—to make certain that their interests are a primary factor in all we do. The criminal justice system, in working to achieve the goal of crime reduction, must make citizen interests and citizen participation an integral part of its operation . . ."

That mandate has yet to be met. LEAA support of community- based and community-run crim prevention initiatives has been halting and piecemeal. In proposing the Community Crime Prevention Act of 1973 (legislation which was not acted upon by Congress), it was noted that only about 2 percent of the LEAA action funds were allocated by the states for community involvement programs. In fiscal year 1975, there was only a modest improvement in support of such community efforts. Indeed, we even question LEAA's definition of community involvement funding. Since fiscal year 1971, over $26 million has been allocated to public and private interest groups that are, themselves an integral part of the criminal justice system's operation—e.g., the National District Attorneys Association, the National Sheriffs Association, the International Association of Chiefs of Police, the National Conference of State Criminal Justice Planning Administrators. LEAA officials have cited support of such groups as proof of its commitment to community/citizen involvement. While we in no way wish to demean the valuable work of such groups, we do not believe that their funding by LEAA is representative of or responsive to a realistic commitment to involving neighborhood-based and controlled nonprofit community organizations in the planning and implementation of crime prevention programs.

Further evidence of LEAA's lack of understanding or commitment to funding community crime prevention and control activities can be found in its Sixth Annual Report where, counted among the agency's citizen-initiative efforts, were the following programs:

An Omnibus Courts Improvement Project—$1.04 million grant to the Kentucky Department of Justice.

Support for the National Crime Prevention Institute—a $295,998 grant to the University of Louisville's School of Police Administration.

Project Turn-Around—a $1.6 million grant to the Executive Office, Milwaukee County Courts.

The largest portion of LEAA's discretionary grants continue to be allocated to police science, police technical research and gadgetry. Small and large grants for relatively unimaginative projects with rather spacious benefits continue to receive preference, while community organization proposals are given cursory reviews and are, more often than not, rejected.

We believe that the intent of citizen initiative in crime prevention is not being met in LEA's current community crime prevention focus. Numerous public and private consultant and technical research firms have received grants under the auspices of "community crime prevention". The involvement of these firms in technical research on "victimology" or assessment of crime trends and the operation of criminal justice systems has resulted in a useful body of data. However, their involvement in the planning and implementation of local crime prevention programs has been characterized by limited insight, indifference to the input and concerns of community residents, and general ineptness.

One of the largest recipients of such funds—a research institute operating in a major metropolitan area—has, over the last 3 years used much of its $2 million in LEAA funds to devise community crime prevention plans of questionable merit. For example, this institute's solution to the high crime rate

plaguing a local neighborhood square involved fencing in the area. The recommendation, accompanied by an impressive array of supportive charts and documentation, and developed with no real input from area residents, was approved by city officials. If irate citizen reaction and protest are measures of community involvement in crime prevention, then this project successfully involved the community. When citizens were apprized of the dubious "fencing" plan, they banded together in understandable opposition and, after heated debate with city officials, the plan was mercifully trashed.

Another milestone in the institute's recommendations involved changing street traffic patterns in an effort to reduce congestion in a residential-commercial area plagued with crime. The neighborhood included a number of small retail and other commercial operations that would lose business with the change in traffic flow. In addition, area residents and merchants were not involved in the formation of this plan. The city approved this ill-devised plan, despite the vigorous protest of citizens. After all, the institute represented "experts" in the criminal justice field, and served as the city's prime technical assistance resource. However, the citizens documented the detrimental impact of the new traffic plan on the commercial viability of their area and initiated a lawsuit to halt implementation of the plan.

Representatives of the criminal justice system have readily and repeatedly admitted that, in the absence of citizen assistance, additional manpower, improved technology, and/or additional money will not enable law enforcement agencies to effectively combat crime. We strongly urge that this sentiment be an integral part of LEAA mandates, policies and funding under the new authorizing legislation. Specifically, the National Urban League recommends that:

1. Language be added to the declaration and purpose of the legislation noting that it is the purpose of Title I to also "encourage research and development directed toward improving and increasing citizen/community input and responsiveness to the law enforcement and criminal justice system, thereby enhancing the effectiveness and overall operation of the system."

2. That Part C, Grants for Law Enforcement Purposes, State Block Grants Purpose and Funding (Sec. 302, 303), Title I, be amended to include in the State Plan a requirement that the plan "demonstrate the willingness of the State and local government to support citizen/community-based initiatives by local private/public non-profit agencies in law enforcement, criminal justice, and crime prevention activities."

3. In Title I, Section 306, Allocation of Funds: Block Grants and Discretionary Funds, in the statement of eligible recipients of discretionary grants, the existing legislation states the eligibility of private nonprofit organizations. There are many neighborhood groups, however, that perform quite well but lack the formal organizational structure for participation in this program. We recommend that a statement be added specifying eligibility for such groups, noting, "such groups that lack a formal structure with proven record, be qualified as eligible applicants for funding provided that they have a private, nonprofit sponsoring organization. This nonprofit sponsor will have administrative responsibility for no more than one year or until such time as the citizen group is able to satisfy the Director that they meet the minimum standard outlined in the legislation for nonprofit organization."

4. That Part D, Training, Education, Research, Demonstration and Special Grants Purpose (Sec. 401) and Section 406, Academic Education Assistance, be amended to provide full assurance for the recruitment, eligibility and involvement of disadvantaged and minority students, and minority colleges and universities.

In 1973, the National Advisory Commission on Criminal Justice Standards stated that "citizen involvement in crime prevention efforts is not merely desirable but necessary." This premise should be prominent in congressional deliberations on LEAA's authorizing legislation.

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[From the New York Times, Oct. 29, 1976]

FUNDS TO END YOUTH-GANG VIOLENCE TERMED MISSPENT

(By Judith Cummings)

The National Urban League, reacting to recent flare-ups of yougth-gang violence in major cities said yesterday that millions of dollars in public money were being misspent through failure to use the expert knowledge of experienced minority-group organizations and gang members to combat the rise.

Moverover, a New York City Police Department youth-gang detective, in an interview at the league's offices, assailed the department's youth services as "totally ineffective" and said the police were making no serious attempt to remedy the situation.

"They don't talk about the ineffectiveness of the program, they talk about locking up the kids," said Sgt. Charles Gilliam, supervisor of youth gang intelligence in Queens.

League officials contended that positive results achieved by and for former gang members had been ignored, because the people and institutions paid to produce research are not aware of them.

"The Harvards of this country can never solve the problems of the Harlems of this country," Robert Woodson, director of the league's administration of justice division, said at a news conference that opened a two-day discussion with former gang members, criminologists, and others.

CONCLUSIONS OF STUDY

"Blacks and other minorities are identified as the perpetrators, but when allocations are made for research, it goes to the white institutions," he continued.

The league official's wrath was directed specifically toward a recent study on gang violence conducted by Dr. Walter B. Miller, of the Center for Criminal Justice at the Harvard Law School, under a $49,000 grant from the Federal Law Enforcement Assistance Administration. The study concluded that gang violence had reached a magnitude "without precedence" and would increase further as the population of "minority youths" grew in the large cities.

Mr. Woodson charged the research was done "without talking to a single gang member," an approach he contended was all too common and was the reason for the failure of programs to address the real problems. Dr. Miller was not available yesterday for comment.

The failure of the programs, Urban League officials and others charged, is consequently used as "an excuse" to seek stiffer penalties that would put more black and Hispanic youth in jail for longer periods.

[From the New York Daily News, Oct. 29, 1976]

GANGING UP ON PROBLEMS OF YOUTH

(By Dick Brass)

A two-day conference on the growing problem of gang violence opened here yesterday, but the participants—instead of being college professors—were the youth gang members themselves.

"We recognize that the Harvards of this country can never solve the problems of the Harlems of this country," said Robert Woodson of the National Urban League, which is sponsoring the session at its headquarters, at 50 E. 62d St.

The neatly dressed gang members—many of whom now call themselves former gang members—came from California, Florida and Pennsylvania, as well as from the New York area. And while they offered no solutions for the problem, they all suggested that criminal gang activities are the result of unemployment, oppression, idleness and despair.

"The gangs, they don't got nothing to do," said John Delgado, a 16-year-old former members of the Savage Sunrise gang in Harlem. "They figure they'll go out and have a good time. They get high on whatever they get high on. And when you're high, you don't feel the same way."

"The people in these gangs are just that—they're people," agreed Carlos Castenyetta, a 19-year-old youth worker who grew up in a troubled section of San

Diego, Calif. "People who happen to be unemployed; people who happen to be black; who happen to be Chicano; who happend to need services."

Denying that harsher punishment would prevent rampages of the sort that marred the Ali-Norton fight at Yankee Stadium in September, the gang members instead suggested that the gang organization itself could be used for more peaceful purposes.

"We have a saying," said 24-year-old Robert Allen, who once led Philadelphia's fierce Empire Gang, "when you get busted, you're being saved. That's because nine times out of 10, the jail is better than the cell you're living in at home."

Indeed, all youths present agreed that they would not be deterred from committing crimes by stiff punishment. Instead, they suggested, the best help for gang violence victims is help the gang members mature. "When I was young," Allen said, "life didn't mean anything to me."

According to Roberts, director of the Urban League's criminal justice division, the conference is part of an extensive study of youth violence begun in January. A report is expected next year.

STATEMENT OF FLORA ROTHMAN, CHAIRWOMAN, JUSTICE FOR CHILDREN TASK FORCE OF THE NATIONAL COUNCIL OF JEWISH WOMEN, NEW YORK, N.Y.

The National Council of Jewish Women, a social action and community service organization of 100,000 women in sections across the country, has, since its inception 84 years ago, been concerned with the welfare of children and youth. In 1974, the members of the National Council of Jewish Women conducted a national survey of juvenile justice which resulted in the publication of a report, "Children Without Justice."

A symposium on Status Offenders was sponsored by the National Council of Jewish Women in 1976. The National Council of Jewish Women's sponsorship of the Symposium adds to the organization's list of prideful achievements in a most significant way. Justice William O. Douglas, in his foreword to NCJW's penetrating survey, said that, "We must as a people look to community participation; to neighborhood awareness; and to regimes of help and surveillance that lean on people other than parents and police." As an outgrowth of the Symposium, a Manual for Action was prepared and is now being widely distributed.

Thank you for this opportunity to appear before you. I am Flora Rothman, Chairwoman of the Justice for Children Task Force of the National Council of Jewish Women. My statement is based on the experience of the National Council of Jewish Women's involvement in juvenile justice throughout the country, as well as my personal experience as a member of the National Advisory Committee on Juvenile Justice and Delinquency Prevention and as a participant in state and local juvenile justice efforts.

The National Council of Jewish Women was part of the widespread citizen effort to secure passage of the Act, so we share, with you in the Congress, the desire to make its implementation effective and a true reflection of the legislative intent. It is with this goal in mind that I would like to discuss some of the proposals made in S. 1021 and S. 1218.

Under Sections 201 and 202, several differences between the two proposed sets of amendments deal with the Office of Juvenile Justice and Delinquency Prevention and its Administration. Most particularly, S. 1021 would vest greater power in the Assistant Administrator as chief executive of the Office and would extend the Office's authority over juvenile programs funded under the Omnibus Crime Control and Safe Streets Act. Both warrant support. Reinforcing the Assistant Administrator's control over his Office is appropriate to his responsibilities in assuring implementation of the JJDPA. Including other LEAA-funded juvenile programs in the Office's responsibilities would speak directly to the Office's mandated role as coordinator of federal efforts—a role which as the General Accounting Office's study had indicated, requires strong support by Congress and the Administration.

Under Section 208, Duties of the Advisory Committee, S. 1021 would provide that the Advisory Committee's recommendations be made to Congress and the President as well as to the LEAA Administration. This would serve to support Congress' oversight efforts and should be included. In addition, I would endorse S. 1021's provision expanding the National Advisory Committee's role to include the training of state advisory groups. Reports from many states indicate that such support is necessary if state-level implementation is to be

achieved. I would also urge support of S. 1021's proposal reinforcing the Act's provision for independent staff for the Advisory Committee if the Committee is to fulfill its mandated duties.

Under Section 223, S. 1021 would strengthen state advisory groups' role in the development of state plans. This warrants your consideration since in the past some state planning agencies and supervisory boards have not given juvenile justice and delinquency prevention high priority. Advisory groups, reflecting public concern and relevant experience, would help strengthen efforts to deal with these areas.

Several provisions under Section 223 are concerned with deinstitutionalization efforts. Perhaps no section of the JJDPA has had more significant impact on juvenile justice than 223(a)(12), which called for the deinstitutionalization of status offenders. This provision finally put into action a recommendation made by national commissions and other authorities over many years.

I speak to this with some feeling since the National Council of Jewish Women members who participated in our original Justice For Children study were appalled to learn that non-criminal youngsters comprised so large a proportion of the children locked up in their states. Not only is this an injustice to children but, in light of public concern with serious crime, it is an inexcusable use of juvenile justice resources.

What we have learned since the passage of the JJDPA is that the deinstitutionalization of status offenders is quite practicable—where there is a commitment to do it. In New York state, no status offenders remain in training schools and full attention is being given their removal from secure detention. In Florida, a network of volunteer beds has expedited their deinstitutionalization. In West Virginia, not originally a participant, a recent court decision as well as a new state juvenile code forbid secure confinement of status offenders. In some states, the resistance of those with a stake in the status quo continues to be an obstacle. But to paraphrase Hamlet, "The fault lies not in the law, but in themselves."

It is with this background that we particularly urge the adoption of S. 1021's provisions:

1. That Section 223(a)(12) be expanded to include "such non-offenders as dependent or neglected children."

2. That Section 223(a)(13) emphasize the effort by including all children listed under (a)(12) among those to be barred from contact with adults in jails. Indeed, we would go further and urge that such placement be totally forbidden not merely protected by segregated cells.

3. That Section 223(a)(14) include non-secure facilities among those institutions to be monitored to assure that both the spirit and the letter of the law are observed.

4. That Section 223(c), outlining enforcement of this effort, include, in the penalty for non-compliance, withholding of maintenance-of-effort funds.

We have been distressed by modification of the original deinstitutionalization mandate. Our concern is that non-compliance will result not in penalty, but in further compromise. We believe that the deinstitutionalization effort will be as effective as its enforcement is observed. Should the cut-off of juvenile justice funds to a state be warranted, it will take the strong support of a Congress which stands by its principles to see that the mandate is observed.

In regard to Section 224(a)(7), we welcome the addition of youth advocacy to the list of Special Emphasis programs, but would recommend broadening it to include matters of rights as well as services.

In regard to the development of standards, two amendments recommended in S. 1021 are necessary to clarify an ambiguity in the JJDPA. The deletion of the words "on Standards for Juvenile Justice" in Section 225(c)(6) and of "on Standards for Juvenile Justice established in Section 208(e)" from Section 247(a) would clarify the role of the standards group as a sub-committee of the National Advisory Committee. We assume that Congress intended to have the full Advisory Committee approve and recommend standards not merely a 5-person sub-committee.

Although we would suggest several additional changes, the above reflect our major concerns except, of course, for funding.

The effort to secure adequate funding to implement the JJDPA has been an arduous one. The original authorization recommended for the first three years has never been followed. We hope that this Congress will make every effort to provide the money necessary to accomplish the effort it envisioned. We therefore urge that the appropriation for the fiscal year ending September 30, 1978, be

$150 million, with annual increments of $25 million over the next four years, as recommended in S. 1021.

Once again, may I express my appreciation for the opportunity to present these views.

STATEMENT OF WILLIAM W. TREANOR, EXECUTIVE DIRECTOR, NATIONAL YOUTH ALTERNATIVES PROJECT

Mr. Chairman, my name is William Treanor, Executive Director of the National Youth Alternatives Project (N.Y.A.P.) N.Y.A.P. is grateful for this opportunity to testify before the subcommittee on S. 1021. N.Y.A.P. is a non-profit public interest group, working on behalf of alternative, community-based youth serving agencies such as youth service bureaus, hot lines, drop-in centers, runaway centers, youth employment programs, and alternative schools. We do much of our work via alliance with state-wide youth work coalitions.

Starting in 1973 the N.Y.A.P. strongly backed the efforts of Senator Birch Bayh and others to pass the J.J.D.P.A. We viewed the Act as the critical first step in the Nation's recognition of the problems and issues surrounding youth in trouble. The N.Y.A.P. believes that significant positive inroads have been made and that any faltering in commitment to this Act would have an extremely detrimental effect.

With a few exceptions, N.Y.A.P. strongly supports S. 1021—Senator Bayh's amendments to the J.J.D.P.A. The Bayh amendments offer a clear and continuing commitment toward meeting the challenges of juvenile delinquency prevention. Anything less than full support may in fact sentence our activities to mediocrity or failure.

Specifically N.Y.A.P. wishes to bring to the Subcommittee's attention the following key points in the amendments. Addressed first will be points unique to the Juvenile Justice Section, addressed second, points unique to Title III or The Runaway Youth Section, and addressed last will be the issue of appropriations.

Please also accept these articles from the publication *Youth Alternatives* concerning the Act.

JUVENILE DELINQUENCY PREVENTION ACT

Increased authority to the Office of the Assistant Administrator and the addition of staff to the Office of Juvenile Justice

Although former Assistant Administrator, Milton Lugar, and the staff are to be commended for a job well done, it is, unfortunately, *only* a "job well done" because of the limited powers of the Assistant Administrator and shortage of the staff at the Office of Juvenile Justice. As was clearly brought out in testimony last week before the House Subcommittee on Economic Opportunity, the Office of J.J.D.P. is severely understaffed in relation to its amount of funding and responsibilities. Under S. 1021 the Assistant Administrator, while continuing to report directly to the Office of the Administrator is given broad new powers to ensure prompt implementation of the Act. N.Y.A.P. supports the strengthening of the Assistant Administrator's role.

No in-kind match for nonprofit corporations

S. 1021 proposed the elimination of the requirement for a 10% in-kind non-Federal contribution. We support the amendment as it is consistent with the Act's encouragement of innovative private sector programming. Many private non-profit corporations find it difficult to meet the 10% match requirement.

Deinstitutionalization compliance relaxed

N.Y.A.P. strongly opposed any retreat from the Federal commitment to remove status offenders from the Juvenile Justice System. The thousands of young people whose future would be jeopardized as a result of inappropriate confinement are more important than capitulating to some state's inability to develop an effective system of community based agencies.

National advisory committee makeup/powers

We strongly support the concept and role of the National Advisory Group. Unlike the Administration Bill, S. 1021 recognized the need for broad citizen input by allocating both funding and staff support for its successful operations. Furthermore, S. 1021 states that "Youth workers involved with alternative youth programs" be included in the National Advisory Committee, we strongly support this concept as alternative youth programs are playing an increasingly important role in local/state youth strategies. They should be represented.

Furthermore, we believe this representation should be extended to state advisory committees as well. We support the inclusion of language that will ensure the representation of youth workers on the National Advisory Committee and on state advisory committees.

The allotment of at least 10 percent of State funds in support of the State Juvenile Justice Advisory Group

We have reports of many state juvenile justice advisory groups being stifled in their performance because of limited staff support, paltry travel and per diem reimbursement for members and lack of training especially those members under 26 years of age. This amendment is essential if Congress is serious about youth and citizen participation in the development of juvenile justice policy.

The State Juvenile Justice Delinquency Prevention Advisory Groups should be strengthened even more than S. 1021 proposes

The State Juvenile Justice Delinquency Prevention Advisory Group should have the right of approval over the state plan. Citizen representation from the state juvenile justice advisory groups should be appointed to the State Planning Agency Supervisory Board.

TITLE III—THE RUNAWAY YOUTH PROGRAMS

Support for coordinated networks

The funding of such programs has an especially high multiplier effect, youth work coalitions can contribtue significantly towards the development of a progressive youth serving system if advocacy funds are available. They have a track record of positive accomplishment. Enclosed is a list of 37 of these you advocacy networks across the country. N.Y.P.A. believes these coalitions to be especially deserving of consideration and support. We believe that support by LEAA's Office of Juvenile Justice Advocacy Program should be of highest priority.

Inclusion of short term training

N.Y.A.P. supports this amendment as providing a much needed strengthening of the support capacity of the administering agency.

The Runaway Youth Act should include a $750,000 funding provision for a 24 hour toll free telephone crisis line

This National hotline would assist a runaway youth in initiating a reconciliation process with his or her family and enable runaway centers to communicate with service providers in the runaway's hometown. We believe specific language should be included mandating this service.

Raising the maximum amount of a grant to a runaway center from $75,000 to $100,000; and changing the priority of giving grants to programs with program budgets of less than $100,000 to programs with budgets of less than $150,000

This change is based upon computations of the actual cost of operating programs designed to provide services to runaway youth and their families. Also, the Congress should reaffirm that the purpose of the Runaway Youth Act is to provide services to runaway youth and their families and not to provide HEW with research data.

APPROPRIATIONS

Delinquency prevention and the treatment of juveniles already in the justice system are fields frought with difficulties, contradictions and elusive solutions. If we have learned anything during these past three years it is simply, that half measures or quick answers do not work.

Full funding for juvenile justice

We strongly support the proposed five year extension and accompanying authorized appropriations. We believe that any reduction in the appropriations may serve to undermine not only future activities but those successful programs already in action.

Five-year authorization for runaway programs

N.Y.A.P. supports the proposed five year authorization level of 25 million for runaway programs covered under Title III of S. 1021. The present funded level of 8 million supports only 130 programs. Under the proposed authorization upwards of 300 such centers could be supported.

NATIONAL YOUTH ALTERNATIVES PROJECT

A LIST OF YOUTH ADVOCACY NETWORKS

(Grouped by Federal regions)

FEDERAL REGION I

Burlington Youth Opportunity Federation, 94 Church Street, Burlington, Vermont 05401, Liz Anderson 802/863–2533.

Boston Teen Center Alliance, 178 Humboldt Ave., Boston, Massachusetts 02121, Rodney Jackson 617/442–1055.

Connecticut Youth Services Association, c/o Bloomfield Youth Services, Town Hall, 800 Bloomfield Avenue, Bloomfield, Connecticut 06002, John McKevitt 203/243–1945.

Connecticut Host Home Association, 220 Valley Street, Willimantic, Connecticut 06226, Fr. Malcolm MacDowell 203/633–9325.

New Hampshire Federation of Youth Services, c/o The Youth Assistance Project, 1 School Street, Tilton, New Hampshire 03276, Lily Gulian 603/286–8577.

FEDERAL REGION II

Coalition of New York State, Alternative Youth Services, 1 Lodge Street, Albany, New York 12207, Newell Eaton 518/434–6135.

Garden State Crisis Intervention Assoc., 7 State Street, Glassboro, New Jersey 08028, Paul Taylor 609/881–4040.

New Jersey Youth Service Bureau Assoc., 1064 Clinton Avenue, Irvington, New Jersey 07111, Elizabeth Gegen 201/372–2624.

New York State Association of Youth Bureaus, 515 North Ave., New Rochelle, New York 10801, Paul Dennis 914/632–2460.

FEDERAL REGION III

Baltimore Youth Alternative Services Association, c/o The Lighthouse, 2 Winters Lane, Baltimore, Maryland 21228, Oliver Brown 301/788–5485.

Federation of Alternative Community Services, c/o Second Mile House, Queens Chapel/Queensbury Road, Hyattsville, Maryland 20782, Les Ulm 301/779–1257.

Maryland Association of Youth Service Bureaus, c/o Bowie Youth Service Bureau, City Building, Bowie, Maryland 20715, Carolyn Rodgers 301/262–1913.

Washington D.C. Area Hotline Assoc., P.O. Box 187, Arlington, Virginia 22210, Bobbie Kuehn 703/522–4460.

FEDERAL REGION IV

Florida Network of Runaway and Youth Services, 919 E. Norfolk Ave., Tampa, Florida 33604, Brian Dyak 813/238–7419.

FEDERAL REGION V

Chicago Alternative Schools Network, 1105 W. Laurence Avenue (#210), Chicago, Illinois 60640, Jack Wuest 312/728–4030.

Chicago Youth Network Council, 721 N. LaSalle (#317), Chicago, Illinois 60610, Trish DeJean 312/649–9120.

Enablers Network, 100 W. Franklin Ave., Minneapolis, Minnesota 55404, Jackie O'Donoghue 612/871–4994.

ESCALT, 924 E. Ogden Avenue, Milwaukee, Wisconsin 53211, Dr. Andrew Kane 414/271–4610.

Federation of Alternative Schools, 1536 E. Lake Street, Minneapolis, Minnesota 55407, David Nasby 612/724–2117.

Illinois Youth Service Bureau Assoc., 23 N. 5th Avenue (#303), Maywood, Illinois 60153, Rick King 312/344–7753.

Indiana Youth Service Bureau Assoc., 104 Chicago Street, Valparaiso, Indiana 46383, Dennis Morgan 219/464–9585.

Michigan Assoc. of Crisis Services, c/o Riverwood Community MHC, 127 East Napier Avenue, Benton Harbor, Michigan 49022, Kelly Kellogg 616/926–7271.

Michigan Coalition of Runaway Services, 2043½ East Grand River Avenue, East Lansing, Michigan 48823, Bill Szarfarczyk 517/279–9759.

Michigan Youth Service Bureau Assoc., c/o Newaygo Co. Youth Service Bureau, P.O. Box 438, White Cloud, Michigan 49349, Don Switzer 616/689–6669.

Milwaukee Hotlines Council, 2390 N. Lake Drive, Milwaukee, Wisconsin 53211, Annette Stoddard 414/271-4610.

Ohio Assoc. of Youth Service Bureaus, c/o Allen County Youth Service Bureau, 114 East High Street, Lima, Ohio 45801, Bruce Maag 419/227-1108.

Ohio Coalition of Runaway Youth and Family Crisis Services, 1421 Hamlet Street, Columbus, Ohio 43201, Kay Satterthwaite 614/294-5553.

Wisconsin Assoc. for Youth, Kenosha Co. Advocates for Youth, 6527 39th Avenue, Kenosha, Wisconsin 53140, Michael Gonzales 414/658-4911.

Wisconsin Network of Alternatives in Education, 1441 N. 24th Street, Milwaukee, Wisconsin 53205, Michael Howden.

FEDERAL REGION VI

Oklahoma Youth Service Bureau Assoc., c/o Youth Service Center, 319 North Grand, Enid, Oklahoma 73701, Terry Lacrosse 405/233-7220.

FEDERAL REGION VII

Iowa Youth Advocates Coalition, 712 Burnett Avenue, Ames, Iowa 50010, George Belitsos 515/233-2330.

FEDERAL REGION VIII

Colorado Council of Youth Services, 212 E. Vermijo, Colorado Springs, Colorado 80903, Jan Prowell 303/471-6880.

FEDERAL REGION IX

Arizona Youth Development Assoc., c/o Maicopa County Youth Services, 1802 East Thomas Road (Suite 3), Phoenix, Arizona 85016, Clifford McTavish 602/277-4704.

Community Congress of San Diego, 1172 Morena Street, San Diego, California 92110, John Wedemeyer 714/275-1700.

FEDERAL REGION X

Alaska Youth Alternatives Network, c/o The Family Connection, 428 East 4th Avenue, Anchorage, Alaska 95501. Melissa Middleton 907/279-3497.

Oregon Coalition of Alternative Human Services, P.O. Box 1005, Salem, Oregon 97303, Laverne Pierce 503/364-7280.

Washington Association of Community Youth Services, P.O. Box 18644, Columbia Station, Seattle, Washington 98118, Barry Goren 206/322-7676.

[The following are articles from the publication *Youth Alternatives* concerning the act.]

JANUARY 1976

DECISION MEANS PROBLEMS FOR YOUTH SERVICES—LEAA TO REQUIRE 10% CASH MATCH FOR JUVENILE ACT FUNDS

(The following article was written by Mark Thennes, coordinator of NYAP's Juvenile Justice Project.)

Word has finally filtered down to the private sector that LEAA Administrator Richard Velde—with the concurrence of the Office of Juvenile Justice—has interpreted the Juvenile Justice and Delinquency Prevention Act as allowing LEAA to require at least 10% cash matching funds. All units of local government and, with rare exceptions, all private agencies will be required to secure a 10% cash (or hard) match rather than a 10% in kind (or soft) match for Juvenile Justice Act funds.

The probable effect of this administrative decision will be to make it more difficult for youth services—public and private alike—to participate in the Act. In tight fiscal times, youth services will be required to spend even more time acquiring the cash match; and there is the possibility that some states will not participate in the Act because of legislatures not providing the matching funds. This decision, then, may potentially sabotage the purposes of the Act.

Fiscal Guidelines M7100.1A Change 3, dated October 29, 1975, outline a difficult and bureaucratic process by which private agencies might obtain excep-

tions—though the rule will be exceptions will not be granted lightly. The appropriate LEAA Regional Office may grant exceptions if:

(1) A project meets the Act's requirements, is consistent with the State Plan, and is meritorious.

(2) A demonstrated and determined good faith effort has been made to find a cash match.

(3) No other reasonable alternative exists except to allow an in kind match.

Taking its line of argument from the Act itself, LEAA quotes Sec. 222(d), "the nonfederal share shall be made in cash or kind," and Sec. 228(c), "(the Administrator) may require the recipient of any grant or contract to contribute money, facilities, or services." With capricious reasoning, LEAA maintains that its intention is to allow private agencies to participate in the program and to fulfill the intent of Congress to integrate the Juvenile Justice Act with the Safe Streets Act (which *Congress* required a 10% hard cash match for).

A persistent argument for cash rather than in kind is that cash is easier for LEAA accountants to count. However, the purposes of the juvenile Justice Act do not list making the jobs of accountants easier.

In previous Senate debate, both Sens. Hruska (R–Neb.) and Bayh (D–Ind.) made references to *changing* LEAA policy to in kind match for the juvenile Justice Act. In his speech of August 19, 1974, Hruska noted:

"The conferees agreed upon a compromise match provision for formula grants. Federal financial assistance is not to exceed 90% of approved costs with the nonfederal share to be in cash or kind, a so-called soft match. This means that private agencies, organizations, and institutions will be better able to take advantage of opportunities afforded for financial assistance. The agreed upon match provision is in lieu of the provision of the Senate for no match and the House provision for a 10% cash, or hard match."

Two other references were made during the debate to a *compromise* between the House and the Senate. In the opinion of NYAP, the LEAA Fiscal Guidelines contradict the intent of that compromise, and as such clearly exceed the administrative authority of LEAA.

The Vermont Commission on the Administration of Justice (the LEAA State Planning Agency) has challenged the interpretations LEAA has made. They are considering seeking relief through administrative procedures or legal action. They have questioned whether LEAA has acted in "good faith," labeling this decision as "one of the best kept secrets of the century." The preliminary decision to require cash match was formulated last Spring, with most State Planning Agencies not being notified until late November—after already agreeing to participate in the Act.

LEAA failed to consult *any* national private youth organization on these Guidelines. Previously, LEAA had invited their comments on the juvenile justice Act Program Guidelines and received valuable input from the private sector. Additionally, it failed to heed input from national public organizations which strongly encouraged LEAA to drop the hard cash requirements.

It appears that Mr. Velde is unaware of the hardships this decision will cause for community based youth services. Both he and the Senate Subcommittee to Investigate Juvenile Delinquency could benefit from hearing from youth workers about the potential implications of this administrative decision. (Remember that feedback on guidelines in not lobbying.) You can write:

Richard Velde, LEAA Administrator, 633 Indiana Ave. NW., Washington, D.C. 20531;

U.S. Senate Subcommittee to Investigate Juvenile Delinquency, Washington, D.C. 20510.

LEAA Presses Juvenile Justice Representation

Since Spring, LEAA has been pressing its State Planning Agencies (SPA's) and their Regional Planning Units (RPU's) to comply with the juvenile Justice representation required by the Juvenile Justice and Delinquency Prevention Act. Both SPA Supervisory Board and RPU Boards review and approve comprehensive plans and funding related to the juvenile justice and other law enforcement programs.

As of December, 47 of 50 Supervisory Boards of SPA's met the required representation of "citizen, professional, or community organization directly related to delinquency prevention." The three that do not meet the requirements are Maryland, Connecticut and Virginia.

The same representation is required of the Boards of the RPU's. Compliance at this local level is not yet complete. The following is a partial listing of RPU compliance: New York (6 of 13 comply), Pennsylvania (5 of 8), Virginia (17 of 22), Maryland (0 of 5), Michigan (12 of 14), Illinois (6 of 19), Colorado (8 of 10), Missouri (10 of 19), Nebraska (6 of 19), and Florida (14 of 15). These assessments were made by LEAA Regional Office staff.

In most cases of noncompliance, LEAA Regional Offices have placed "special conditions" on the state's planning funds. These conditions usually require compliance by a specified date or penalties are imposed. New York, for example, was placed under special conditions to prohibit funding of local planning units beyond December 31, 1975, if they are not in compliance.

While LEAA presses for quantitative compliance, community youth services need to press for quality in these boards. Information on who represents juvenile justice, and vacant seats causing noncompliance, is available from your State Planning Agency. Where vacancies on these policy boards exist now, and when they occur in the future, youth services can advocate for persons who have demonstrated their interest in youth development. People who currently serve on these boards can also benefit greatly by hearing from youth workers about current needs of young people. For further information, contact Mark Thennes at NYAP, (202) 785-0764.

Recision of Juvenile Justice Act Funds Rumored

High government sources have confirmed a rumor is circulating to the effect that the White House is considering requesting a recission of the $40 million FY 76 funding for the Juvenile Justice and Delinquency Prevention Act. Whether there is any truth to the rumor is yet to be determined.

Recision, you will remember, is a Congressional response to former President Nixon's habit of impounding funds. It works like this: Congress creates a Bill and the President decides whether he approves of it or not. If he does approve, he signs it and it becomes an Act. Then Congress votes funds for the Act. If the President thinks it is too much, he can veto the funding; but if he approves he will sign it.

Later, if the President changes his mind—or worse, if he never intended to spend the money in the first place—he can order a recission, which, in effect, gives him a budget item veto. The catch, of course, is that he must go back to Congress where it can disapprove of this change of mind. The onus for acting to prevent a recission rests with Congress. If it does nothing, the appropriation is rescinded. Given the past Congressional support of the Juvenile Justice Act, however, it seems highly unlikely that a recission would be allowed.

February 1976

LEAA Hard Match Decision Draws Congressional Fire

The two authors of the Juvenile Justice and Delinquency Prevention Act of 1974, Sen. Birch Bayh (D-Ind) and Rep. Augustus Hawkins (D-Ca), have notified LEAA that its recent guidelines on matching requirements for grants under the Act to public and private agencies are a violation of congressional intent.

LEAA Administrator Richard Velde, with the concurrence of Milton Luger, head of the Office of Juvenile Justice, had interpreted the Act as allowing LEAA to require at least 10% matching funds from recipients which, with rare exceptions, were to be in cash (or hard) rather than in kind (or soft). This decision would obviously create difficulties for financially squeezed youth services—public and private alike—which wanted to participate in the Act. (See January, 1976, *Y. A.*) In addition, LEAA failed to consult any national private youth organizations in formulating these guidelines.

In a letter to Attorney General Edward Levi, Sen. Bayh wrote, "The Administrator has clearly misconstrued the Act and I am hopeful that your office will take appropriate steps to rectify this situation." Bayh included copies of an exchange of correspondence between himself and Rep. James Jeffords concerning an LEAA directive to Jeffords' home state of Vermont that its share of

programs under the Act be in cash. "If the matching cash is not available, Vermont stands to lose this vital program," Jeffords had written to Bayh.

Bayh responded to Jeffords that "our near half-decade review of LEAA policy made abundantly clear a need to facilitate the receipt of assistance by public and private entities, especially in the area of delinquency prevention. A primary obstacle to such progress was the 10% hard match requirement under the Safe Streets Act.

LEAA does not expect that SPA's will spend all of their FY 76 funds in FY 76, but it does expect them to spend more than they were before, about 30–40% as compared to 7–10%. Thus, while an SPA's budget may be cut, it has the choice of actually increasing its spending, thereby balancing or surpassing any cuts.

Reductions in the amounts of funds received by LEAA will, in some cases, affect the resource available for juvenile justice. For the first few years at least, there exists some measure of choice to mitigate the effects of fewer dollars. This choice has not been generally made clear to people interested in juvenile justice.

Youth workers concerned about the implications of LEAA's hard cash requirement should make these concerns known to LEAA and to Congress. You can write:

Richard Velde, LEAA Administrator, 633 Indiana Ave. N.W., Washington D.C. 20531.

U.S. Senate Subcommittee to Investigate Juvenile Delinquency, Washington D.C. 20510.

MARK THENNES, *NYAP staff.*

LEAA's National Advisory Committee on Juvenile Justice met in San Francisco at the end of January and heard LEAA Administrator Richard Velde say the agency would soon ask Congress to completely eliminate provisions for in kind (soft) matches under the Juvenile Justice Act.

Velde told the Committee LEAA was required to submit its ideas for changes in the Act to Congress by May 15. He said the requested changes would probably include the removal of the soft match provisions.

"Soft match has had some interesting side effects," Velde said. Until 1971, he said, LEAA allowed 25% soft matches in its grants and it began "making liars out of criminal justice agences" who were squeezed for funds. LEAA discovered that some agencies were using the same volunteered services and equipment as in kind contributions on different LEAA grants, Velde said, and added that "we can expect this same problem with private agencies" because they are inexperienced with handling federal monies, bookkeeping procedures and complicated audit problems.

Velde also said LEAA would request extending the life of the Juvenile Justice Act until September, 1981, to allow it to expire at the same time as the Crime Control Act of 1975. The Juvenile Justice Act is now set to expire in September, 1977.

JUVENILE JUSTICE REPRESENTATION NEARS COMPLETION

Only twenty of the approximately 450 Regional Planning Units (RPU's) of the LEAA State Planning Agencies (SPA's) in the country do not comply with the required representation of persons involved with juvenile justice, according to the most recent LEAA memorandum on the subject. These twenty RPU's are scattered among nine states and are expected to be in compliance by March 1, 1976.

An amendment to the Safe Streets Act which created LEAA was added to the Juvenile Jusice Act requiring representation of citizen, professional or community organizations directly related to delinquency prevention. (See January 1976, *Y.A.*)

We reported last month that Maryland was one of three states whose SPA did not meet the required representation. We also said that none of Maryland's five RPU's were in compliance. This informaion, based on LEAA assessments, was the most current information available as we went to press last month.

We received a letter in January from Richard C. Wertz, Executive Director of the Maryland Governer's Commission on Law Enforcement and the Administration of Justice, saying this report was wrong and that Maryland's SPA and RPU's are in compliance, At press time this month, LEAA reports that Maryland is in compliance in terms of its requirements.

The other two state SPA's which were in question were those of Virginia and Connecticut. Virginia's will come into compliance in June, according to the LEAA memorandum. Approval for Connecticut is still pending in the LEAA Regional Office.

MARCH 1976

MATCH DECISIONS LEFT TO SPA'S—LEAA CHANGES GUIDELINES, BUT HARD MATCH STILL RULE

LEAA has revised its fiscal guidelines which had required a "hard" (cash) match from public agencies receiving Juvenile Justice and Delinquency Prevention Act funds. Previously, only private agencies were to be eligible for possible exceptions to the cash match requirement. (See January, February *Y.A.*'s)

LEAA Administrator Richard Velde is still insisting that in-kind ("soft") match is to be an exception to the rule requiring cash match. In an undated change that takes effect immediately, Velde will now permit in-kind match to be substituted for cash in any project—public or private—upon the request of a State Planning Agency (SPA) to an LEAA Regional Office. The SPA must first make a formal determination that two specified criteria have been met:

(1) a demonstrated and determined good faith effort has been made to obtain cash match and cash match is not available.

(2) no other reasonable alternative exists except to allow in-kind match.

The SPA is required to review any exception granted each year to determine whether the criteria still apply. Velde has also reserved the right to make similar exceptions of match for Special Emphasis grants from LEAA's Office of Juvenile Justice, which is headed by Milton Luger.

Luger, responding for Velde to questions from Roger Biraben, of the Second Mile runaway center in Hyattsville, Md., wrote "it is not our intention that private nonprofit agencies be denied funding consideration on the basis of inability to generate cash match", nor is it "LEA's intent to place unreasonable administrative burdens on potential applicants."

Velde's new guideline passes decisions on the Congressionally intended in-kind match to the SPA's. Serious questions are raised by giving this discretionary power to the SPA's in light of the increased burden in auditing an in-kind match and in view of their obvious biases against the Act. On January 31, the Legislative Advisory Committee to the National Conference of State Criminal Justice Planning Administrators (the national body of SPA's) recommended:

(1) opposing the reauthorization of the Juvenile Justice Act.

(2) abolishing both LEAA's Office and Institute of Juvenile Justice.

(3) ending the Juvenile Justice Act's maintenance of effort provision which requires that LEAA maintain its 1972 level of delinquency prevention spending (about $112 million a year) over and above those funds distributed by the Juvenile Justice Office.

(4) supporting only hard cash match, noting that the "deletion of in-kind match eliminates a problem-producing administrative process and enhances greater grantee commitment to projects."

Most of the SPA staff personnel *Y.A.* has talked with are opposed to the in-kind match provisions, citing auditing headaches and questions about the grantee's commitments. Regardless of what it intends, LEAA has passed decisions on hard match to an obviously unsympathetic branch of state government, the SPA's, whose best interests are not compatible with in-kind match.

Mark Thennes, NYAP staff.

Attorney General Edward H. Levi has responded to a letter sent him in January by Sen. Birch Bayh (D-Ind), co-author of the Juvenile Justice and Delinquency Prevention Act, in which Bayh charged that LEAA Administrator Richard Velde had "clearly misconstrued" the intent of the Act by requiring a hard (cash) match from public agencies receiving funds under the Act.

Levi's letter to Bayh states that LEAA has revised its guidelines to establish parallel match provisions for both public and private agencies which would permit in-kind (soft) match under certain circumstances. (See main story.)

But Levi's letter also makes clear LEA's preference for hard match and lists four reasons for this:

(1) State and local legislative oversight is insured, thus guaranteeing some State and local governmental control over Federally assisted programs,

(2) State and local fiscal controls would be brought into play to minimize the chances of waste,

(3) the responsibility on the part of the State and local governments to advance the purpose of the program is underscored.

(4) continuation of programs after Federal funding terminates is encouraged by requiring a local financial commitment.

"It was for the above-cited reasons," Levi's letter continues, "that the Omnibus Crime Control and Safe Streets Act of 1968 was amended in 1973 to utilize a hard match requirement, rather than the previous in-kind match."

But John Rector, chief counsel of the Senate Juvenile Delinquency Subcommittee, told *Y.A.* that whatever the intent of Congress was in that amendment has no bearing on what the intent was in passing the Juvenile Justice Act. "The intent was clearly for in-kind match," Rector said, "and Mr. Levi's letter ignores that."

Youth Workers Influence SPA Advisory Board Picks

On February 13–15, the newly-appointed members of the Massachusetts Advisory Board on Juvenile Justice met for a training session funded by the Massachusetts Committee on Criminal Justice (the state's SPA), which presented members with an overview of the LEAA system, the Juvenile Justice and Delinquency Prevention Act, and a discussion of the SPA.

The sesion marked an end to one phase of NYAP's involvement with that state's effort to appoint and train Advisory Board members. Beginning in September, 1975, NYAP supported the work of a part-time organizer whose mandate was to impact appointments to the Advisory Board.

Through some pressure and negotiating, a small group of hardworking youth workers convinced Governor Dukakis to agree to a screening committee that would interview prospective members. Soliciting names from around the state, the screening committee submitted a list of 66 candidates to the Governor which represented a cross-section of youth work as well as a serious commitment to reform of the juvenile justice system.

In January, the Governor appointed thirty people from the screening committee list—representing a victory for concerned youth workers in the state and for NYAP's overall concern with impacting the implementation of the Juvenile Justice Act.

Cheryl Weiss, NYAP staff.

April 1976

House Rejects Deferral of Juvenile Justice Funds

President Ford's request for a deferral of $15 million of the $40 million already appropriated for the Juvenile Justice and Delinquency Prevention Act was rejected by a voice vote in the House on March 4. A deferral is terminated if either body of Congress rejects it.

LEAA's Office of Juvenile Justice now has the full $40 million FY76 appropriation. Over the next sixty days, $23.3 million will be given to State Planning Agencies as their Comprehensive Juvenile Justice Plans are approved. Earlier in FY76, the Office had distributed $17.4 million to the states for juvenile justice programs, including $10.8 million of the $25 million FY75 Juvenile Justice Act funds.

Of the $40 million FY76 funds, $10 million must be spent on Special Emphasis programs. The Juvenile Justice Office has committed an additional $15 million of Safe Streets Act funds for Special Emphasis uses. Most of these monies are expected to finance the next three Special Emphasis initiatives: Diversion (see following story), Prevention and Reduction of Serious Juvenile Crime.

Also, $2.5 million has been earmarked for the Office's Technical Assistance responsibilities; and $6.4 million will be used by the National Institute of Juvenile Justice in fulfillment of its mandates for research, training and an information clearinghouse.

In addition to the $40 million, the Office will receive $10 million for the "Transition Quarter" (July 1–September 30) between FY76 and FY77. No decisions have been made on allocating these funds.

Congress is currently considering the appropriation level for the Juvenile Justice Act for FY77. The President is requesting $10 million, but a few youth services have begun to urge the Congressional appropriations committee to provide at least $75 million for the Juvenile Justice Act in FY77 in order to mount effective juvenile justice programs in the states and territories.

Mark Thennes, NYAP staff.

Diversion Proposals Sought

LEAA's Office of Juvenile Justice is to announce a major funding effort for Diversion programs in mid-April. Last July, the Office was tentatively estimating that between $5–10 million would be made available for the funding of a limited number of Diversion programs around the country (see *Y.A.*, August, 1975).

The Diversion announcement is to be the second of four Special Emphasis Initiatives of the Office of Juvenile Justice. The first Initiative on Deinstitutionalization of Status Offenders distributed $11.8 million to 13 programs. Two other Initiatives, one on Delinquency Prevention and the other on Reduction of Serious Juvenile Crime, are expected to be announced later this year.

Previously, the National Advisory Committee on Juvenile Justice and Delinquency Prevention expressed an interest in reviewing these grants before they are awarded—a position supported by Attorney General Edward Levi. The Advsiory Committee's exercise of this power of project review is similar to the project review that LEAA Guidelines require for State Juvenile Justice Advisory Boards.

Information on how to apply for the Diversion grants will be available in mid-April from the ten LEAA Regional Offices, or by writing to: Special Emphasis, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Ave. N.W. Washington, D.C. 20531.

May 1976

States Lacking Advisory Boards Will Lose LEAA Funds

LEAA announced it intends to reallocate the FY 76 Juvenile Justice and Delinquency Prevention Act state formula grants of those states not having Juvenile Justice Advisory Boards in place and operating by June 30. Citing powers given it by the Act (Sec. 222b, 223d), LEAA said it will reallocate these unobligated funds for special emphasis prevention and treatment programs around the country.

The following states have indicated they will not be participating under the Act, and are therefore not creating Advisory Boards: Alabama, Kansas, Nebraska, Wyoming, Oklahoma, West Virginia, Guam and American Samoa. Nearly $2 million in formula grants set aside for them will be committed to special emphasis programs by LEAA's Office of Juvenile Justice and Delinquency Prevention

An informal poll conducted by *Youth Alternatives* in April indicates the following states do not have advisory Boards and would lose the designated amounts of money should they not appoint them: Connecticut ($434,000), Vermont ($200,000), Texas ($1,402,000), South Dakota ($200,000), Utah ($200,000), Iowa ($334,000), Michigan ($1,104,000), California ($2,280,000), Hawaii ($200,000), Oregon $240,000), District of Columbia ($200,000), Puerto Rico (200,000), Virgin Islands ($200,000), and the Trust Territories ($200,000). Maine has appointed an Advisory Board that is not in compliance with LEAA guidelines and the state is reconsidering its participation under the Act.

LEAA has granted numerous extensions to states for submission of their Comprehensive Juvenile Justice Plans which must be reviewed by the Advisory Boards. A December 31, 1975. deadline was extended sixty days. President Ford's requested deferral of Juvenile Justice Act funds, overturned by the House in March, caused other delays. LEAA has just granted another forty-five day extension, until May 12, for submission of the Plans.

Part of the difficulty in creating the Advisory Boards appears to stem from staff in the Governor's offices attempting to gain political mileage from the appointments. This not only endangers the funds, but fails to recognize the need to orient these Advisory Boards to their functions of plan and project review. Additionally, it makes effective planning by State Planning Agency staff more difficult.

Interested youth advocates should contact their LEAA State Planning Agency and Governor's Office for further information on the status of the Advisory Boards and possible loss of funds.

Mark Thennes, *NYAP staff.*

Overlap Between YSB's, Juvenile Justice System A Concern of LEAA Report

A new assessment of Youth Service Bureaus claims that "the informal and formal conditions attached to Youth Service Bureau referrals apparently tend to reinforce the operational connections between YSB's and juvenile courts, and cause them to function as a form of probation agency." The LEAA-funded study was headed up by university researchers Arnold Schuchter and Ken Polk. NYAP obtained a draft copy of the assessment under the Freedom of Information Act.

The $245,000 study notes that "YSB's are one of the few existing helping services for youth in trouble with the law and fill a large gap in such services in communities of all sizes. On the face of it, therefore, their existence seems justifiable even if reliable research evidence is not available to prove their effectiveness.

"However," the report continues, "since so many YSB's actually function or end up functioning as extensions of the juvenile justice system, one must seriously question and further research the specific operational processes whereby the connection with the justice system occurs, its impact on the youth handled, and its policy implication for development of alternative diversion strategies and mechanisms."

The study also examines the issue of YSB's and due process. "Evaluation of court intake processes are necessary across a range of types of court intake unit to determine the potential disadvantages for the youth involved in such quasi-legal informal adjudicative and dispositional processes and the impact on the youth involved of the de facto transfer of dispositional authority to YSB's."

Dr. James Howell, acting director of the National Institute of Juvenile Justice and Delinquency Prevention, said this study "was designed to conduct an assessment of what is known about YSB's and their effectiveness", but "was not intended to constitute an evaluation of YSB's." Rather, he said, its purpose was to determine the current state of the art in that area. The report is currently being revised and edited and is scheduled for publication in June.

The question of YSB's and advocacy was also addressed in the study. The role and effectiveness of YSB's in initiating, catalyzing and coordinating efforts to change local justice system and no system agencies remains a matter of speculation, the authors note. "The findings suggest that advocacy (nonlegal) aimed at changing institutional practices of schools and youth-serving agencies is going on extensively among YSB's (primarily non-juvenile justice system based) but is inadequately documented, in part for obvious political and practical reasons."

The study also maintains that most YSB's "spend a considerable portion of their limited time, energy and staff resources to obtain the financial means for survival while, at the same time, dealing with diverse pressures that operate to diminish their credibility and effectiveness as an agency serving youth in trouble."

Copies of the study will be available from the National Institute of Juvenile Justice and Delinquency Prevention, 633 Indiana Ave. NW., Washington, D.C. 20531.

71% of LEAA Status Offender Funds Available to Private Non-Profit Groups

LEAA estimates that 71% of the more than $11.8 million recently awarded to 13 projects for the deinstitutionalization of status offenders is available to private non-profit groups. Six of the 13 projects are themselves private non-profit groups.

This figure is based upon a recent analysis of the project budgets done by LEAA's Office of Juvenile Justice and Delinquency Prevention. The analysis counted the amounts in the budgets for "purchase of services" or under the budget heading "contractual." How these funds will be awarded is at the discretion of the grantees.

The goal of the program is to halt the incarceration of juvenile offenders within two years and to develop community-based resources to replace correctional institutions used by juveniles. The 13 projects were chosen from more than 400 preliminary applications submitted to LEAA.

LEAA's second special emphasis program will concentrate on diversion of juveniles from the traditional juvenile justice system. The program announcement requesting applications was issued on April 15.

JUNE 1976

ADMINISTRATION'S HANDLING OF JUVENILE JUSTICE ACT HIT IN SENATE HEARING

The Senate Subcommittee on Juvenile Delinquency held an oversight hearing on May 20 to question LEAA officials about the implementation of the Juvenile Justice Act to date and to learn what amendments the Administration has proposed in extending the Act beyond its current expiration at the end of FY 77.

LEAA Administrator Richard Velde presented the 49 amendments to the Subcommittee, prompting its Chairman. Sen. Birch Bayh (D-Ind), to say that instead of calling them amendments to extend the Act, the Administration would do better to call them "an act to repeal" the Juvenile Justice Act. Velde, however, termed the amendments "basically an extension of the program as it now exists." (For a more detailed examination of the amendments, see story on p. 2.)

Bayh, as in the past, was critical of the Administrations' handling of the Act; at one point saying that since the White House was unsuccessful in preventing funding for the Act and later in deferring what funding there was, it was now intent upon "emasculating" the Act through the proposed amendments.

However, Bayh excluded Velde and LEAA from much of his fire, saying it was apparent to him that LEAA was being thwarted by the Administration in fully implementing the Act. Velde, who was once a Subcommittee staff member, did not deny this, and in his responses offered two examples of how the Administration turned down LEAA requests in regard to the Act.

One, Velde said, was when LEAA requested $80 million in FY 77 funding for the Act, only to have the Administration's Office of Management and Budget (OMB) slice that down to $10 million. And, Velde said, while LEAA wanted a four-year extension of the Act, the Administration proposed only a one-year extension. Bayh commented on this point, saying "this dangling from year to year will guarantee that a good program will not be as good as it could be."

Velde, however, defended the Administration's proposal to delete the "maintenance of effort" provision from the Act, which requires LEAA to spend a constant amount of money each year on juvenile justice programs. "This has been a time of declining overall resources for LEAA," Velde said. "Since FY 75, which was the highwater mark in terms of appropriations for LEAA, our resources have declined 40%. There are many, many priorities to be served in the face of declining resources."

The Subcommittee also heard from Michael Krell and Marion Cummings, of the Vermont Governor's Commission on the Administration of Justice (the state planning agency), who recounted their battle with LEAA over the recent hard versus soft match issue. The state had lost its share of funds under the Act when LEAA said it could not use a soft, or in kind, match instead of a cash match.

Cummings told *Y.A.*, however, that the Commission had an "oral" agreement from LEAA that Vermont could substitute a soft match. During Velde's testimony, he said LEAA was prepared to waive the hard match provision if a state could show "good cause".

SUBMITS 49 AMENDMENTS TO JUVENILE JUSTICE ACT—LEAA SEEKS AUTHORITY IN DEINSTITUTIONALIZATION RULE

LEAA has asked Congress to allow flexibility in the required deinstitutionalization of status offenders called for under the Juvenile Justice and Delinquency Prevention Act. Sen. Birch Bayh (D–Ind), the author of the Act which requires participating states to achieve this goal within two years, agreed with LEAA Administrator Richard Velde that this requirement needed more flexibility, but he said he did not want to create a loophole for noncompliance.

LEAA submitted to Congress a list of 49 amendments to the Juvenile Justice Act. Under the Budget Reform Act of 1974, the Administration is required to submit to Congress its recommendations for changes in existing legislation 18 months before that legislation expires. Most of the 49 recommendations are of a technical nature, and others come as no surprise to those following LEAA's implementation of the Act.

As expected, LEAA called for eliminating the soft, or in-kind match, in favor of a 10% hard, or cash, match for Juvenile Justice Act funds. Consistent with Administration policy, LEAA is also recommending the deletion of the provi-

sion requiring LEAA to spend $112 million of Crime Control funds on juvenile justice programs. This provision is known as the "Maintenance of Effort".

The most significant change recommended, however, involves the mandatory deinstitutionalization of status offenders. Under Section 223(a)12 of the Act, participating states must accomplish this within two years. LEAA is asking for the flexibility to grant exemptions to those states unable to comply within two years. Exemptions would be granted if the LEAA Administrator determines that "substantial compliance" has been achieved, and the state has made an "unequivocal commitment to achieving full compliance within a reasonable time."

During an oversight hearing on LEAA's implementation of the Juvenile Justice Act held May 20, Sen. Bayh agreed with the need for more flexibility. He cautioned, however, against creating a loophole, and spoke of establishing a benchmark of what "substantial compliance" might mean. Off the top of his head, he suggested that a state having deinstitutionalized 75% of its status offenders could be in substantial compliance.

It seems certain that some flexibility will be given to states in their compliance when the new Juvenile Justice Act takes effect October 1, 1977.

Citing inability to meet the two-year requirement and lack of adequate support, three states (Kentucky, Utah, and Nebraska) have withdrawn from participating in the Juvenile Justice Act in the past few weeks. Five other states (Texas, Tennessee, Mississippi, North Dakota, and Missouri) are apparently reconsidering their participation.

There are 41 states which have agreed to accomplish the deinstitutionalization of status offenders from secure facilities by August 1, 1977, 60 days before the revised Juvenile Justice Act would go into effect.

In a separate development, LEAA is granting up to an additional $100,000 to those states participating in the Juvenile Justice Act, effective this month. Youth advocates would do well to re-examine with their LEAA State Planning Agencies the arguments for non-participation in the Act in light of these new developments.

In other amendments to the Juvenile Justice Act, LEAA is asking for authority under its Special Emphasis program to "develop and support programs stressing advocacy aimed at improving services impacted by the juvenile justice system", which is to say youth advocacy. LEAA is also now suggesting that drug and alcohol abuse education and prevention programs be deleted from "advanced techniques".

Last, and least, LEAA has asked for only a one-year extension of the Juvenile Justice Act, with a maximum funding level of $50 million. This, you might note, could potentially require LEAA to submit to Congress its recommendations for the second revision of the Juvenile Justice Act six months before the revised Act goes into effect on October 1, 1977. The absurdity of LEAA's program people attempting to work with the Administration's Office of Management and Budget has its lighter moments.

MARK THENNES, *NYAP staff.*

LEGISLATIVE REPORT—LEAA REAUTHORIZATION AND APPROPRIATION BILLS CONSIDERED

LEAA Reauthorization: House and Senate bills:

The House version of the Crime Control Act of 1976 extends the Law Enforcement Assistance Administration for one year with an authorized maximum appropriation of $880 million. The bill retains the "maintenance of effort" provision which requires LEAA to spend $112 million per year of Crime Control funds on juvenile justice.

The Senate bill extends LEAA for five years at $1.1 billion per year. It eliminates the fixed dollar amount "maintenance of effort" and replaces it with a formula which requires 19.15% of Crime Control funds in Part C (State Formula Block Grants) and Part E (Corrections) to be spent on juvenile justice. This formula applied to the Administration's request of $667 million would allow about $104 million for juvenile justice.

On May 12, Sen. Birch Bayh lost a vote in subcommittee (7–5) which would have retained the "maintenance of effort" provision. He is considering offering this provision as an amendment on the Senate floor.

Both reauthorization bills are expected to be out of their respective Judiciary Committees and on the floor by mid-June.

LEAA Appropriations: House and Senate bills:

The Ford Administration's latest request for LEAA funding during FY 77 is $667 million. This is $40 million less than first requested by the Administration and about $140 million less than LEAA's current FY 76 appropriation. The House Appropriations Subcommittee on State, Justice, Commerce and the Judiciary has cut this request to about $600 million and added an extra $40 million to that amount for the Juvenile Justice and Delinquency Prevention Act. The bill goes to the full House Appropriations Committee at press time and to the floor in mid-June.

The Senate Appropriations Subcommittee is expected to follow the Administration's $667 million figure which includes $10 million earmarked for the Juvenile Justice Act. The Subcommittee will mark up the bill during July, after the House passes its appropriation bill.

In April, Sen. Bayh attempted to obtain stronger funding for the Juvenile Justice Act. He offered an amendment to allow the funding of the Juvenile Justice Act in FY 77 at $100 million, and gave an impassioned plea on the floor for its acceptance. At the time, however, the Senate was debating a ceiling on the budget and Sen. Edmund Muskie (D–Me) spoke in favor of following the Senate Budget Committee's recommendation.

While the Bayh amendment failed (46–39), it was the closest any amendment came to passing, indicating strong support in the Senate for an appropriation larger than $10 million.

JULY 1976

CONGRESS SETS $75 MILLION FOR JUVENILE JUSTICE ACT

Meeting on June 28, a joint House-Senate Conference Committee voted to appropriate $75 million for the Juvenile Justice and Delinquency Prevention Act in FY 77, which begins this coming October 1. The Committee also agreed to fund the Runaway Youth Act (Title III of the Juvenile Justice Act) at $10 million for FY 77.

While the Juvenile Justice Act itself authorizes as much as $150 million for the coming fiscal year, the Administration continued its minimal level of support for the Act by asking for only $10 million earlier this year. The House ignored this request, and voted to continue the Act's current funding level of $40 million. However, at the insistent prodding of Sen. Birch Bayh (D–Ind.), the author of the Act, the Senate voted to appropriate $100 million for it.

The funding bill for the Juvenile Justice Act now goes to the President along with the rest of the appropriation for the Justice Department. The President's approval is seen as likely. But the Runaway Youth Act, which is administered by HEW, will be included within the total appropriation for HEW and faces an almost certain Presidential veto in the Fall.

LEAA has announced how it intends to use the $75 million once it is approved by the President. Generally, there will be about double the amount of money in each area LEAA earmarked for FY 76.

$47.6 million will go to the states in formula grants, up from $23 million in FY 76. States can expect to receive approximately twice what they received in FY 76.

Approximately $15.9 million will be used for Special Emphasis programs. LEAA has tentatively identified five priorities for special funding in FY 77: juvenile gangs, restitution to victims of juvenile crime, violent offenders, learning disabilities, and delinquency prevention.

$3 million will go for technical assistance, more than double the amount for FY 76.

$7.5 million will go to LEAA's National Institute of Juvenile Justice and Delinquency Prevention to be used for training, information dissemination, research and evaluation, and implementation of juvenile justice standards.

$1 million will be used in concentration of the federal effort towards delinquency prevention. The Federal Coordinating Council on Juvenile Delinquency, which was established by the Act, is reported to be considering joint programming between federal departments, such as HEW and the Labor Department.

AUGUST 1976

INTERVIEW—OHD'S STANLEY THOMAS ON THE RUNAWAY YOUTH ACT, DEINSTITUTIONALIZATION, AND IMPACTING POLICY

(*Youth Alternatives* interviewed Stanley B. Thomas, Jr., Assistant Secretary for Human Development, HEW, on July 21. Thomas has served in his present post for three years, overseeing a broad range of programs serving children, youth, the aged, physically and mentally disabled persons, the rural poor, and Native Americans. The Office of Human Development, which he heads, includes the Office of Youth Development and has a total staff of more than 1300 and an annual budget of $1.9 billion. Thomas once headed HEW's Office of Student and Youth Affairs, and has been an active, long time supporter of services for runaway youth.)

Q. What degree of success do you feel the Office of Human Development has had in implementing the Runaway Youth Act?

A. Recognizing that I would probably not be the most objective person with a question like that, I am convinced that the implementation of the Runaway Youth Act has been the single most well done implementation of a program that I've been involved with. I think one of the reasons is that the statute passed in the early Fall and we didn't have to allocate all the dollars until the succeeding June. So we had some months to plan for it. But it's been one of the best implemented programs I've been involved with, because (1) we were able to build on research HEW had undertaken and demonstration activities HEW had undertaken in the past, (2) we had plenty of time to involve in the goals and objectives of the program people who had been integrally involved with runaway youth, and (3) we were able to and are still in the process of developing the kinds of quality services we think are essential as a basic element of any runaway youth project.

Q. Looking at the runaway youth program from the point of view of the Act itself, as opposed to the implementation, can we assume from the smoothness of the implementation that it was a pretty good piece of legislation and was able to address the needs that it targeted?

A. While we didn't and still don't have the exact and most accurate statistics as to the number of young people who run away, there is no question that there has been a gap between the needs of those kids and the services which were made available to them. I think there has been a lot of worthwhile activity which has either been supplemented or initiated as a result of the Runaway Youth Act, so I'd say, in the net, from every vantage point I can think of, that it's been a good thing. It's also awakened, I think, local and state governments more to the problem than had been the case before.

Q. In the event the Ford Administration continues for four more years, do you see any changes or initiatives ahead in HEW's policies towards young people?

A. I think one of the most significant developments that will occur, and I don't think this is dependent on whether President Ford or Carter is in the White House, will be the necessity of catalyzing more substantial youth involvement in the local decision making process. If you look at any of HEW's projects, you find that—and this is something that has been going on for years—that there is a tremendous degree of state involvement and control in the social services, health, and education. That basic situation is not going to change with Administrations. There should be a continuing interest in defining what the gaps are that we ought to respond to at the federal level, for instance, looking at the whole question of runaway youth and deinstitutionalization. But there should also be a great deal more involvement at the local level. One of the great things about the Runaway Youth Act, and it's a small but an important thing, is the mandatory inclusion of young people in the decision making apparatus. I am not one of those people who over-romanticizes the ability of young people to be involved in making important decisions, but their involvement in that process is critical, because they learn from it and they learn how to affect decisions. When you look at this Department and when you look at most of the federal agencies, you find that most of the decisions, or most of the determination of priorities, are made at the state and local level. If youth and people concerned with youth

don't impact on that system, it's going to be a continuing problem. We'll spend $2.5 billion in the next year or so on social services, and most of what will happen with that mony is going to be defined at the state level. There's got to be leverage made at that local level. That means local organizations have to be sensitive to planning processes and decision making systems, and they have to be assertive about including young people in that and representing the interests of young people.

Q. Many youth workers are interested in youth advocacy and impacting public policy. You've been talking about the necessity of working on the local level; which level of government do you feel it's most important for people to be focused in on in terms of where policy is really made?

A. Every level is important to impact on. But I think there has been a disproportionate investment of time and energy at the federal level. Now I'm not saying there is enough involvement at the federal level, I'm just saying it's been disproportionate. This Department's dollars, except those that go to individuals in cash payment terms, are general purpose and go primarily to state governments. I believe we at the federal level have certain responsibilities to provide services where there are major gaps, and I think the runaway youth program is an example of that. I think the federal government has an important responsibility in long range planning, information collection, research, demonstrations and all that kind of thing, and for providing resources to local communities, states and others for provision of services. But that doesn't alter the fact that, and I don't care if Jimmy Carter is President or Gerald Ford is President, the major investment of this Department's resources that aren't flowing directly to people—and those of the Labor Department and the Transportation Department and the Department of Housing and Urban Development—are going to go to local communities and state governments, which are going to make important decisions about what happens to people. The Community Congress in San Diego, which has managed to tap into general revenue sharing, should be a model in terms, at least, of impacting on the basic system. That is what the future should be, and I think more and more communities will become sophisticated about this.

Lose Millions in Funds—Six More States Drop Out of Juvenile Justice Act

Despite a near doubling in its funding and a new flexibility in its mandatory removal of status offenders from prisons, six more states have decided not to participate in the Juvenile Justice and Delinquency Prevention Act, making a total of thirteen.

For these states, millions of dollars for critically needed youth services are lost. For most, the prospect of their participation in FY 1977 looks bleak. The six, Hawaii, Kentucky, Mississippi, Nebraska, North Carolina, and Tennessee, have added their names to those of Alabama, Kansas, Nevada, Oklahoma, Utah, West Virginia, and Wyoming. LEAA rejected Hawaii's effort to participate after the state was unable to commit itself to removing 75% of its status offenders from its prisons.

Milton Luger, head of LEAA's Office of Juvenile Justice and Delinquency Prevention, told *Y.A.* that many of the new states withdrawing endorse the principles of the Juvenile Justice Act but feel the cost to them is too much. He also noted that others were unable to promise in good faith to remove 75% of their status offenders from secure detention.

Senator Birch Bayh (D–Ind.), the author of the Act, and LEAA reached agreement on a 75% compliance figure for the required removal of status offenders from secure detention within two years (see June 1976, *Y.A.*). Provisions for extensions in reaching 100% compliance will be debated in Congress next Spring when the question of renewal of the Juvenile Justice Act comes up. Luger said the agreement of 75% compliance probably kept several states from ending their participation in the Act.

States unwilling to comply with the Juvenile Justice Act have already lost substantial sums of money for youth services (see chart, page 7). LEAA Administrator Richard Velde has warned that a state's nonparticipation would have a "chilling effect" on the state's ability to garner special emphasis grants for youth work from LEAA. The block grants that would have gone to nonparticipating states under the Act are returned to LEAA's Special Emphasis kitty for distribution based on national competition.

But when queried on this by *Y. A.*, Luger stated that the recommendations he makes to Velde will be based on "the important issue of where the needs of kids are, and I would not penalize a nonparticipating state that submits a well-written application for Special Emphasis funds."

In a letter explaining his decision not to participate, Governor Calvin Rampton of Utah noted, "while I am not prepared to state at this time that the federal guidelines are not reasonable, and would not lead to an improved program, the fact is that the guidelines are so detailed and inflexible that it would intefere with our ability to do our own planning."

He also noted that the Advisory Board might be duplicative and that Utah might have to raise $300,000 to match $200,000 in federal funds for the program. Thus, Utah rejected more than $800,000 (see chart) in youth service funds because an advisory board already exists, because $800,000 is not sufficient funding, and because the guidelines for $800,000 limits the state's right to do its own planning.

The Utah Board of Juvenile Court Judges, lobbying the Governor, issued a position statement that simultaneously praises the "laudable" purposes of the Juvenile Justice Act while duly noting, as juvenile judges have elsewhere, the burdensome duty they have to demand the right to incarcerate an unknown and unquantified number of status offenders for their own good.

While it is the consensus of the judges that "extended incarceration of such children" is "frequently not an appropriate disposition and may often cause harm to the child", they refer to an unnamed group of youths—a multitude, one must assume—who are chronically truant and who chronically run away from home to justify incarceration that "often causes harm".

North Carolina withdrew from participation after estimating its costs of removing 2,600 youths from its prisons at $7 million. The state doubted its ability to comply with the 75% floor even with adequate funds, and questioned the legality of the 75% figure. In anticipation of the Juvenile Justice Act, the state legislature in 1975 passed a law requiring the removal of status offenders from state training schools by July 1, 1977. At a recent meeting, juvenile judges in the state voted unanimously to work on repealing this legislation. The Advisory Board is now in limbo and will probably be dissolved.

Mississippi cited its inability to guarantee segregation of juveniles from adults as a prime reason for not participating. Noting it had removed 22% of the status offenders in training schools last year, officials there pointed out that no single agency has responsibility for issuing guidelines to local sheriffs. Jimmy Russell, Director of the Division of Youth Services, told *Y. A.* that "it is disheartenng that a few local sheriffs could kill a statewide program."

Kentucky estimated its costs in removing status offenders at $1.2 million, much more than they would receive. With the Act's increased funding, the state is renegotiating its participation. "If we don't receive a dime, at least they raised our consciousness and got the powers that be thinking about treatment of status offenders," said Dave Richart, juvenile justice planner with the Kennedy Crime Commission. "And that's what this Act is about," he said.

Youth advocates in nonparticipating states would be well advised to continue asking their Governor about eventual participation.

Mark Thennes, NYAP staff.

(About the Table on P. 118)

During the fifteen month period of July, 1975, to October, 1976, LEAA's Office of Juvenile Justice and Delinquency Prevention will have distributed about $93.7 million to the states for juvenile justice programs. These funds are distributed based on each state's population under 18 years of age.

The first column lists how $2 million worth of Special Emphasis Planning Grants was made in July, 1975, to assist State Planning Agencies in gearing up for submission of their Juvenile Justice Plans and the creation of Juvenile Justice Advisory Boards.

The second column lists $10.6 million in FY 1975 block grants, made in August, 1975.

The third column lists $19.8 million in FY 1976 block grants, whose distribution began in February, 1976.

The fourth column lists $4.9 million worth of funds, one-fourth the FY 1976 figure, for the Transitional Quarter (July 1 to September 30, 1976). The federal government changed its Fiscal Years beginning this year, in effect making FY 1976 a fifteen month year.

The fifth column covers a special grant of $100,000 made to each state participating in the JJDPA in June, 1976.

The sixth column covers a special grant of $4.7 million made to every state for juvenile programs.

The seventh column lists $47.6 million in FY 1977 block grants, which states will receive upon acceptance of their State Plans.

None of these figures include any money granted to the states under the Special Emphasis Initiatives program, which distributed about $13 million for Deinstitutionalization and is about to distribute $10 million for Diversion.

HOW THE JUVENILE JUSTICE OFFICE DISTRIBUTED ITS FUNDS

	Fiscal year 1975 special emphasis "planning"	Fiscal year 1975 JJDPA bloc grant	Fiscal year 1976 JJDPA bloc grant	TQ July 1–Sept. 30, 1976	June 1976 pt. E supplement grant	June 1976 pt. C supplement grant	Fiscal year 1977 JJDPA bloc grant	Total
Alabama [1]	31	200	366	91	100	79	813	1,680
Alaska	15	200	200	50	100	7	200	772
Arizona	16	200	200	50	100	47	425	1,038
Arkansas	17	200	200	50	100	45	432	1,044
California	168	680	1,966	491	100	460	4,373	8,238
Colorado	20	200	229	57	100	55	510	1,171
Connecticut	26	200	300	76	100	68	673	1,443
Delaware	15	200	200	50	100	13	200	778
Florida	54	216	625	156	100	178	1,390	2,719
Georgia	42	200	487	122	100	107	1,083	2,101
Hawaii [1]	15	200	200	50	100	19	200	784
Idaho	15	200	200	50	100	17	200	782
Illinois	96	389	1,125	281	100	246	2,501	4,738
Indiana	47	200	545	138	100	117	1,213	2,360
Iowa	25	200	289	72	100	63	643	812
Kansas [1]	19	200	221	54	100	50	492	1,136
Kentucky [1]	28	200	330	82	100	74	734	1,481
Louisiana	35	200	411	103	100	83	915	1,847
Maine	15	200	200	50	100	23	227	815
Maryland	35	200	409	102	100	90	910	1,846
Massachusetts	38	200	556	139	100	128	1,236	2,397
Michigan	83	333	963	241	100	201	2,142	4,063
Minnesota	35	200	409	102	100	86	910	1,842
Mississippi [1]	21	200	250	62	100	51	556	1,240
Missouri	29	200	460	115	100	105	1,024	1,633
Montana	15	200	200	50	100	16	200	781
Nebraska [1]	15	200	200	50	100	34	335	934
Nevada [1]	15	200	200	50	100	13	200	778
New Hampshire	15	200	200	50	100	18	200	783
New Jersey	61	248	707	177	100	161	1,571	3,025
New Mexico	15	200	200	50	100	25	268	858
New York	148	599	1,731	433	100	399	3,850	7,260
North Carolina [1]	45	200	521	130	100	118	1,159	2,273
North Dakota	15	200	200	50	100	14	200	779
Ohio	95	383	1,108	277	100	237	2,463	4,663
Oklahoma [1]	21	200	248	62	100	59	551	1,241
Oregon	18	200	207	52	100	50	460	1,087
Pennsylvania	98	395	1,140	280	100	261	2,536	4,810
Rhode Island	15	200	200	50	100	21	200	786
South Carolina	24	200	283	71	100	61	629	1,368
South Dakota	15	200	200	50	100	15	200	780
Tennessee [1]	34	200	393	98	100	91	874	1,790
Texas	102	410	1,185	296	100	265	2,635	4,993
Utah [1]	15	200	200	50	100	26	279	870
Vermont	15	200	200	50	100	10	200	775
Virginia	40	200	471	118	100	108	1,047	2,084
Washington	29	200	344	88	100	77	764	1,602
West Virginia [1]	15	200	200	50	100	39	382	986
Wisconsin	40	200	469	117	100	100	10,044	2,030
Wyoming [1]	15	200	200	50	100	8	200	773
Washington D.C.	15	200	200	50	100	16	200	781
Puerto Rico	30	200	349	87	100	65	776	1,607

[1] Nonparticipating States, losing all or most of these funds.

SEPTEMBER 1976

BAYH TO SEEK RENEWAL OF JUSTICE, RUNAWAY ACTS

Sen. Birch Bayh (D-Ind.), the author of both the Juvenile Justice and Delinquency Prevention Act and the Runaway Youth Act, will introduce two bills this month to extend both pieces of legislation.

In the summmer of 1974, Bayh, in concert with Rep. Augustus Hawkins (D-Ca.), successfully steered both Acts through Congress as one law (P.L. 93–415). With HEW lobbying against the Juvenile Justice Act and LEAA pointing out how nicely it would fit into their current program, the Congress, in a compromise forced by Republicans, voted to place the Runaway Youth Act in HEW and the Juvenile Justice Act in LEAA.

The current legislation is due to expire September 30, 1977. The Budget Reform Act of 1974 required the Administration to notify Congress by last May 15 of its intention to request a renewal of these Acts. The Administration has asked for a one year extension of the Juvenile Justice Act (see June Y. A.) but it will apparently not seek any extension of the Runaway Youth Act.

The present Congress, the 94th, is expected to adjourn the first week of October. When the 95th Congress convenes in January, 1977, Bayh will reintroduce the bills to extend both Acts. Hearings on the bills would then be conducted in February and March of next year.

Bayh's introduction of the proposed legislation at this time allows youth advocates and others participating in the implementation of both Acts to comment on the drafts before January.

Interested persons are encouraged to make commments regarding the positive aspects and the shortcomings of the current implementation of these two Acts to Senator Bayh. Copies of the proposed legislation may be obtained from him, % the Senate Subcommittee to Investigate Juvenile Delinquency, A504, Washington D.C. 20510, (202) 224–2951.

Prevention Program To Be Announced

The Office of Juvenile Justice and Delinquency Prevention, LEAA, is to announce its major effort in funding Prevention programs by the middle of October, according to Emily Martin, head of the Office's Special Emphasis Section. The program, the third in a series of Special Emphasis Initiatives, is expected to distribute $8.5 million, with a possibility the figure may reach $10 million.

The program is being designed primarily to prevent delinquency in communities which have certain statistical characteristics correspondng to the problem of delinquency, such as unemployment, median income, and crime rates.

Prevention is being defined as "the sum total of activities which create a constructive environment designed to promote positive patterns of youth development and growth. The process includes direct services to youth and indirect activities which address community and institutional conditions that hinder positive youth development and lead to youth involvement with juvenile justice systems."

The Prevention Initiative will probably address private nonprofit organizations as primary applicants. Information on the program can be obtained by writing the Special Emphasis Section, OJJDP/LEAA, 633 Indiana Ave. N.W., Washington D.C. 20531.

(See the "Grants, Contracts, & Negotiations" section of this newsletter for a list of finalists in the Special Emphasis Initiative on Diversion.)

A National Youth Policy?—After November: What's Ahead for Youth Workers

(The following was sent in the form of a letter by NYAP Project Coordinator Bill Treanor to directors of several coalitions of alternative youth services programs.)

During the coming year we are going to witness major national developments in direction and tone in the field of youth work. Some of these developments will be in areas not very familiar to us; others will be a continuation of current trends. I believe that it is vital that the leadership in youth work anticipate and influence the direction of this country's youth service priorities. Therefore, I want to share with you my best estimate of what is likely to unfold during the coming year. This analysis makes only one major assumption: that the Carter-Mondale ticket will be victorious in November.

Youth workers' top priority during the coming year must be the renewal of the Juvenile Justice and Delinquency Prevention Act and the Runaway Youth Act. There are, of course, several major unresolved questions concerning these laws. Some of the outstanding questions are: Should the Juvenile Justice Delinquency Act continue under LEAA, and, if not, then under what agency? Should the Runaway Youth Act remain with HEW's Office of Youth Development? If not,

then be administered by whom? What should the authorized appropriation level be for each? Should a separate youth policy agency be espoused? If so, with what power and responsibilities? Should mandatory coordination and joint planning and funding be required between HEW/Justice youth efforts and those of the Department of Labor?

Other important issues will also be addresesd before the Juvenile Justice Act and Runaway Youth Act are renewed, but it is clear that youth workers would be foolish to abandon the little enabling youth service legislation that we have now until a coherent, progressive national youth policy is developed. Therefore, I expect the renewal of the Juvenile Justice Act and Runaway Youth Act to be widely supported by youth workers and to consume a large part of our energies at the national level.

An absolutely key element in the creation of a high quality youth development system in this country is our ability to monitor and evaluate the performance of government at the regional, state, and local levels. This capability is essential in influencing public policy. Of course, government officials are not enthralled with our developing capacity to rate their job and agency performance and we can expect some vigorous counter-attacks to try and prevent youth workers from organizing. Fortunately ,youth work coalitions have developed sufficiently so that, despite setbacks in some states, growth in influence seems assured. Remember that nine out of ten of today's youth work coalition didn't exist three years ago!

With the developing infrastructure of youth work coalitions we are in a position to influence the likely major policy initiatives of a Carter-Mondale administration. I expect the development of a national "pro-family" policy along the lines advocated for many years by Senator Mondale. Basically, a pro-family policy would mean that every government program would be analyzed to determine if it helps to keep the family unit together. Under this philosophy, major changes in social welfare policy can be expected. For example, we could expect a greater reliance in youth work on family counseling and homemaker service for a troubled family with a problem teenager rather than removal from the home and placement in a group home. Of concern to youth workers is that any new legislation or policy reflect the special needs of adolescents.

It is probable that the most dramatic change in youth work will be in the area of youth unemployment. Well over 20% of Americans 1 to 24 are unemployed, and the rate is over 40% for young blacks. That is an estimated 3,580,000 unemployed 16 to 24 year olds who are actively seeking work. The impact on youth work of providing public employment jobs to even half of these young people is enormous.

An important goal during the next year is to ensure any major revision of national manpower legislation acknowledges and provides support for the nation's youth service system. If even 5% of 2 million jobs under a comprehensive youth employment program were set aside for youth workers, it would fund 100,000 young adults to work in youth agencies. That's $100 million towards meeting the funding needs of youth agencies, or, to put it another way, twice the combined total funding of the Juvenile Justice Act and Runaway Youth Act in FY 1976.

One major hurdle is the lack of dialogue between youth workers and those who develop youth manpower policies. While former Secretary of Labor Willard Wirtz and others concerned about youth unemployment have a clear analysis of the problem, they fail to appreciate the invaluable role that a strong youth service system can play in helping young people to become more productive and creative members of society. The encouragement of a much closed relationship between policy makers in youth and manpower fields may prove to be the most productive direction at both the national and state levels for creating a comprehensive youth service system.

Increased commitment to solving the problems of youth unemployment will undoubtedly generate increased interest in a National Youth Service. The National Youth Service concept—providing young adults an expanded opportunity to work in some socially productive way—is an old one. The concept as currently discussed is sort of a bloated combination VISTA/Job Corps with no entry requirements. Enrollment would be voluntary and placement assured in either "community service" or "environmental service." This approach to youth development got a bad name during the debate over the draft, but now deserves a fresh assessment by youth workers.

Some things I would like to see are not likely during the early years of a Carter-Mondale administration. But, whatever the flaws might be in the new administration, they will likely be the result of activity and not passivity, of

developing young people and not focusing on youth crime prevention. If the new administration is serious about full employment, national health insurance, welfare reform and a pro-family policy—can a national youth policy be far behind?

OCTOBER 1976

LEAA FUNDS SCHOOL VIOLENCE INITIATIVE QUIETLY AND QUICKLY

LEAA's Office of Juvenile Justice and Delinquency Prevention, apparently under pressure to quickly obligate Juvenile Justice and Delinquency Prevention funds, has quietly completed its third Special Emphasis Initiative. In an effort to respond to school violence, the Office is giving $4.73 million in Juvenile Justice Act funds to the U.S. Office of Education, one of the federal agencies least responsive to coordinating its efforts on youth affairs with other agencies.

The pressure to obligate funds must have been intense, for the Juvenile Justice Office did not circulate any guidelines on this Initiative to the public and private sectors for their comments before committing the funds. This had been the case with its other Special Emphasis Initiatives.

This process of external agencies reviewing guidelines before they are finalized has produced valuable, experience-based input. The Juvenile Justice Office had also convened a meeting in early June with the national private youth organizations to build a partnership envisioned to "Include the involvement of the private sector in the mission of (the Juvenile Justice Office) from the conceptualization to completion of its Special Emphasis programs as one example of cooperative approaches."

Of the $4.73 million, $2 million has been given to the Teacher Corps. Each of ten sites is to receive $100,000 for two years to develop forms of youth participation in cutting down school violence. The ten sites already had Teacher Corps youth advocacy projects, making it easier to dump additional funds into the projects. The ten sites are Burlington, Vt.; Odona, Maine; Phoenix; Denver; Chicago; Farmington, Mich.; Atlanta; Baltimore; Stanislaus, Calif.; and Indianapolis.

Another $1.23 million was given to the Division of Drug Education, which operates five Office of Education Drug Training Centers (the minigrant program) around the country. Using the existing model of training teams for two weeks, each site will train school teams in problem solving related to school violence over the next year.

In addition, $1.5 million of Juvenile Justice Act funds are to be combined with tens of millions of dollars already allocated to the Office of Equal Educational Opportunity to assist school districts in planning for court-ordered desegregation.

The Juvenile Justice Office, under this Initiative, is now in the process of conceptualizing the funding of a Resource Center to dispense information about promising programs and training information for school security personnel and administrators. A target figure of $500,000 has ben set until plans are finalized.

Youth advocates interested in obtaining further information about the training funds should contact the Office of Education Drug Training Center nearest them, or the Special Emphasis Section, Office of Juvenile Justice, LEAA, 633 Indiana Ave, N.W., Washington, D.C. 20531.

—Mark Thennes, NYAP staff.

LEAA TO SPEND $305 MILLION ON DELINQUENCY IN FY 77

After two days of negotiations, a joint House-Senate conference committee approved a Crime Control Act of 1976, reauthorizing the Law Enforcement Assistance Administration (LEAA) for three more years and accepting Sen. Birch Bayh's (D-Ind.) proposal to utilize 19.15% of LEAA's total annual appropriation for juvenile delinquency programs. The compromise bill was sent to the President for his expected signature.

Bayh came up with his percentage formula after the Senate had earlier deleted the so-called "maintenance of effort" provision from the bill which would have required LEAA to maintain at least its 1972 spending level of $112 million on juvenile delinquency programs. Bayh's formula was rejected by the Senate Judiciary Committee, but it was subsequently approved by the full Senate despite attempts by Senators McClellan (D-Ark.) and Hruska (R-Neb.) to kill it.

Of the $753 million already appropriated for LEAA in FY 77, $75 million is earmarked for the Juvenile Justice and Delinquency Prevention Act. The new

formula requires that 19.15% of the remaining $678 million, or $130 million, be maintained for juvenile delinquency programs in FY 77; $18 million more than the "maintenance of effort" provision would have brought. The flexibility of the percentage formula means that funding for juvenile programs will be tied to appropriation levels and could, in some years, conceivably be lower than the former $112 million minimum.

The bill reauthorizes LEAA for three years; fiscal years 1977, 1978, and 1979. This compromise was reached amid growing public criticism of LEAA's ineffectiveness in meeting the escalating crime rate and concern over how the $5 billion authorized to date for the program has been spent. The Senate had proposed a reauthorization of five years, while the House version called for a fifteen month limit. This shorter period was to have facilitated Congressional oversight and review by keeping LEAA "on a short leash".

Authorization levels were set at $880 million for the first year and $800 million for each of the other two years.

—Liz Anderson, NYAP staff.

DECEMBER 1976

INTERVIEW—BREED HOPEFUL ABOUT DELINQUENCY PROGRAMS UNDER CARTER

(Allen F. Breed was for many years director of the California Youth Authority, and is now a member of the National Advisory Committee on Juvenile Justice and Delinquency Prevention and chairman of LEAA's Committee on Standards and Goals. He recently accepted a Fellowship with LEAA's Office of Juvenile Justice and Delinquency Prevention to study the coordination of federal delinquency prevention programs.)

Q. Congress will be considering the renewal of the Juvenile Justice and Delinquency Prevention Act in 1977. What is your assessment of the Act's impact and are there any revisions you'd like to see?

A. Having long been a strong supporter of the need for Congressional action in this area and having testified on frequent occasions in the hope we could get a strong bill through, I would have to say that the 1974 Act was certainly a giant step forward. But I think that most of us in the field believe there's still much to be done, and much of the hope that is spoken to in the Act such as more effective coordination of the federal effort is far more a blueprint than it is a reality. For example, I would hope one of the things that could be done is a closer look at how coordination comes about and what inducements and what mechanisms are going to bring about some coordination, which up to this time I see only being done minimally. I would also like to see the Act take stronger steps regarding how to deal with those children that have been identified as status offenders. I think that deinstitutionalization is really only a first step, and I think now we must recognize that there have to be restrictions on any kind of coercive intervention in terms of the court dealing with status offenders. I have myself been unable to go to the third step and say that the juvenile court should have no responsibility for status offenders because I think there has to be some public agency with some degree of authority that can, in effect, order certain kinds of services that so far we haven't seemingly been able to get by any other way. But in still leaving the status offender in the juvenile court, I would hope that the Act would strongly say that the courts should have no authority to coercively intervene in the lives of these young people nor that there should be any way that once they're brought under the jurisdiction of a court that the court can escalate status offenders into juvenile delinquents. What I'm hoping is that the Act will strongly speak to the need of providing services, but that these services should be provided on a strictly voluntary basis.

Q. Doesn't the fact that having juvenile courts retain jurisdiction over status offenders mean that alternative forms of services won't be established, simply because there aren't the resources to have it both ways?

A. I'm not so sure that's true. I am, however, sure that as long as the courts provide these services there's not going to be any real effort on the part of society and the general public to find other ways of making these services available to young people. On the other hand, I think that sometimes we have to move in phases, and that doesn't mean I'm basically conservative and slow about change. I share with those who have a basic concern about children that those services need to be there, and until such time as we see the private sector or the non-governmental sector truly being able to provide these services, we have to have some mechanism through government that can see that they're provided.

Q. What steps would you recommend to stimulate the development of this capacity on the part of private agencies?

A. I would start by providing the juvenile court with the ability to act as a broker to the private sector, purchasing these services rather than ordering the services through public agencies. I think that as soon as funds become available to the private sector, it is going to be able to expand its capabilities in providing these services. The next logical step would be, hopefully, that those services are so effective that we don't have to go through the court mechanism in order to be able to get them.

Q. Then you would eventually favor a system where the public agency is only the provider of last resort?

A. That's correct. Of course, there can be just as much bureaucracy in private agencies as there can be in public agencies—we all recognize that. I guess what I want is the assurance that regardless of what system we have, if there's a kid who needs some kind of service it's going to be provided for.

Q. What impact do you see the Carter Administration having on this office and on the national effort in general?

A. I would have to assume on the basis of what one reads in the newspapers and on the basis of the things he did as Governor of Georgia that the new Administration will be more people oriented, that there will be a deeper concern and commitment to the needs of children, than has generally been demonstrated by the current Administration. With that introductory statement, my eternal optimism comes out that with this kind of change and with this kind of hope for leadership, there would be a greater attention to the needs of young people and there would be more resources poured into these needs.

Q. Do you see a lessening of the linkage between young people and the current anti-crime approach to policy, and more of a linkage toward prevention and social welfare concerns?

A. I think we're going to see more concern about the basic factors that cause these problems, whether they concern just young people or citizens in general; and a far greater emphasis, I think, on services that can reinforce the home and reinforce the school. I tend to see a concentration in those two areas.

Q. Do you see the introduction of a pro-family policy with an analysis of various federal efforts looking at the impact on the family as eventually having some impact on delinquency?

A. This is where I'm predicting, and I have to be honest and say perhaps it's more of a hope than anything else.

Q. Given the current structure of the federal government, it would appear that the federal Coordinating Council on Juvenile Justice and Delinquency Prevention has a key role. What would you like to see that board become?

A. That's the very focus of my Fellowship study. I'd rather answer that a year from now because then, hopefully, I'd give you a more knowledgeable answer; and secondly, if I knew the answer now I'd quit the Fellowship and go do something else. I said earlier, and I'd like to restate it, that I have some real concerns about coordination and what it means. In the short time I've been around Washington, I haven't seen any reason why the departments of the federal government should coordinate around delinquency prevention. There's no real incentive for them to do so, and there isn't even any authority, legislatively, to require them to, other than the fact that they have to meet and that certain reports have to be prepared for Congress and for the President. If coordination is going to be effective, either in delinquency prevention or in any other service need, it seems to me that we've got to look at ways of putting some teeth into that coordination effort or some incentive into it, one or the other. The second early conclusion that I'd make from a standpoint of about three weeks' expertise, is that I have some early reservations whether or not coordination should be around such a limited symptom as delinquency. Perhaps we should be thinking about this coordination around a broader perspective of youth needs: delinquency only being one symptom of that.

Q. California recently enacted legislation that will revamp its juvenile justice system; providing separate community-based programs for status offenders, among other things. What are the critical areas this legislation was designed to meet and do you see it as a model piece of legislation for other states?

A. Senate Bill 3121 is an excellent piece of legislation, particularly considering that it was a compromise act built to take into account the very strong feelings of the law enforcement fraternity about tougher laws for young people, strong feelings on the part of the district attorneys that they should be made a part of

the juvenile court process, and strong feelings on the part of a rather wide cross section of young people that felt young adults aged 16 and 17 who commit very serious crimes should be treated as adults in the adult criminal system. Merged with those attitudes was another cross section of Californians who felt very strongly that status offenders should be separated out from juvenile delinquents and that the whole deinstitutionalization process should be carried ahead as rapidly as possible. That there should be a marriage as there was in that bill is really almost remarkable. I don't know whether I would say it is a model act that should be emulated by other states. I think there are basic ingredients of the act that make absolute sense. It speaks very strongly to the fact that the juvenile court must be an adversary process and that in providing due process protections the district attorney has a role. It speaks very strongly to the fact that there are certain young people who, because of their maturity and the serious offenses they commit, should at least be considered for waiver into the criminal court. But the protection built into that act is that that decision should be done that's made in the juvenile court, not in the criminal court. And then I think a very forward step, and I'm very proud to have been a part of it, is that California will as of January 1, 1977, no longer place status offenders in any kind of institutional setting with delinquents; and secondly, that status offenders under no circumstances can be escalated into juvenile delinquents even if they are found in violation of a court order. So from that standpoint, those particular features of it could well be used as a model for other states.

Q. What do you see in the future in terms of this whole area of juvenile justice and delinquency prevention? President Ford recently gave his view to the Chiefs of Police meeting in Miami when he said it was time for a crackdown on juvenile crime. What are the things you'd like to see done?

A. Certainly any efforts, regardless of what they are, that deal only with the offender after he's caught aren't going to do anything about making our streets any safer. If our concern is doing something about reducing crime, then we'd better start thinking about doing something besides getting tough when the offender is caught. I do have some reservation about what that sanction should be, and I don't think we have to use a form of incarceration as often as we do in America. On the other hand, I am even more concerned about the fact that, in trying to make our streets safer, if we only concentrate on the offender we're only hitting at the tip of the iceberg. Nothing is going to be changed about all the vast amount of crime that's happening out there unless we begin directing some of our attention, some of our creativity, and certainly a lot of our resources to those things which occur in our society which produce crime.

Q. Which are?

A. I'll respond with the ones that are understood most clearly; such as poverty, discrimination, poor housing, poor education, and lack of opportunity. Having said those things, I realize that in many respects I haven't spoken to the specific causes. But I think what we have to face up to is that there's a tremendous amount of crime that's occurring because our society has been unwilling to deal with a large segment of our citizens, who are the have nots. Until such time as we can deal more effectively and more fairly with the have nots, I think we're always going to have a great deal of crime. So that speaks to some very radical ways in which we deal with economic, social, and moral needs. I don't care how effective youth service bureaus, YMCA's, or 4-H programs are in dealing with a small minority of our young. There are some far more basic changes in society that have got to take place and I'd hope we'd speak to the need for that. But until that day comes along, I hope we do everything we can to have more effective youth service bureaus, YMCA programs, and so forth. Perhaps it's a holding action until we become more mature and sensitive to the needs of everyone in our society.

Q. The National Advisory Committee on Juvenile Justice is a year and a half old now. Speaking as a member, how do you rate its performance?

A. Like any large group of citizens brought in from many walks of life from all over the country, there was a period of getitng acquainted, becoming more knowledgeable about the subject matter at hand, and not having adequate staff to provide the necessary services. These are all excuses, but I think they speak to the fact that the National Advisory Committee has been slower in terms of developing the understanding and suggested programs that the members I've had the opportunity to talk to would like to have seen.

JANUARY 1977

JUVENILE JUSTICE OFFICE CALLS CONFERENCE—KEY MID-WEST ADVISORY BOARD MEMBERS MEET

Representatives of six Mid-Western state advisory boards met with LEAA's Office of Juvenile Jusice December 5–7 in Chicago to discuss the implementation of the Juvenile Justice Act and the role and development of state advisory boards. Milton Luger, head of the Juvenile Justice Office, invited the chairman, vice chairman, youth advisory member, and juvenile justice specialist from each board to the conference; and attendance was excellent except for the youth representatives, who were present from only three states. Only one of these, Wisconsin's Patricia Jaegers, 15, is on the receiving end of the youth service system.

Participants heard a discussion of current issues in juvenile justice from Luger; Fred Nader and Dave West from the Juvenile Justice Office; Allen Breed, former director of the California Youth Authority and now a Fellow at LEAA; and Prof. Paul Hahn of Xavier University, Cincinnati. The core of the conference, however, was extensive discussions among board members on the past performance and future role of the state advisory boards; and participants were able to share with their counterparts from other states the problems and progress of developing their state plan.

The final panel of the conference was on gaining and using clout to fully implement the Juvenile Justice Act. Panel members were J. D. Anderson, chairman of the National Advisory Board on Juvenile Justice, who discussed the activities of the National Board; Bill Drake, of the League of Cities, who discussed the realities of developing political power for youth serving agencies; James Arnold, of Legis 50, who focused on the vital role of upgrading the quality of the decision making process in state legislatures; and NYA director Bill Treanor, who stressed the importance of strong juvenile justice state advisory boards and developing state-wide coalitions of youth workers.

Treanor also lambasted the National Council of Juvenile Court Judges for opposing the mandatory deinstitutionalization of status offenders and the National Conference of State Criminal Justice Planning Administrators for opposing the development of strong state advisory boards (it turned out most advisory board members had never heard of this latter group).

Fred Nader said the Juvenile Justice Office would evaluate the Region V (Mid-West) conference before deciding whether to hold additional regional conferences or to have a national conference of key advisory board members. Advisory board members wishing to make known their sentiments on the issue of additional training for advisory board members can write Milton Luger, Office of Juvenile Justice, LEAA, 633 Indiana Ave. N.W., Washington D.C. 20531.

SENATE TO CONSIDER NEW ACT—NYAP RECOMMENDS CHANGES IN RUNAWAY YOUTH ACT

Due to the Ford Administration's refusal to request reauthorization of the Runaway Youth Act (Title III of the Juvenile Justice and Delinquency Prevention Act of 1974), Sen. Birch Bayh's Subcommittee on Juvenile Delinquency is proceeding to develop a new Runaway Youth Act and may begin hearings on this as early as February. Sen. Bayh and the subcommittee staff have requested recommendations concerning the Act and among those responding was NYAP, which drafted a list of suggested changes including the following:

* *Amending the title of the Act to read "Runaway Youth and Families and Youth in Crisis."* Limiting the scope to runaway youth excludes young people who have been compelled for one reason or another to leave their homes, youngsters who have been thrown out of their homes, and young people recently discharged from an institution or from a series of foster care or group care placements who have no home to which they can return. These young people often find themselves on the streets with little in the way of resources, skills, or opportunities; and outside the scope of the program established by the Act. The amendment would also broaden the Act to include services that could result in preventing those events that might cause a young person to leave home, and to provide families with supportive services that might be required to keep families intact.

* *Raising the maximum amount of a grant to a runaway program from $75,000 to $100,000; and changing the priority of giving grants to programs with program budgets of less than $100,000 to programs with budgets of less than $150,000.* This change was suggested by the National Network of Runaway and Youth Services, based on computations of the actual cost of operating programs designed to provide services to runaway youth and their families.

* *Returning at 90% the federal share of a program's budget during any fiscal year.* The Office of Youth Development, HEW, recommended that the federal share be 90% the first year; 80% the second year, and 60% the third year; based on the assumption that local funding would be used to supplant the federal share. The realities of the situation, however, indicate that the small programs envisioned as grantees must anticipate a developmental process for receiving local funds, including, for instance, certification from the state as an official childcare agency before approaching a local unit of government for funding. The entire process of breaking into the cycle of local funding can often take a new or small program well over two years; therefore, the federal share of funding should remain constant during that period.

* *Establishing a toll free telephone service to assist runaway youth in reuniting with their families and to enable centers working with runaways to communicate with service providers in the runaway's hometown.* This will provide for better communication leading to a return of the runaway to his family and community.

* *Adding a section entitled "Families and Youth in Crisis."* This section would have an authorization of $30 million per year, and would provide a means through which many of the root causes of the problems of runaways, undomiciled youth, and families and youth in crisis can be approached. It would also close service gaps not envisioned in the original Act. Grants and contracts would be awarded to develop programs which would assist families in coping with problems related to family life, including single parent families, child abuse and neglect, educational deficits, major illnesses, unemployment or underemployment, inadequate housing, alcohol and drug abuse, and disintegration of the nuclear family. Training, research, and coordination of community resources would also be a part of this effort.

* *Raising the authorization level from $10 million to $30 million for the fiscal years ending September 30, 1978, 1979, 1980, and 1981.* These funds would be for all activities under the Act except those discussed in the section immediately above, which would also have an authorization of $30 million.

FEBRUARY 1977

SENATE TO CONSIDER 3-YEAR EXTENSION—NYAP RECOMMENDS CHANGES IN JUVENILE JUSTICE ACT

Sen. Birch Bayh (D-Ind.) will introduce a 3-year extension of the Juvenile Justice and Delinquency Prevention Act within the next few weeks, calling for an authorization of at least $500 million for that period: $125 million for FY 78, $175 million for FY 79, and $200 million for FY 80. The appropriation for the current fiscal year is $75 million.

The bill will propose the creation of a new office within the Department of Justice—but separate from LEAA, which is currently administering the Act—to act as a legal advocate for children and youth in areas ranging from child abuse to delinquency prevention to adequate medical care. This office would be given the authority to pursue litigation against state and local jurisdictions as well as private individuals who violate the rights of children.

LEAA has already submitted the changes it would like to see made in the Act, as have youth workers and youth service programs. NYAP has drafted a lengthy list of recommended additions and deletions, which are summarized below.

In attempting to compile these recommendations, NYAP found itself confronted by a number of gaps in its knowledge; the first among these being a result of the current state of the Executive branch of government as a system in transition. The broad policy considerations of who should administer the various provisions of the Act should be based, in part, upon a clear understanding of the goals, directions, priorities, and personalities of the Executive branch. This clarity has not yet emerged.

The second gap exists as a result of the relatively short period of time the Office of Juvenile Justice has been in actual, operating existence, and the lack of

commitment on the part of the Ford Administration to the expeditious and industrious implementation of the Act. Therefore, it is difficult to make a meaningful assessment of the Juvenile Justice Office to operate within the Justice Department as the vehicle for the implementation of the Act.

A number of options have been discussed on this topic. First, that jurisdiction over the Act be transferred from Justice to HEW. NYAP is in philosophical agreement with this as being consistent with the trend towards removing the treatment and prevention of juvenile delinquency from the criminal justice system. However, the practical consideration of the ability of HEW as currently constituted to successfully implement the provisions of the Act or even to perform at the level of efficiency and expertise demonstrated by the Office of Juvenile Justice seems to outweigh philosophical considerations.

Another option is to create a new Office of Juvenile Justice within the Justice Department but separate from LEAA. This would tend to increase the level of visibility and importance accorded the Office and it would remove a level of administrative control and access within the Department. The drawbacks in such a move include the cost of establishing a parallel system of support services for the Office apart from LEAA and the difficulty of coordinating juvenile justice activities initiated under the Maintenance of Effort provisions for the Omnibus Crime Control and Safe Streets Act, which LEAA is administering.

A third option is to create a special office within the White House which, among other tasks, would administer the Act. Such an office would be similar to the one proposed by Bayh in his original bill. It would also be the closest approximation to that long fabled Cabinet position for youth.

Therefore, NYAP will assume that jurisdiction over the various titles of the Act will remain within the Office of Juvenile Justice. NYAP's specific recommendations, of course, are keyed to the many sections and subsections of the Act; but taken as a whole, most of them come under one of the following categories:

* More administrative authority should be vested in the LEAA Assistant Administrator in charge of the Office of Juvenile Justice rather than in the LEAA Administrator. This should lead to more effective operation of the Office. The Assistant Administrator should be authorized to select employees of the Office, to implement overall policy and develop objectives and priorities for all federal juvenile delinquency programs and activities, and to arrange grants and contracts with states.

* The staff of the Juvenile Justice Office should be increased. The Assistant Administrator should be able to hire as many staff people as are necessary. One of the apparent impediments to the efficient administration of the Act under the Office has been the lack of a staff of adequate size and composition.

* Coordination should be increased between federal agencies working in the areas of juvenile justice and delinquency prevention. For instance, the federal Coordinating Council on Juvenile Justice should be expanded to include HEW agencies.

MARCH 1977

CENTERS TO ASSESS "STATE OF ART" OF YOUTH WORK—LEAA ASSESSMENT CENTER ADVISORY BOARD MEETS

The Assessment Center Program Advisory Board, created by LEAA's National Institute on Juvenile Justice and Delinquency Prevention (NIJJDP) to oversee the work of its four national assessment centers, met for the first time last month in Hackensack, N.J. The 10-member board is to perform a variety of tasks in regard to the assessment centers; including selecting topics for consideration, providing guidance, making decisions to improve effectiveness, and insuring quality control.

The four assessment centers have contracts with the NIJJDP to assess "the state of the art" of youth work and to produce guidance and training materials for youth work practitioners and planners. It is hoped the ambitious, costly ($2 million annually) project will result in the production of a steady stream of useful, readable material on what works and how to do it in the youth services field.

Three assessment centers will concentrate on specific topics, while a fourth—the National Council on Crime and Delinquency in Hackensack—will provide overall coordination under the direction of Dr. Robert Emrich. The Center for Alternatives to Juvenile Justice System Processing will be located at the Uni-

versity of Chicago and the Center for the Assessment of the Juvenile Justice System will be administered by the American Justice Institute in Sacramento, Calif. LEAA has yet to award the contract for a prevention assessment center.

The advisory board will be chaired by Judge Marshall Young of Rapid City, S.D. The other members are Bill Bricker, National Director, Boys Club of America; Dr. Lee Brown, Director of Justice Services, Portland, Ore.; Dr. Inger Davis, San Diego State School of Social Work; Prof. Albert Reiss, Yale University; Angel Rivera, Community Services Administration, HEW; Bill Treanor, Director, NYAP; and Prof. Franklin Zimring, University of Chicago. Dr. James (Buddy) Howell, Director of the NIJJDP, is an ex-officio member of the board.

The board will meet again this May in Chicago. Youth workers should be prepared to review the utility and relevance of materials produced by these assessment centers to give timely analytical comment to board members and to others involved in this effort.

(Inquiries concerning the National Assessment Center Program should be directed to Dr. Robert Emrich, National Council on Crime and Delinquency, 411 Hackensack Ave., Hackensack, N.J., (201) 488-64400.)

—Bill Treanor, NYAP Director.

APRIL 1977

BILL ASKS FOR 5 YEAR, $1 BILLION REAUTHORIZATION—JUVENILE JUSTICE ACT EXTENSION ENLARGES YOUTH WORKER ROLE

A five-year, $1 billion reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974 was introduced in the Senate by Sen. Birch Bayh (D-Ind.) last month. Bayh, the main author of the Act, said his bill basically perfects and reaffirms existing provisions; but it clearly incorporates recommendations from youth workers and community-based youth service programs and provides them a larger role under the Act. The Act expires in September.

The Senate Subcommittee to Investigate Juvenile Delinquency has slated hearings on the reauthorization bill for April; but the current committee reorganization in the Senate may delay that. In addition, Sen. Bayh is expected to leave his post as subcommittee chairman to become head of the Subcommittee on Constitutional Amendments; while the Subcommittee's chief counsel, John Rector, will be leaving to become chief of LEAA's Office of Juvenile Justice. These moves may cause additional delays. Bayh's successor on the delinquency subcommittee is Sen. John Culver (D-Iowa).

The Senate faces a May 15 budget deadline on reauthorizing the Act. Bayh said he was "cautiously limiting substantive alterations" to the Act to speed the process—omitting provisions for a national conference on learning disabilities and an Office of Children's Justice within the Justice Department. (On the House side, Rep. Claude Pepper (D-Fla.) has introduced an amendment to the Act calling for a learning disabilities conference). Bayh said such additions to the Act could be subject of hearings this summer or fall.

Yet the bill does propose amendments to strengthen the federal delinquency prevention effort so that recent actions by the Ford Administration to weaken the Act's provisions will not be repeated under future Presidents. However, Bayh said, he was certain of President Carter's commitment to the program.

The major points of the Bayh reauthorization bill are as follows.

* The powers of the Assistant Administrator—the executive head of the Juvenile Justice Office—are strengthened. The 1974 Act intended that the head of the office be delegated all administrative, managerial, operational, and policy responsibilities for LEAA's delinquency prevention activities. However, the LEAA Administrator did not delegate these responsibilities to him during the years of the Ford Administration. The new bill reaffirms and facilitates these powers. The bill also emphasizes the autonomy of the Assistant Administrator from the regular LEAA structure.

* The Juvenile Justice Office is provided additional staff, including a deputy administrator to oversee the Part B activities under Title I (federal assistance to state and local programs).

* The 33 member National Advisory Committee is strengthened. The 1974 Act said committee members would be chosen from those having special knowledge concerning delinquency prevention and juvenile justice; and Bayh now includes among these "youth workers involved with alternative youth programs." In addition, at least one-third of the members must be 22 or under—down from 25—and at least one-third of these "shall have been under the jurisdiction of the juvenile

justice system." The committee will receive at least 1% of the funds for the Act, which it could use to award grants and contracts to carry out its functions; and will conduct seminars, workshops, and training programs around the country to assist state advisory groups.

* The state advisory groups are also strengthened by requiring their involvement in policy formulation and the implementation of the Act in their states. At least 10% of the formula grant funds going to a state will go to the state advisory group; and it, too, could award grants and contracts. Similarly, at least one-third of the members must be under 22.

* The match provision is waived for private, non-profit organizations. Bayh said the formula grant program is improved by eliminating the "burdensome records-keeping associated with in-kind match for non-profit groups."

* Among the advanced techniques which states may fund will be youth advocacy programs aimed at improving services for and protecting the rights of youth.

* Dependent or neglected children will be included under the provision that status offenders may not be placed in juvenile detention or correctional facilities. The wording that such children "must" be placed, instead, in shelter facilities will be changed to read "may." States would still have two years in which to meet this requirement.

* A state failing to meet this deinstitutionalization requirement within two years would have to show it was in "substantial compliance" to avoid becoming ineligible for future funds. Substantial compliance would mean 75% deinstitutionalization had been achieved, and the state would have three years to meet the requirement.

* Special Emphasis school programs will be more closely coordinated with HEW's Office of Education. In addition, new categories for special emphasis will include youth advocacy, due process, and programs to encourage the development of neighborhood courts. "Through the encouragement of arbitration, mediation, conciliation by the use of paralegals, ombudspersons, advocates, community participants, and others, while assisting victims, we can encourage the development of more rational and economical responses to minor delinquent behavior," Bayh said.

* Authorized for the Act is $150 million for FY 78, $175 million for FY 79, $200 million for FY 80, $225 million for FY 81, and $250 million for FY 82. The authorization for FY 77 is $150 million, though only $75 million was actually appropriated in the face of intense opposition from the Ford Administration.

STATEMENT OF LENORE GITTIS MITTELMAN, THE CHILDREN'S DEFENSE FUND OF THE WASHINGTON RESEARCH PROJECT, INC.

I thank you for giving the Children's Defense Fund of the Washington Research Project the opportunity to present testimony on proposed amendments to the Juvenile Justice and Delinquency Prevention Act of 1974. CDF is a national, nonprofit, public interest child advocacy organization created in 1973 to gather evidence about, and address systematically, the conditions and needs of American children. We have issued a number of reports on specific problems faced by large numbers of children in this country, and will issue several more in 1977. We seek to correct problems uncovered by our research through federal and state administrative policy changes and monitoring, litigation, public information and support to parents and local community groups representing children's interests.

Our monitoring of federal programs designed to provide services for children in the areas of health, education, child welfare, child development and family support have naturally lead us to our interest in the juvenile justice system and those children caught up in it. The Juvenile Justice Division of the Children's Defense Fund, formerly in New York City under the direction of the Honorable Justine Wise Polier, conducted a study of children in jails as well as a more broadly focused study of non-delinquent children, including status offenders, who are in placement out of their homes.

It is clear to us that often children subject to juvenile court jurisdiction are the very same children who were deprived, and continue to be deprived, of those essential developmental, educational and support services that have been CDF's traditional concern. Too often for these very same youngsters there are additional sets of problems caused by failures and inadequacies within the juvenile justice system. Thus the Children's Defense Fund approaches the Juvenile

Justice Act with the understanding that a federal delinquency program cannot solve all the problems caused by the failures of the other systems that impact on children. However, we do believe that there must be a vigorous federal delinquency program that responds to the very real problems imposed upon children by the clear inadequacies in the juvenile justice system.

We appreciate the past efforts of both the House and Senate oversight committees on important issues affecting children caught up in the juvenile justice system and are grateful to have this opportunity to appear before you and offer our comments on a number of proposed amendments.

Status offenders (§§ 223(a)(12) & 223(c))

1. *Requirement for Deinstitutionalization within two years*

We are concerned that both the Administration bill, H.R. 6111, and Senator Bayh's bill, S1021, propose changes that seemingly undermine the Acts mandate that States deinstitutionalize status offenders within two years of submission of State plans. The initial decision to incorporate the two year requirement in the statute was based upon a clear body of evidence that institutionalization of status offenders in remotely placed, large warehousing institutions, bereft of services, was totally destructive to the children and, indeed, provided them with excellent schooling in crime. Conditions in these institutions created settings in which the truant learned well from the mugger and the runaway learned equally as well from the rapist. Both children and society were irrevocably damaged. This evidence has not changed, and the requirement for deinstitutionalization, based upon the evidence, should not change.

Nevertheless both bills change the requirement for full compliance within two years by providing that "substantial compliance" is also acceptable if a State has made an unequivocal commitment to full compliance within a "reasonable time". Presently the law sets a clear standard. It requires deinstitutionalization of status offenders within two years, and a State is in compliance *only* if it conforms to that standard. If a State does not deinstitutionalize within two years, it is in violation of the law. However, under the proposed changes the act would essentially provide that a State is in compliance with the law even if it is *only* in substantial compliance. The full compliance standard becomes meaningless because it allows a State to be in non-compliance yet still be in conformance with the law.

If a State is presently not in full compliance, the agency administering the act, the Office of Juvenile Justice and Delinquency Prevention, has the power to negotiate with the State to bring it into full compliance. OJJDP *always* has the discretion to be reasonable in negotiations and indeed must be to retain its credibility with the States. However, the requirement for full compliance gives OJJDP the tool it needs in negotiating with the States to work out compliance mechanisms.

Therefore we oppose allowing a State either 3 years above the first 2 years or a reasonable time after those first two years for deinstitutionalization of status offenders. Deinstitutionalization will never happen if the requirement is so weakened as to allow States either 5 years or an undefined period in which to accomplish it.

Indeed, we believe that new legislation should strengthen the commitment to deinstitutionalize. We fully support Senator Bayh's proposal to make a State ineligible for its maintenance of effort funds under the Safe Streets Act if the State is not in compliance with deinstitutionalization requirements. This gives LEAA a badly needed tool for negotiating with the States to bring them into compliance. The amount of funds available under the JJDPA has not yet been large enough to be effective.

2. *Shelter Facilities* (§ 223(a)(12))—This section provides that status offenders, both those charged and those who have committed offenses, cannot be placed in juvenile detention or correctional facilities but ". . . must be placed in shelter facilities." We are troubled by the use of the term "shelter facilities" which is not defined any place in the Act. Neither the Administration nor Senator Bayh has proposed any changes in the use of the term.

Used alone, without further elaboration, the term "shelter facilities" has many different meanings. It is used to describe facilities of different sizes in both urban and rural areas. It is used to refer to facilities with different levels of security and facilities used for different groups of children, i.e., dependent or neglected children and status offenders. Further, it applies to facilities for temporary placement prior to adjudication as well as to facilities used for both temporary and

permanent placement subsequent to adjudication. Frequently there are no requirements concerning the extent and quality of services that must be provided to children placed in shelter facilities.

For the above reasons, we do not believe the term "shelter facilities" should be retained in the Act. Further, we would like to propose that any substitute language describing alternative facilities where status offenders must be placed embody the following requirements: Any alternative placement should be in the least restrictive alternative appropriate to a child's needs and within reasonable proximity to the child's family and home community. The facility should be required to provide appropriate services, including education, health, vocational, social and psychological guidance and other rehabilitative services.

It appears that Senator Bayh and the Administration both attempt to enlarge placement options under this section by proposing that ". . . *must* be placed in shelter facilities" be changed to ". . . *may* be placed in shelter facilities." In fact, we believe that such a change increases the potential for the placement of status offenders in inappropriate facilities and defeats one of the original purposes of the Act which is to clearly limit the types of facilities in which status offenders can be placed. We believe that a better solution to the problems of increasing alternatives for status offenders is to redefine, as follows, the alternative facilities in which status offenders can be placed under the Act:

§ 223(a) ". . . such plan must

(12) provide within two years after submission of the plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, shall not be placed in juvenile detention or correctional facilities (, but must be placed in shelter facilities). *Such juveniles must be placed in facilities that are the least restrictive alternatives appropriate to their needs. These facilities must be in reasonable proximity to the family and home communities of the juveniles taking into account any special needs of the juveniles, and shall provide the services described in section* 103(1) ;*

Children in Adult Jails (§ 223(a)(13)

In January of the year CDF released its study on *Children in Adult Jails*.† I will not repeat many of our findings since most of you have received copies of the study. However, I wish to recall for you that the jailing of children has been condemned for nearly a century as a cruel and unnecessary practice. It is often prohibited by State laws yet it persists in every region of the country. Every day across this country thousands of children are subjected to the harsh reality of jail, too often to their everlasting damage.

It is a tragedy for any child to be held in jail. It is also a travesty because the overwhelming majority of children in adult jails are not even detained for violent crimes and cannot be considered a threat to themselves nor to their communities. In our study we found that only 11.7% of jailed children were charged with serious offenses against persons. The rest—88.3%—were charged with property or minor offenses. Most alarmingly, 17.9% of jailed children had committed status offenses. That is, truants and runaways were held in jails, under abysmal conditions, easy prey for hardened adult criminals. An additional 4.3% of the jailed children had committed no offense at all.

Section 223(a)(13) of the JJDPA restricts use of jails for juveniles only by providing that children have no "regular contact" with adult offenders. Our study has shown that "this prohibition cannot protect children from physical or sexual abuse any more than state laws with similar provisions have protected children in the past." We have recommended and we continue to recommend that the JJDPA should be amended to require State plans to include provisions for ending the incarceration of children in jails within 12 months. In addition we recommend that the federal government should set a date after which no federal law enforcement aid will be granted to any state that continues to hold children of juvenile court age in any correctional facility, including jails or lockups.

Further, we recommend that § 223(a)(13) be amended by deleting the word "regular" so that *all* contact between children and adult offenders in correctional institutions is completely prohibited. We think there is little disagreement that children need protection from incarcerated adults. This is one way to provide them with more protection than exists under present federal requirements.

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*Deleted material in parentheses, new material in italic.

† See p. 133.

Maintenance of Effort (§ 261(b))

The JJDPA requires that LEAA devote 19.5% of its 1972 Safe Streets funds to juvenile justice. However, there is no mechanism that contains information nor reveals that this is happening. We propose that the Act be amended to require LEAA to establish a monitoring system to track compliance with this requirement.

Match Requirement (§ 222(d))

The statute presently gives the LEAA Administrator discretion to require cash or in-kind matching funds. Senator Bayh's amendments retain that discretion. However, the Administration's amendments delete the possibility of in-kind match and only permit cash match. We strongly oppose the Administration's proposal. Removing the possibility of in-kind match effectively destroys the ability of many private organizations with funding problems to apply for grants. We know that organizations, even some of the larger private nonprofits, have funding problems under present economic conditions. Further, the proposed changes handicap small agencies and organizations which are developing innovative programs and cannot secure money from financially troubled municipalities and counties. In short, the deletion of the possibility of the use of in-kind match hampers the private sector in developing and implementing the kinds of programs envisaged by the Act.

State Advisory Councils-State Planning Agencies (SPA's)

There have been problems in a number of States in that SPA's have not been giving Advisory Councils sufficient opportunity to "advise and consult" in the formation of State plans. Too often SPA's have submitted State plans to Advisory Councils directly before submitting them to Washington. This is in direct contravention of the purpose of the Act in creating Staff Advisory Councils. Advisory Councils are to provide citizen participation in the planning process. We ask you to consider imposing a reasonable time frame upon the process, or, as has been recommended by other organizations, statutorily requiring submission of Advisory Council comments on State plans along with submission of the plan. We wish to add to this last recommendation a further condition that the SPA's be required to submit in writing its reasons for not accepting specific Advisory Council proposals.

Again, we appreciate this opportunity to present our concerns to you. We believe the JJDPA has enormous potential in aiding both States and private organizations to address the problems of juvenile delinquency and its prevention. We hope to see that potential realized.

CHILDREN

IN ADULT JAILS

A Report by the

CHILDREN'S DEFENSE FUND

of the Washington Research Project, Inc.

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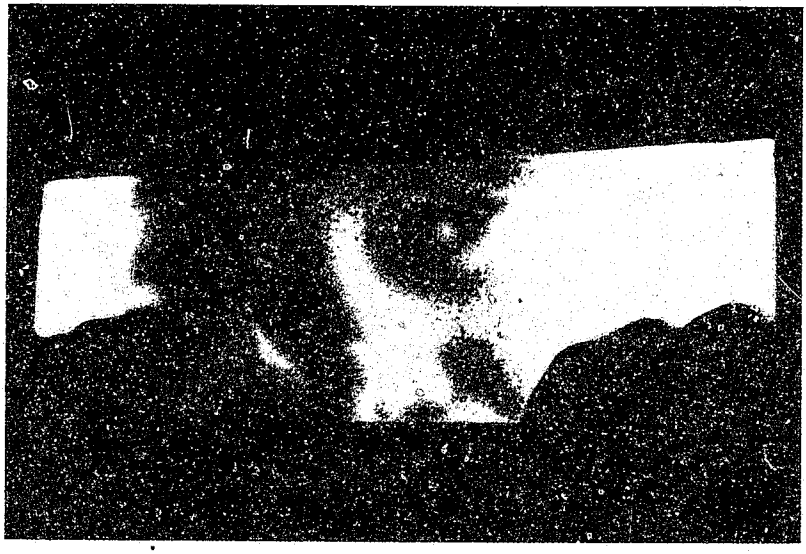

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The photographs in this book are for illustrative purposes. They are meant to imply no direct relationship between any particular child and the text.

Cover

Permission to use "Blue Face," by Paul Tsepelinsky, was given to us by Henry and Ludmilla Shapiro. It comes from their collection of modern Russian paintings.

Foreword

The Juvenile Justice Division of the Children's Defense Fund is concerned with the limitation and fragmentation of services which are available to help children in trouble. It has been over three-quarters of a century since states began to legislate that children should be treated as children, with the unique capacity for responding to appropriate care and treatment. Yet throughout this long period, children have been denied appropriate services.

Children in Adult Jails focuses on a large number of children subjected to violation of their rights and well-being through jail incarceration. Children have been put in jails by orders of the police, administrative agencies and the juvenile courts. Children are jailed on charges prior to trial, after adjudication, while awaiting disposition, and even to serve sentences. Neither federal court decisions nor legislative efforts have proven effective to sop the jailing of children, except in individual cases.

The jailing of children is not a new story. It has been intermittently condemned for nearly a century. The questions raised by this study confront the disparity between the pretensions and the realities of juvenile justice as it is administered: Why, despite the vaunted management and technical skills available, is it that juvenile courts, correctional systems, state and federal agencies have all failed to go behind statistical data (whether accurate or not) to learn about the children within the jurisdiction of juvenile courts incarcerated in jails?

In view of the justification or rationale offered for the continuing and increasing use of jails to hold children — as a protection for the community — CDF examined information (where available) on the offenses charged against children held in jails at the time of our site visits. The facts as we found them do not lend credence to the assumption that the jailing of children is necessary to protect the community. Few of the children found in adult jails had even been charged, let alone convicted, of violent or serious offenses against a person. Jails are used to hold children in haphazard fashion, sometimes for the convenience of the arresting officer or a judge, sometimes to frighten a child, and, at times, because there is "no other place for shelter."

Before we undertook this study, we learned that no federal agency had done any recent studies on children in jail. We found that the National Jail Census did not provide full or accurate data on children in jail. Despite official pronouncements by representatives of the Department of Justice against placing children in jail, its Bureau of Prisons had contracts with local jails in all but four states to hold children charged with federal offenses. When questioned, the Bureau acknowledged it could not tell how many children were confined in jails under such contracts.

This study proves that even the question of how many children are held in jail throughout the country will not be truly answered until communities, states and the federal government become committed to finding out why children are jailed, which children are placed behind bars, and what happens to children in jails. Accurate information is a necessary first step toward end-

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ing the jail abuse of tens of thousands of children within the juvenile justice system, including the disproportionate number of non-white children.

In view of the vacuum of knowledge about children held in jails, another question concerned the conditions to which such children were subjected. We asked ourselves and others concerned with the welfare of children, why more and more children were held in such abominable conditions. As in responses to the question about the numbers of children held in jails, it became clear that jail conditions would be corrected only as the ignorance or indifference of citizens, community groups, professionals and government officials were transformed into concern, advocacy and community action.

The absence of knowledge and the misconceptions about children held in jail caused CDF to seek to learn more about children who were or had been in jail. We have presented what we learned in the words the children spoke. No summaries or statistics could portray the depth of anguish, fear and terror when children feel abandoned, are subjected to abuse or fear of abuse and are uncertain as to how long they will be locked up or what will happen to them in jail. These children found no adult to whom they could turn during long hours of loneliness, boredom and even terror. Many seemed especially vulnerable, not only because of their immaturity, but because of past hurts and their uncertainty as to what might happen to them or whether there was anyone who cared and would want to help them.

The Children's Defense Fund hopes that *Children in Adult Jails* will lead from the examination of jail incarceration to a broader examination of the unmet needs of many children within the juvenile justice system, since children in jail represent a far larger group of children who are denied the right to appropriate care and treatment by reason of the devastating limitation of services provided by local, state and federal governments. For all these children, the Children's Defense Fund urges increased community concern and active child advocacy to correct the ongoing denials of justice, and presents specific recommendations for action. The present flawed juvenile justice system cannot change effectively without strong community support.

We also urge a more active role for bar and bench to end jail abuse of children and youth within the jurisdiction of the juvenile courts.

In these days when there is a sharp conflict between those seeking greater procedural protections for children, as protection against harmful governmental intervention, and those who seek harsher punitive measures against children, communities must be helped to realize that temporary and harmful jail incarceration of children provides no answer. The children subjected to jails will return to the same communities from which they come, more hostile, more alienated and more damaged.

Both the protection of children and services to children are essential to rather than antagonistic to community protection. We are convinced that a new beginning for establishing meaningful preventive and substantive services for children brought within the jurisdiction of the law (whether dependent, neglected, abused or delinquent) must be based on the understanding that the healthy future of children and the healthy future of communities are indivisible.

Hon. Justine Wise Polier, Director
Juvenile Justice Division

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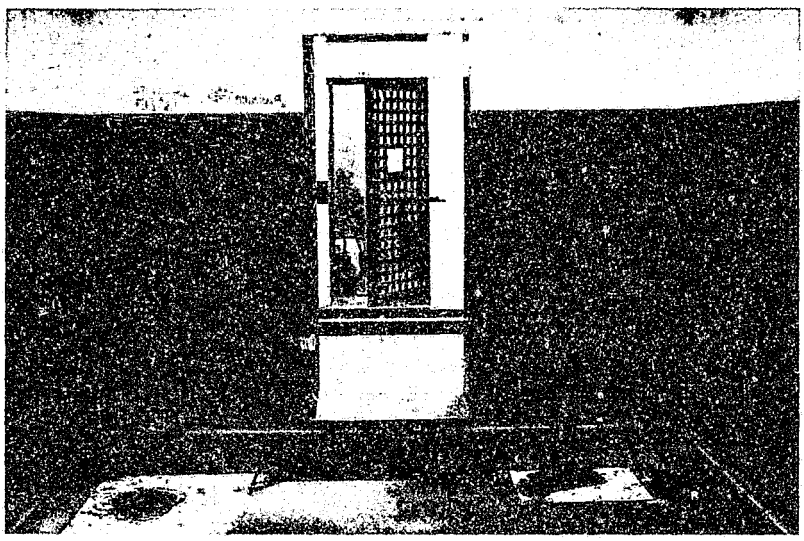
I want to extend great thanks to Justine Wise Polier, director of our Juvenile Justice program, whose wisdom and vast knowledge of the field of juvenile justice has informed and guided our activities in this area. Special thanks are also due Don Rademacher, who has spent many years in the pursuit of improving the juvenile justice system.

Marian Wright Edelman, Director
Children's Defense Fund



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Introduction

"This ain't no place for a kid, man," a 15-year-old boy told one of our staff members visiting him in an adult jail.[1] And most of us, in principle at least, agree. The juvenile justice system created at the turn of this century is premised on the notion that a totally separate set of assumptions, institutions and procedures is warranted when children break the law or need to be detained. Many states have statutes prohibiting the jailing of youths with adults, giving further legal recognition to how dangerous such a practice is.

Yet we learned about what happens to children in jail when we were asked to represent three brothers, Billy, age 12, Brian, age 13 and Dan, age 14, who were suspected of stealing some coins from a local store.[2] The deputy sheriff found the three boys at school, put them in his car and drove to their father's place of employment to inform him that he was taking the three to jail. The deputy talked with the boys' father alone while they waited in the police car. After a short time the deputy came out and took the boys to the county jail. There he had a trusty[3] place the three in a cell, one of four on the top floor of the jail. It had four beds and three other prisoners: one older boy and two men. Billy and Brian shared one bunk; Dan slept on a mattress on the floor.

The first night, the men decided to have a little fun. As Billy and Brian lay sleeping, the men placed matches between Billy's toes and in Brian's hands, lit them, and watched them burn, laughing as the boys awoke in pain and horror. The second night, the boys, too afraid to fall asleep, lay awake listening to the men talk about how they hadn't had a woman in a long time and how these boys would do just fine. After the lights were out in the jail, the men ordered the boys to take off their clothes. When they refused, the men attacked, punching Brian when he struggled to fight back. The men tore off the boys' clothing and then, one by one, each of the men forcibly raped the three brothers. Pointing to a long electric cord hanging in the cell, one of the men warned the boys that if they uttered a sound or told anyone what had happened, he would choke them to death. For emphasis, he threw one end of the cord over the shower nozzle, wrapped the other around Billy's neck and pulled hard. The boys obeyed the command and were silent.

Two nights later the abuse was repeated: the men poured water on Dan's mattress, filled Billy's and Brian's mouth with shaving cream, stripped the boys naked and raped them. Finally, after five days of terror in jail, the boys were brought before a judge. As the boys left their cell on their way to court, one of the men threatened menacingly, "You tell the judge or anyone about this and I'll kill you for sure."

The judge allowed Dan to go home after the court hearing. But Billy and Brian, awaiting transfer to the Department of Youth Services, were sent back to the county jail. Upon their return to the jail, the boys begged not to be put back in a cell with adults. But the trusty ignored their pleas and led them back to the same cell they had been in before, where the same men waited to greet them.[4]

[1] For purposes of this report, a jail or a police lockup is defined as a locked facility, administered by local law enforcement and correctional agencies. Its primary purpose is to detain persons charged with violating the law who are unable to post bail or are denied it by a court pending trial. It is also used to hold offenders convicted of crimes, who are sentenced to serve sentences of usually less than one year.

In practice, jails have become catch-alls which confine dangerous offenders, petty offenders, drunks, mentally ill, mentally retarded adults, and persons who need a place to stay.

[2] The names of these three boys and other children described throughout this report have been changed to protect their confidentiality; all the facts and quotations are unchanged.

[3] A trusty is an inmate who is given extra responsibilities while he is serving time in an institution, such as locking up others, distributing meals, and so on, to aid the institution's staff.

Were Billy, Brian and Dan's nightmarish experiences unusual, or were other children running the same risks? How many children, indeed, were held in adult jails? Was the jailing of children a common practice or a measure of last resort? Were other jails as lax about their separation of children from adult inmates? What were the laws about such things? What were the practices?

As we began to search for the answers to these questions, we discovered that information was difficult to find. Only bits and pieces existed. For example, state statutes could be scrutinized for their language about jailing juveniles, but did law enforcement officials know and heed the laws? No one could say.

Finding out how many children were in jails was further complicated by not being able to find the jails themselves. There was no complete listing of all the jails and police lockups in this country. Most studies of jails relied on the *1970 National Jail Census,*[5] but the *Census* did not include jails or lockups which report holding persons for under 48 hours, nor did it list any jails in Connecticut, Rhode Island or Delaware since they are state-operated. Individual states had no more complete listings than did the federal government about the jails and lockups within their borders. Jails are local institutions. They are scattered throughout cities, counties and townships; there is no central agency to which they report and no map on which to find them all. Unlike the use of stocks in former days, jails are hidden from public view — which makes them and the human beings inside them a subject of continuing ignorance.

What about the children incarcerated in jails? It was almost impossible to obtain any data about them. We wrote to the Secretary of HEW requesting information about the use of jails for children. His response read:

> You inquired about studies of the use of jail in place of detention facilities for children.
>
> The Department of Justice and the Youth Development and Delinquency Prevention Administration (DHEW) inform me that no studies have been made on this matter in recent years.
>
> The Children's Bureau has not conducted a study on this matter either.[6]

Most studies about the detention of children totally ignored the extent to which they were jailed.[7] Those that raised the subject at all usually confined their inquiries to whether it was possible to separate juveniles from adults adequately in jail facilities.[8] The few studies which took the problem of children in adult jails seriously still had to rely on these inadequate sources of information for their baseline statistics.[9]

[4] CDF attorneys represented these three boys, and others in South Carolina similarly situated, and recently entered into a consent decree awarding damages to the three individual children described here. Pending is a CDF motion to enjoin future detention of juveniles in adult jails throughout the state of South Carolina. Also pending is a damage claim against officials in another South Carolina county where two white truant boys were raped in an adult jail.

[5] Conducted by U.S. Department of Justice, Law Enforcement Assistance Administration (LEAA), National Criminal Justice Information and Statistics Service, *National Jail Census, 1970: A Report on the Nation's Jails and Type of Inmates,* Series SC-No. 1 (Washington, D.C.: U.S. Government Printing Office, 1971).

[6] Letter from Caspar Weinberger, Secretary, U.S. Department of Health, Education and Welfare, 17 April 1973.

[7] For example, LEAA's two major reports on children in detention failed to mention the number of children in jail. These reports were: U.S. Department of Justice, Law Enforcement Assistance Administration, *Children in Custody: A Report on the Juvenile Detention and Correctional Facility Census of 1971* (Washington, D.C.: U.S. Government Printing Office, 1974) and *Children in Custody: Advance Report on the Juvenile Detention and Correctional Facility Census of 1973-74* (Washington, D.C.: U.S. Government Printing Office, 1975).

[8] See, for example, U.S. Department of Justice, Law Enforcement Assistance Administration, *The Nation's Jails* (Washington, D.C.: U.S. Government Printing Office, 1975), and U.S. General Accounting Office, *Conditions in Local Jails Remain Inadequate Despite Federal Funding for Improvements: Report to the Congress by the Comptroller General* (Washington, D.C.: U.S. Government Printing Office, 1976).

[9] Among the more in-depth studies are Hans W. Mattick, "The Contemporary Jails of the United States: An Unknown and Neglected Area of Justice," in Daniel Glaser, ed., *Handbook of Criminology* (Chicago: Rand McNally College Publishing Company, 1974), pp. 777-848, and Rosemary C. Sarri, *Under Lock and Key: Juveniles in Jails and Detention* (Ann Arbor, Michigan: National Assessment of Juvenile Corrections, 1974).

Not regularly required to submit a summary or individual numbers on their inmates to federal or state agencies, the information kept by local jails on detained children was scarce. In one state we were told that no jail records were kept on juveniles, except if they were waived to the criminal justice system.[10] In another state, not a single state agency could supply us with even the number of children referred to the juvenile courts. Out of frustration, one of our staff called that state's agency for fish and game to see if all accounting systems were in similarly bad shape. That agency told him, however, that it could provide not only the number but the species of fish found in every body of water in each county of the state. It appeared, as the President's Crime Commission had noted, that especially with regard to children, "...the United States is today, in the era of the high speed computer, trying to keep track of crime and criminals with a system that was less than adequate in the days of the horse and buggy."[11]

CDF's Study

To obtain information about the number of children held in adult jails and the conditions in which they were confined we visited 449 jails in 126 counties and 9 independent cities, almost all of which had a population of over 50,000, in the states of Florida, Georgia, Indiana, Maryland, New Jersey, Ohio, South Carolina, Texas and Virginia.[12] We asked basic identifying information — including type of jail, the administrator and the jurisdiction covered — of all 449 jails. We also asked whether or not they held children. If they answered "yes," we asked additional questions about the separation of children from adult inmates; the medical services made available to the children; the number of children in jail at the time of our visit;[13] the type of offense for which children were in jail; their length of stay; their race, age and sex. We asked whether the juvenile court sentenced children to jail. Some children are waived to adult court, and we asked how many of these were in jail; whether they were in jail awaiting a hearing; awaiting transfer to another facility; whether they were serving their sentence in jail; and so on. In addition to our on-site appraisals of the physical conditions of these jails, we analyzed the *1970 National Jail Census* for information about the jails and their programs in our study states. We also talked to dozens of corrections officials and sheriffs, child psychologists and criminal corrections' experts, concerned citizens, and children who had been or were currently in jail.

Our Findings

First, we found that children are in adult jails in every state we visited.[14] Of the 449 jails visited, 171 or 38.1 percent answered yes, they held children regularly as a matter of policy. Of the 278 that answered no, 41 or 14.7 percent acknowledged that they occasionally held children. While the states varied in how commonly adult jails were used to house children, no state was immune from the practice.

Second, the overwhelming majority of children we found in adult jails were not detained for violent crimes and could not be considered a threat to themselves or to the community. Only 11.7 percent were charged with serious offenses

[10] Letter from Shannon Ferguson, Jackson, Mississippi office, Children's Defense Fund, 10 October 1975.

[11] President's Commission on Law Enforcement and Administration of Justice, *The Challenge of Crime in a Free Society* (Washington, D.C.: U.S. Government Printing Office, 1967), p. 123.

[12] Our study was not meant to be a comprehensive survey of the nation's jails, but was shaped by our resources and manpower. While we tried to cover areas with major population concentrations, we did not go to every jail in all the counties and cities we visited. While no jail was intentionally excluded, some jails were omitted because of time and the unavailability of information about the location of all jails and lock-ups. We did, however, visit 190 jails that were not included in the *1970 National Jail Census,* which leads us to believe that there are still other jails not included in this or other studies of children in jail. We believe that the number of children we found in jails grossly understates the true extent of the problem.

[13] All of our data on the numbers and characteristics of children in jail therefore constitute a one-day "slice" of the picture and do not indicate the numbers of children passing through these jails over the course of a year.

[14] Juveniles were detained in adult jails in all but seven states at the time of the most recent national survey. See, *National Jail Census, 1970,* p. 10.

against persons. The rest — 88.3 percent — were charged with property or minor offenses. What is most alarming is that 17.9 percent of jailed children we found had committed "status offenses," i.e., actions which would not be crimes if done by adults, such as running away or truancy. And an additional 4.3 percent of the jailed children had committed no offense at all. One boy was being held because "he had no place to go." Another boy was fingerprinted and held in jail because his mother had been hospitalized and there was no other adult at home. One child was in jail for protection from her father, who was accused of committing incest. Some children were held because they were mentally ill or retarded and there were no appropriate mental facilities available.[13]

Third, while the majority of jailed children were white, a disproportionate number — 31.8 percent — were minority. Almost four out of every five jailed children were male. Most were 16 and 17 years old, but it is a mistake to think that only older, tougher youths are jailed; 34.2 percent were 14 and 15 years old and over 9 percent were 13 years old or younger.[14]

Fourth, the length of time and the reason children were in jail were often in violation of state laws. The average length of stay on the day of our visit had been 6 days, but almost 18 percent of the children had been incarcerated for more than 10 days on the day of the CDF visit. (Many states have statutes limiting the length of time a child can remain in jail to 48 hours or less.) Children were jailed awaiting juvenile court hearings, pending disposition, and serving their time in jails (a practice prohibited by many states).

Fifth, the conditions of most of the jails in which we found children are abysmal, subjecting them to cruel and unusual punishment through physical neglect and abuse. Most jails are old and dirty, with insufficient sanitary, food or medical facilities. Only 9.8 percent of the jails in our study states had any educational facilities; only 12.4 percent reported any recreational facilities.[17] With insufficient, poorly trained and poorly supervised staff, there is often no one suitable to deal with children or to assess their needs. Often adult inmates serving as trusties are in control of jailed children. Often, too, the physical layout and size of the jail makes it impossible to separate children from adult inmates, although such separation is required by most state laws. Children regularly come into total, or visual or aural contact with adult prisoners. Even if a jailer is careful about obeying the law requiring separation of children from adults, the result can be equally terrifying. Solitary confinement or confinement in a dank basement or closet-like enclosure for the sole child in an adult jail removes him or her from other inmates, but also from the attention of caretakers and can have severe traumatic effects on an already troubled and frightened youngster.[18]

Conclusions and Recommendations

The guiding principles which have shaped the juvenile justice system are that: (1) children are not set in their ways and their behavior can be changed if proper attention is given them; (2) therefore, when children misbehave, their problems need to be assessed to determine the causes; (3) because they have their whole lives in front of them and because their personalities are still forming, children should be helped rather than merely punished, so they will grow into decent, responsible adults.

The guiding principles which have shaped adult jails are: (1) they are temporary, secure holding facilities for three kinds of prisoners: those too dangerous to be released awaiting trial, those awaiting transfer to more appropriate facilities, and those needing only brief periods of punishment for minor misdeeds; and (2) because jail populations are temporary, good facilities, quality services and remediation programs are too costly and impractical to provide.

[13] For more discussion of the reasons why children were in jail, see Chapter 2 of this report.

[14] For further discussion of the characteristics of jailed children, see Chapter 1.

[17] *National Jail Census, 1970,* pp. 18-19.

[18] For further discussion of the conditions of jails holding children, see Chapter 3.

Clearly these two sets of principles do not match. Jails are totally inappropriate for children. They cannot nor were they ever intended to assess, understand or respond to the needs children have. Despite the sensational headlines, few of the children in jail are dangerous; few warrant such extreme conditions of security. Though there are a small minority of children who need secure detention, these few do not justify the wholesale jailing of youthful offenders. And even the dangerous children may be harmed by the fetid conditions and adult criminals they encounter in jails. Jailing children is illegal.[19] It exposes children unnecessarily to threats and harms inflicted by adults against whom they cannot possibly defend themselves. It leaves their problems and their needs totally ignored. Further, it intensifies whatever antisocial inclinations children may have, making it even harder to fulfill the long-term hopes we hold for them.

We therefore recommend that:[20]

1. State legislatures should immediately and completely prohibit the admission or holding of any person under 18 years of age in adult jails.

2. Recognizing that there may be a brief period of time for phasing in new laws which completely prohibit jailing children, interim action should be taken by state and local correctional agencies to provide measures for complete visual and aural separation of juveniles from adults. Such measures, however, must not permit the isolation of children or their removal from continuing care and supervision by responsible adults. So long as jails are used to hold children, they must be required to provide clean, adequate facilities with decent educational, medical, nutritional and recreational care.

3. Careful and regular reporting on the number of children detained in jails should be required by state law, and these requirements should be monitored and enforced by state agencies. Such reports should include the age, sex, race, length of detention, the offense with which each child is charged, and the disposition of every child detained.

Information should be collected through regular inspection of the conditions in every jail, including its age and physical condition, its staffing, and its provision of medical, nutritional, educational, and recreational services for children. Minimum state standards should be mandated, monitored, and enforced. Regular reports based on jail inspections should be published and made a matter of public record.

4. The federal government should prohibit the use of jails by any state or federal agency, including the Department of Justice, the Bureau of Prisons, and the Bureau of Indian Affairs. All federal law enforcement funds should be withheld from states found to house juveniles in adult jails.

5. Alternatives to jails should be funded and developed. Group homes and foster placements must be found for those children who are not dangerous but who, for a variety of reasons, cannot go home. The majority of youngsters should be released into their parents' or guardians' supervision or placed in an appropriate facility for young people. No child should be placed with adult offenders; no child should ever be institutionalized with offenders because she or he "had no other place to go." Secure detention facilities holding no more than 25 youths each should be available for those charged with violent delinquent acts. But these facilities should be limited to holding such youths for a preliminary court hearing with counsel within twenty-four hours to determine whether further detention is needed pending a trial.

6. Parents and child advocates should challenge the continuing use of adult jails for children as unconstitutional, as violating state laws, and as violating constitutional requirements for juvenile justice legislation. Damage actions should be filed against adults responsible for violating state laws requiring separation of juveniles, for injurious conditions in the jails, or for practices harmful to children when their actions are intentional or the result of negligence.

7. Parents and citizen groups should inform themselves about the use and conditions of jails in their communities. They should visit jails

[19] The Constitutional and supporting statutory evidence for the illegality of jailing children is discussed more fully in Chapter 4.

[20] A more complete discussion of recommendations for federal, state and local agencies, officials and advocates is found in Chapter 5.

unannounced and inspect them. They should take political and legal action to end the use of jails for children and they should become an effective force to support the establishment of alternatives to jails and the provision of appropriate services for all children who need care outside their homes.

Until the public takes action on behalf of the thousands of children in adult jails, it is unlikely that their plight will change. Experts on the causes of violence have long noted how inappropriate jails are for children:

> . . . it should be noted that jails . . . are often the most appalling shame in the criminal justice system . . . Even more than the prisons, jails have been indicted as crime breeding institutions.[21]

Many of the sheriffs and other law enforcement officials we met regretted using their jails for children. They worried about their inability to protect their young inmates, but felt they had no alternatives. Shocking revelations of the destruction and self-destruction of children in jails have been published. Yet, the population of children 17 years old and under in jails nearly doubled from 1950 to 1960 and increased an additional 23.5 percent from 1960 to 1970.[22] Further, juvenile arrests have increased from 466,174 persons under 18 in 1960 to 1,135,046 in 1973, an increase of 144.1 percent.[23] This increase in juvenile arrests inevitably means that the number of children detained in both juvenile detention facilities and adult jails has grown substantially. In 1965, the National Council on Crime and Delinquency "estimated that 87,951 boys and girls under juvenile court jurisdiction were held in county jails and lock-ups."[24] In 1974, Rosemary Sarri estimated that up to *half a million* children are held in adult jails each year.[25] These startling numbers and grim reports have not changed the reality of placement for the youthful offender. No more investigations or commissions are warranted. The time has come to end the jailing of children and ensure that alternatives exist for their care.

Chapter 1 of this report describes who the children in jail are: both their numbers and their feelings. Chapter 2 examines why these children were in jail: the reported, official reasons and the myths justifying using jails for children. Chapter 3 portrays for those who have never been in them what jails are like: their general conditions and specifically how they appear to children. Chapters 4 and 5 are for advocates who want to end this terrible abuse. Chapter 4 focuses on the statutory and constitutional handles to end jailing children and Chapter 5 addresses the broader range of political and organizing efforts needed to pressure officials to find better ways of treating our youth.

[21] National Commission on the Causes and Prevention of Violence, *To Establish Justice, To Insure Domestic Tranquility* (Washington, D.C.: U.S. Government Printing Office, 1969), p. 152.

[22] See, U.S. Bureau of the Census, *U.S. Census of Population: 1950*, Vol. IV, Part 2, Chapter 6, "Institutional Population" (Washington, D.C.: U.S. Government Printing Office, 1950), pp. 15-17; U.S. Bureau of the Census, *U.S. Census of Population: 1960*, Final Report PC(2)-8A, "Inmates of Institutions" (Washington, D.C.: U.S. Government Printing Office, 1960), pp. 3-5, 7 and 12; U.S. Bureau of the Census, *U.S. Census of Population: 1970*, Final Report PC(2)-4E, "Persons in Institutions and Other Group Quarters" (Washington, D.C.: U.S. Government Printing Office, 1970), pp. 2-3, 7, 11 and 21.

[23] Federal Bureau of Investigation, *Uniform Crime Reports For the United States — 1973* (Washington, D.C.: U.S. Government Printing Office, 1974), Table 26, p. 124.

[24] National Council on Crime and Delinquency, "Corrections in the United States," in *Crime and Delinquency*, 13 (January 1967).

[25] *Under Lock and Key: Juveniles in Jails and Detention*, p. 64.

Chapter 1

Who Are the Children in Jail and What Does It Mean to Them?

The children we found in jail defy any neat classifications or stereotypes about such youngsters. Regardless of a state's laws, correctional policies or administrative practices, children were found in its adult jails. No region of the country was immune from the practice. Children were found in jails in cities, medium size counties, and sparsely populated rural areas. White, Black, Chicano and Native American children were found held in jail. So were upper-middle class and dirt poor children. Academically motivated and failing in school. Tough talking and helpless. Adolescents or younger than 13 years old. On serious charges and for no reason at all. Held by police with no formal charges filed, awaiting a juvenile court hearing, pending a court disposition, waiting to be transferred to a juvenile facility to serve a sentence or serving their sentence in jail — children with all these characteristics were found in jail.[1]

Who Are the Children?

We found 350 children in jail on the day of the CDF site visits. Of these children, 93 had been waived to criminal court jurisdiction. While some information concerning the waived children will be presented later in this report, the following information relates only to the 257 children who were detained while under the jurisdiction of the juvenile court.

Sex

The only information generally available on children in jail was their sex. The sex of 245 (95.3 percent) of the 257 children in jail was known from jail records: 200 (81.6 percent) were male and 45 (18.4 percent) were female. This reflects the ratio of male and female children referred to juvenile court.

[1] There are many points at which a child in trouble may find him or herself placed in a jail: (1) When picked up by the police, if the child is to be released into the custody of his or parents, the child may be held in jail to await his or her parents arrival. (2) If the police decide not to release the child to his or her parents, the child may wait in jail until a probation officer comes. (3) A child may spend several days pending an initial appearance before a juvenile court judge. (4) If a formal hearing is set at the initial appearance, the child may remain in jail pending that hearing. (5) After a factfinding hearing, the child may remain in jail pending a probation investigation or a diagnostic study and until a dispositional placement is ordered by the court. (6) In some instances, a child may be sentenced to serve time in jail. (7) If at the hearing, the juvenile court decides it does not have jurisdiction or that it cannot provide appropriate services, and the child is waived to adult court, the child may wait in jail for a hearing in criminal court. (Similarly, a juvenile who has come before a criminal court, and who is asking to be treated as a juvenile, may wait in jail while the court decides his or her status.) (8) After disposition, a child may be transferred either to an institution specified by the court or to the custody of another state agency such as the Division of Youth Services or the Department of Welfare. Children may wait in jail for such transfers to take place. (9) If placement of a juvenile in another institution does not work out for any number of reasons, the child may be sent back to jail before another placement is made or to finish serving the sentence in jail. (10) Finally a child may again be returned to jail after a sentence has been served (presumably in a juvenile facility) but before being discharged. The child may be brought back to court for a pre-release appearance and may wait in jail pending this final hearing.

TABLE 1
Children Under Juvenile Court Jurisdiction
In Jail By Age and Sex
Day of CDF Visit

	Boys		*Girls*		*Total*	
Age Grouping	*No.*	*%*	*No.*	*%*	*No.*	*%*
10-11	1	.7	0	0	1	.5
12-13	11	7.6	5	12.5	16	8.7
14-15	38	26.4	25	62.5	63	34.2
16-17	94	65.3	10	25.0	104	56.5
Total Known[1]	144	100.0	40	100.0	184	100.0

[1] Percentage totals may not add to 100.0% due to rounding.

Age

Since all state juvenile codes define court jurisdiction by age, we assumed that law enforcement officers would have asked the age of every child they brought to jail. But jail personnel could provide this information for only 184 (71.6 percent) of the 257 children under the jurisdiction of the juvenile court. They had no knowledge of the age of 73 (28.4 percent) of the children in their jails at the time of our visit.

The majority of the 184 children whose ages were known (56.5 percent) were 16 years of age or older, but almost one-third of all the inmate children were 14 or 15 years old, and over 9 percent were 13 or younger. One child was 11 years old. It is interesting that while most of the boys found in jail were older (65.3 percent of them were 16 or over), most of the girls found in jail were younger (75.0 percent were 15 or younger). Little information was known about these girls or the reasons for their jail detention.

Race

Race was recorded for 217 (84.4 percent) of the 257 children found in jail. The majority (86.2 percent) were white; 24.8 percent were Black and 7.0 percent were recorded as "other" races. Minority children therefore are over-represented in the jail population, making up 31.8 percent of the total juvenile inmate population. In a number of communities, CDF staff observed a definite bias against the largest minority group in the area. Depending on the location of the jail, Blacks, Native Americans or Chicanos were disproportionately jailed.

Length of Stay

We learned that jails only had records on how long 151 (58.6 percent) of the 257 children had been in jail. Those in charge did not know how long almost half the children in their custody had been in jail. A little over half (54.9 percent) of the 151 children for whom records had been kept had been there 72 hours or less on the day of our staff visit.[2] Sixty-eight children (45.1 percent) had been in jail anywhere from 4 to 30 days or more. Court dispositional delays and failure to carry out court orders promptly often caused extended jail incarceration. One boy who had been found mentally ill had already spent over six months in jail awaiting court-ordered admission to a state mental hospital when CDF staff visited the jail.

Even when we could discover during our site visits how long a child had been in jail, the answer did not tell us how long that child would remain in jail or the average length of stay for children held in that jail. For example, children reported as having been in jail less than one day included children who were arrested that day and who would be detained a few hours until their families appeared, but also children who had just been

[2] A few police departments reported that when it was necessary to hold children for brief periods (a few hours or less than a day), they did not use the jail but placed children in vacant offices in the juvenile or detective divisions of the department. This sensible practice was found in a dozen of the police departments, including Dallas, some medium size departments in Indiana and Ohio, and a few small departments in Georgia.

admitted to jail and would be held for much longer periods. Most jailers did not have records on the amount of time all children remained in jail, so that the average length of incarceration could not be determined.[3] Only 7 jails out of 171 which reported holding children had information about length of stay.

Seven jails is really too small a sample from which to generalize, except on the woeful absence of information. But when we calculated the average length of stay from the actual number of days 151 children had been detained on the day of our visit (found in Table 2), we found the average to be 6 days. Unfortunately, this 6-day average tells us only how long these children had already been in jail, not how long some of them would continue to be there.[4]

[3] It was interesting that when we asked the jailers which did not keep records on the length of stay for children inmates to estimate the length of stay for children, the jailers' estimates were consistently lower than the numbers we got from actual records. They estimated fewer children had been kept long times, and the length of each stay was less than we found from records. This may mean that for jailers — like most citizens — children in jail are out of sight and out of mind — even for their caretakers who underestimate their existence in jail.

[4] To calculate this average, we took the midpoint of each of the categories and assumed 30 days for the over 30-day category.

TABLE 2

Length of Stay in Jail on Day of CDF Site Visit, Where Known, by Length of Stay Groupings

Length of Stay	*Number of Children*	*Percent of Total*
One Day or Less	47	31.1
Two to Three Days	36	23.8
Four Days	11	7.3
Five to Ten Days	30	19.9
Eleven to Twenty Days	19	12.6
Twenty-one to Thirty Days	5	3.3
Over Thirty Days	3	2.0
Total	151	100.0

Location

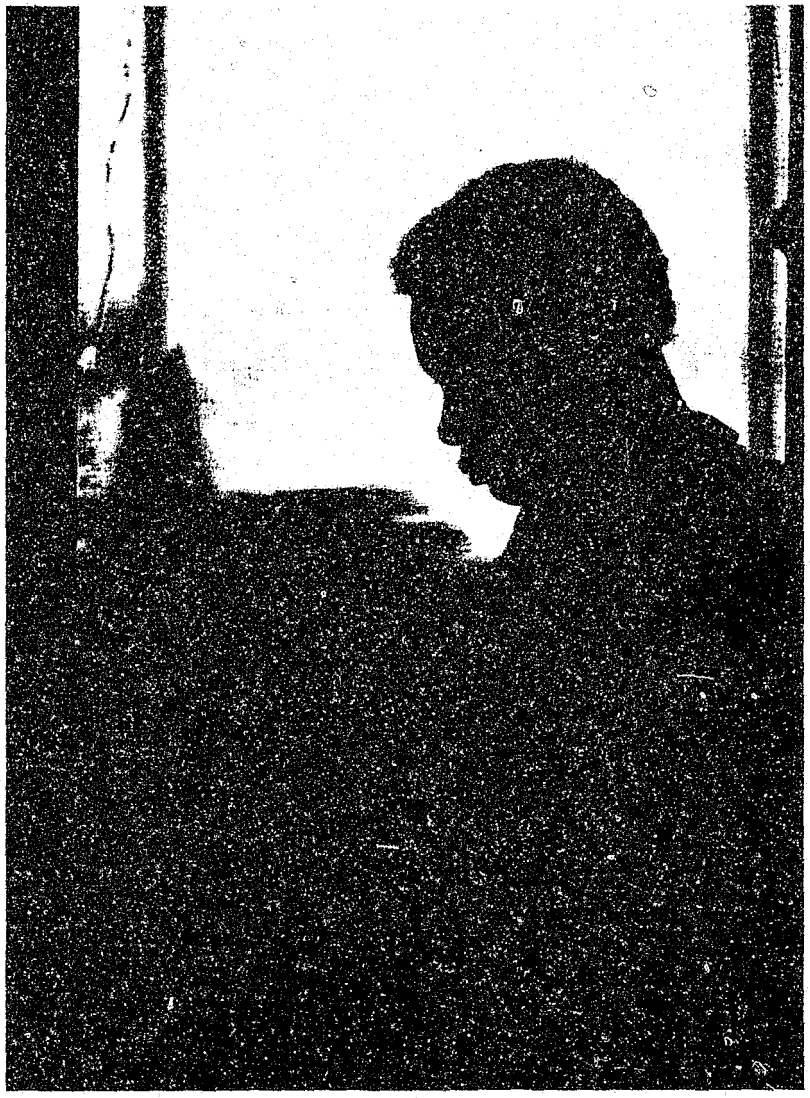
Out of 449 jails in nine states that CDF staff visited, 171 (38.1 percent) acknowledged holding children as a matter of policy.[5] While these jails were scattered throughout all the study states, the incidence varied from state to state. As many as 92.9 percent of the jails in Virginia, 87.2 percent in South Carolina and 72.2 percent in Maryland said they held children as a matter of policy. Other states like Florida and New Jersey

[5] Of the 276 jails which answered "no" to this question, 15 percent of them acknowledged that while it was not their policy, they did occasionally hold children.

TABLE 3

Jails Visited by CDF Staff Answering Yes to the Question: "Are Children Held in This Facility?" by Type of Facility, State, Number and Percent

	County Jails Holding Children			*City Jails Holding Children*			*Total Jails Holding Children*		
State	*Surveyed*	*No.*	*%*	*Surveyed*	*No.*	*%*	*Surveyed*	*No.*	*%*
Florida	15	4	26.7	52	1	1.9	67	5	7.5
Georgia	13	8	61.5	28	9	32.1	41	17	41.5
Indiana	20	17	85.0	13	4	30.8	33	21	63.6
Maryland	9	7	77.8	9	6	66.7	18	13	72.2
New Jersey	12	4	33.3	48	5	10.4	60	9	15.0
Ohio	22	9	40.9	82	18	22.0	104	27	26.0
South Carolina	17	16	94.1	22	18	81.8	39	34	87.2
Texas	18	9	50.0	55	23	41.8	73	32	43.8
Virginia	5	4	80.0	9	9	100.0	14	13	92.9
Total	131	78	59.5	318	93	29.2	449	171	38.1



had relatively few jails holding children: 7.5 and 15.0 percent, respectively. A greater number of city jails we visited held children (93) than county jails (78), but proportionately, a child is more than twice as likely to be found in a county jail (59.5 percent of them held children) than in a city jail (29.2 percent).

Faces Behind Numbers — Faces Behind Bars

Statistics cannot measure what being placed in jail means to a child. Even if jails' statistics were accurate, as they often are not, they would only give numbers and categories. They would not tell what happens to children when they are thrust behind bars, surrounded by adult offenders. From the moment children enter a jail, the way they are treated while being processed, the physical conditions of the cell in which they are locked, the cellmates and contacts with other offenders or jail personnel, how the days and nights are spent — all these become the children's world. Since "the crippling idleness, anonymous brutality and destructive impact"[6] described as the worst attributes of prisons are pervasive in jails, children are forced to survive such conditions as best they can. Some of them are resilient and lucky: their stay may be brief; they may not be abused; they may get out of jail without permanent scars to their personality and emotional development.

Many are not so fortunate. The indifference of controlling adults to their needs; their cries for help that are not answered; the feeling of total abandonment, helplessness; the rage; the terror of isolation or abuse; the fear that their parents can no longer help them; the disillusionment of being unjustly treated by the justice system; the influence of adult offenders; the utter desperation that they could be left in their wretched cell forever — all take their toll on youngsters and make a mockery of any plans society may have for helping them grow up into decent adults.

[6] The National Advisory Commission on Criminal Justice Standards and Goals, *Corrections, The Criminal Justice System* (Washington, D.C.: Government Printing Office, 1973), Chapter I.

What does it mean to a child to be in jail? Here are some of their stories.[7]

GUMPY

Gumpy was arrested for burglary with two older youths one week before his fifteenth birthday. The neighborhood police had first gotten to know about him when he was nine. They considered him a follower who got into trouble. If his friends stayed clean, he would stay clean. If his friends decided to break the law, he would go along with that too. Although Gumpy had once been picked up by the police, he had never been booked or fingerprinted. But now the arresting officers listed Gumpy as an accessory to the burglary. The older youths had prior police records. No bail was set for any of the three. All were placed in the same county jail pending their appearance before a judge.

On the morning of his tenth day in jail, Gumpy was told the judge was ill, and that his case would be continued, but probably for no more than two weeks. He was still not released on bail. He waited a total of 41 days before trial.

Gumpy was bewildered, angry and scared. As the days wore on, his terror and outrage mounted. Several days before his trial finally took place (at that time he did not know that a date had been set), he said to a CDF staff member, "Promise one favor. Get me out of here. They're driving me crazy in here, man. I mean, nobody should be in here; these guys are off the wall, man. They're off the wall. They ought to be in a hospital.

"They got this one guy in there, he really thinks I am his son. Something happened to the guy's real son, I think. Anyway, the first week I was here he decided I was his son. So he keeps yelling at me. This other guy, he says I ought to yell at him, tell him I'm not his son, or walk past him one day and kick him in the nuts. I can't do that, man. I just want out of here. If I'm guilty and have to go to prison, then let them send me with guys my age.

"They got queers in here, man. Lot of 'em.

[7] All the facts and quotations in these vignettes were obtained from interviews by CDF staff with children who had been in jail. The children's names have been changed to protect their confidentiality.

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Guys must have been straight once but not now. At night, everybody's yelling, whispering. This morning, a guy started to come at me from the back. It was a little ugly guy. He must have been 70 years old. And he was standing there holding on to himself looking up at me like I was some chick. This guy was ready to poke it in me. I think that's why they want me here. I think it turns these guys on. They don't have no women coming to see them so they put some kids in there like me. I'm the goddamn whore for this jail.

"This ain't no place for a kid, man. This ain't no place for anybody but an animal and I ain't no animal. I still like girls, man. I ain't ready yet to have no guard molesting me. You got to get me out of here. Can't you find out if there's a kid's prison some place? I'd rather be in with nine-year-old kids than have to go back in there with those guys. You know damn well each person has a breaking point. They're going to break me in there, man. There's no one in there to look out for me."

When the case went to trial, the judge ruled that Gumpy was guilty but suspended his sentence. This, however, did not wipe out what happened to Gumpy during his 41 days in jail.

FLOSSIE

Flossie is a small, black, 12-year-old child, wide-eyed and shy. One day she, her 13-year-old brother and some of his friends broke into a washing machine at a local laundromat and took out some quarters and dimes. The children were arrested.

"My brother told the judge I didn't have nothing to do with it. I told him too." But the judge ordered that she and her brother be held in the Youth Services Evaluation Center 60 miles away for 30 days.

Flossie's mother took her and her brother to the county jail from which they were supposed to be driven to the Youth Services facility. But as soon as their mother left, the children were locked up in the county jail. Flossie didn't really understand there was a difference between the Youth Services Center and the jail, so "I didn't ask them nothing.

"I thought they were letting me stay in jail for 30 days. It felt crazy to be locked up. I didn't want to get locked up. You couldn't get out. It was all locked and it had an iron door. That door stayed closed."

Flossie wanted someone to talk to. She was afraid, fearful that someone might come into her cell and bother her, and she wanted protection. Finally, she went to sleep in the cell.

"In the morning, I got up feeling sick. My arms hurt and my head hurt. I get dizzy sometimes, when I stand too long. If I sit down I get dizzy. I told the man, did he have anything for a headache? He didn't answer." Flossie was supposed to take some kind of "liquid medicine," but she did not have any in jail.

"In that jail, you stay in the room all day long. You feel like you want to go outside and do something." Mostly, Flossie stared at the walls. "Reading them things that was written on the walls. Stuff like they'd be glad when they got out of jail. And they'd have a calendar written on the wall. Thirty days, that's how long I thought I was going to be staying. On the wall it had 'I came in May the 29th and I hope to God I leave July the 2nd.' I thought, I hope I get out before the 4th of July. They had scratched up on the wall how many days they'd been there. I wrote one day and a half on the wall, with my name and 'I was here.'"

After a day and half, Flossie was taken out of her cell. She thought she was going home. No one told her any different. "We started driving, then I knew I wasn't going home."

WILLIAM

The police came to William's school to arrest him when he was 11 years old. The teachers and the other kids saw him because he was called out of class to meet the police in the hallway. He was taken to the County Jail for questioning about a robbery. After the interrogation, William was put in a cell. He could hear "the men in the next cell talking about how they felt about going to the pen the next day. It was a strange feeling. When you get locked up it makes you think about the past, all the things you did. Makes you think about the future. All the things you could have done if you didn't get in trouble. I had heard people talking about how bad it was in jail. I thought I was going to have to stay in jail a long

time, that I'd probably be old when I got out."

William stayed in the jail for three days. "I did nothing. Did nothing all the time. There was nothing to do in there. It made it worse. When I was home I was used to doing most of the things I like to do. Like get up and go outside, look outside. Like see the sky. When you're in jail you can't see nothing. Nothing but bars and brick walls."

The worst moment came when William's mother came to see him. The visit took place with the mother and son separated by a glass window, talking on a phone. "When she left I just felt like crying."

When William was 13 years old, he went to jail for a second time, for breaking and entering. When he asked to call home, he was told that the police had to question him first. "They never got around to letting me call."

William was brought to a cell "farther back" in the jail and was confined alone. "It was lonely. I just laid down on the bunk and started crying. I laid there all day. Thinking about coming back here. Feeling lonely. I couldn't explain the feeling.

"The jailer was mean to everybody. Like if I called him to ask him a question. We had to holler in a loud voice to get him. He came back and told me not to be hollering in the jail. He told me to shut up or he'd put me in the drunk tank. I didn't ask to call home again."

TERRI

Terri, aged 13, was arrested in an abandoned house with a girl friend and two boys on the night she first ran away from home. When the police arrived to arrest her, she was wearing a nightgown. Her request to have the police leave the room while she dressed was greeted with ridicule. "They said I'd shown my body to other people, so they'd stand right there. I took my clothes into the closet, closed the door, and got dressed."

Terri was taken to the County Jail, forced to strip and shower. Disinfectant was applied to her hair. When she asked to make a phone call, "They said I couldn't make any phone calls, that juveniles weren't allowed to use the phone." Terri was put in a cell that had a dirty toilet, without toilet paper. There were no towels. One small, bare light bulb was left on all night.

It was very hot in the jail and there was no way to cool off. The cell was full of roaches, so many roaches that Terri was afraid to go to sleep. She still has nightmares of roaches crawling all over her.

For Terri, the worst part of being in jail was the feeling that nobody else knew where she was. "God, it seemed so long. I was nervous and I never knew what they'd do to me. No kids should be with adults, adults are too powerful. . . . You feel lonely, wondering how could this be happening to me?"

Terri had no idea of how long she would be held or how to tell her family where she was. At 5 a.m. her mother arrived and Terri was released. She was never charged with any offense, but she had spent her first night in a jail cell.

BOBBY

The first time Bobby was held in a county jail he was nearly 15. "I was having an argument with my parents. Some nosy neighbors called the cops. They asked my parents if they should take me to the station and talk to me. My parents said, 'Okay.'"

The police took Bobby to the county jail instead of the police station. Right away, "They started calling me names. They said I was an animal, that I wasn't any good. That the neighborhood I came from suits my family. I started yelling and swearing at them. That's probably why they locked me up, but they had no right to do that. I hadn't done anything."

The police took Bobby's cigarettes, matches and his belt and threw him in a cell. "They called it a juvenile cell, but there was no difference." There was a one-inch mattress on a metal bed, no sheets. There was a toilet and a sink, but no toilet paper, no towels, no soap, no cup. "I asked for a cup so I could get a drink and they told me to use my hands." The cell was very small. There was one small window.

"It really stunk. They had me by this padded cell. I could hear men hollering, calling names. They were fighting with the cops and the cops were throwing water on them."

As soon as the door to Bobby's cell was locked, "I laid down on the bed and stared at the ceiling. I thought I'd be out in no time, but the longer I stayed in, the madder I got. Did you ever wonder what it would be like to be an animal, to be all caged up? Then I started thinking I'd never get out. I wasn't sure of myself. Wasn't sure of what was going on.

"I never did get to sleep. There was a yellow bulb, really bright, on all night. I asked them to turn it off but they said they couldn't. The doors were clanging. I was thinking a lot. I was thinking of a way to get back at them. I had some crazy ideas that I'd kill one of them, but I never did.

"No one came to talk to me. Every now and then someone would walk by and I'd ask for my cigarettes but they said I didn't deserve anything. I wanted to call home. They said I'd get a phone call later, but I never did. About midnight I really started to be afraid they weren't going to come to get me. All night I laid back with my arm over my eyes."

When Bobby's parents arrived to arrange his release, Bobby told them about his night in jail, "but they didn't believe my story."

After a second complaint a year later, the juvenile court committed Bobby, not yet 16 years old, to the Boys Training Center. Again he was placed in jail. "They said there was paper work and that I was to be held in jail until there was room at the Boys Training Center." Bobby was put back in the same cell he had been in earlier. "I felt like an animal. I felt nuts. I wanted to rip the paint chips off the wall and cut my wrists when they wouldn't allow me out of that cell even once.

"I could hear people whistling, talking, laughing. The sounds bothered me. It was all echoes. I couldn't make out what they were saying. Also, there were doors slamming. And I could hear the elevator banging. I was too mad to eat. Once I asked for some aspirin and they said they couldn't give me any drugs."

When Bobby was transferred to the Boys Training Center he was brought out of the jail in handcuffs. "My hands hurt and I asked them to loosen up. They said 'No'. So I tried to run away. I broke loose and ran. But the cops grabbed me and brought me back to the jail and threw me into the padded cell. They closed the door and left me in there all alone. After about ten minutes, five cops came in, stood around me. They told me to strip to make sure I didn't have any drugs. I got dressed and then they put me in a brown truck with a cage in the back and brought me to the Boys Training Center."

RABBIT

Rabbit, 14, was sleeping over at her friend Judy's house. Late that night, Judy wanted to talk to her boyfriend and both girls quietly climbed out of the window for the rendezvous. But "Judy's father caught us. He thought we was going to run away or something. He called the law. They came and said they was going to take me to the courthouse and call my mother."

Instead, the police took Rabbit to the county jail. She was placed in a barred cell. There were four cells in a line. Next to Rabbit's was a cell with adult men. Some boys were in another cell and several adult women were in the last.

The two beds in Rabbit's cell were "steel, hard, narrow and not very long. The mattress was about two inches thick. Looked nasty. It didn't look like it had been washed for twenty years. I slept on the floor. That cell was smelly. Your commode's right at your bed, facing you. The toilet was a rusty-looking color green. The man could walk up and down the hall and I didn't use the toilet. I held it when I had to go to the bathroom."

As the door of her cell closed, Rabbit "started crying laying on the floor. No one came. I didn't understand why I was there — that's when I'd cry.

"I was scared. In that room, nobody in there, thinking what am I doing here. The boys were saying that this man hung himself in that cell. I knew they were right cause I had heard about it myself. There was blood on the floor."

The four men in the cell next to Rabbit's harrassed her. "They talk nasty to little kids. They asked me to stick my finger up me and rub it around and rub it on them so they could lick it off. They asked me did I want to go to bed. They want my phone number and address. I thought they could get into my cell. I thought maybe the man who walked by might let them in." Another man did not make advances toward Rabbit, but frightened her nonetheless. "One was crazy. He was singing and all. He acted like he was a lawyer. He was talking to his secretary. He sit there and have her write notes. They took him out. I'm scared of crazy people."

After two days, Rabbit was transferred to the city jail. "I didn't know how long I'd have to stay." A visit from a court worker did nothing to clear things up for Rabbit. "I asked what am I here for. She said she couldn't tell me because she didn't know."

JANICE

Janice, aged 16, was sentenced to jail for selling drugs. She got violently ill within minutes after being placed in her cell. She felt her head getting warm, as if the blood in her neck was being heated and was rising into her brain. Then her head was suddenly very heavy, too heavy for her body to support. Her heart raced and perspiration poured all over her body. She vomited violently. Her fingers and toes tingled as though someone were sticking small needles into them. She was losing her sense of touch. Images became blurred; a strange arc appeared alongside everything she focused on, as though lighted by electricity. She was afraid.

"I can't say I really love my old lady, but when I got sick like that I really wanted her. I was calling for her too and everybody was telling me to shut up. I was begging for her to come and take care of me. That's all I wanted. All I wanted was my old lady to come and take care of me.

"See, the thing is, I didn't know how sick I was or why I got sick like that 'cause I'd never been sick like that. I thought I was going blind or maybe having a heart attack. If you never had those things happen to you, you don't know what's going on. But those people in the jail, they know what going on 'cause they told me later that lots of girls go in there and get sick the same way I did.

"This guard there, the matron, she walked past my cell I'll bet fifteen times while I was in there sick and crying. But you think she stopped to look after me? She didn't even slow down. Just walked right on past me. All they care about is whether you're in your cell like you're supposed to be. If you get sick in there, they don't care. That ain't their problem. It's yours."

TIMMY

Timmy, at age 15, is the youngest of five sisters and one brother, none of whom ever have been in jail. But Timmy has. As he tells it, a friend of his gave him a gun, which he put in his pants. But in his nervousness the gun fell, hit the floor and went off, accidentally hitting and killing a girl standing nearby.

The police arrived on the scene shortly after the gun went off. "As they was taking me to jail I told them what happened. I was so upset. But they didn't believe me. They told me I was going to the electric chair."

Upon arriving at the jail, the police "put me in a little cell behind the desk. Made me take off all my clothes. I kept telling them what happened. They kept cursing me.

"Then they put me in another cell with a guy bigger than me. I felt bad. I was thinking about what happened. And my mama didn't know nothing about it. I was all upset and crying. No

one called my mama and told her till the next morning."

From his cell, Timmy could hear "men talking down the hall. Men in the next cell talking almost all day. I tried not to pay that much attention."

Timmy was held in jail for two days before going to court and for seventeen days afterwards. The sheriff and deputies repeatedly questioned him. "One of these sheriffs, he was trying to brainwash me. He thought I was dumb. I kept telling him the same story over and over and he said someone had done something to make me lie.

"I did nothing but sleep all day. Sometimes talked to a trusty. He'd come in there and I used to mess with him a lot. I never used to talk to the sheriff or jailer because they treated me so nasty. Cussing me. I used to ask them if I could make a phone call, they wouldn't let me call.

"The jail started getting crowded so they put a big boy, maybe 18 or 19, in with me. He told me he was going to get my ass if I went to sleep. He kept telling me what he was going to do to me. If I go to sleep, he was going to pee in my face. He was going to jump on me. I didn't go to sleep hardly at all. I was scared and I was thinking about my mama.

"I asked the jailer to put me in a cell alone. They paid me no attention. Told me I wasn't going to move. I was going to stay right there. They took it as a joke.

"The big guy bothered me for two days. Until I showed him I wasn't scared. I started fighting with him. Bare-handed with my fists. I had to show him I wasn't scared. Cause no one else was going to do anything."

In a jail, Timmy "felt funny. It made me feel bad. It was my first time ever being in jail. I ain't never got in any trouble. There's nothing good about being locked up in a little room. I couldn't see my mama but for ten or fifteen minutes. They wouldn't let me take no shower. They wouldn't let me brush my teeth. They told my mama that she couldn't give me no underclothes. I had to wear the same ones for seventeen days.

"I slept all day. Couldn't do nothing else. I couldn't even look outside. I couldn't see nothing but the walls. I felt bad in a little room like that everyday, except for one day when they let us go outside."

The worst thing about jail for Timmy "was the way they was treating me. I felt real bad because I ain't never been locked up. They shouldn't put kids in with adults because adults try to take advantage of you 'cause you're little and they're bigger than you and older than you."

After seventeen days, Timmy was transported to a juvenile detention center. Several inmates were being transferred, and Timmy went in a van, handcuffed to an older prisoner.

ANGELA

Soon after her 15th birthday, Angela was arrested for breaking and entering. She had broken into the same food store three times before to get groceries for which she couldn't pay, but this time, however, she had stolen money from one of the registers as well as two shopping bags of food. Calling her "hopeless" and blaming her parents, and society, the judge sentenced her to a term of no less than one year in the state correctional institution for girls. Angela told him she was glad to go, at least she'd be warm during the winter.

But instead of being sent to the girls' correctional institution, Angela was mistakenly placed in the county jail for women. "Lots of the women there," she said, "were real decent to me. Some of 'em even liked me. They pretended like I was one of their own kids. So they'd make things for me or give me presents people had brought to them. They'd tell me someone brought in some food to them, but they wanted me to have it. Or maybe they'd give me cigarettes or clothes. Me and my family, we never had no money. So when these women in there gave me presents, you better believe I took them.

"I knew what these women wanted. Guard told me the first night to look out for some of them. So like this first night a bunch of us are sitting around, and this woman, Pokey they called her, comes up behind me and pulls up my hair and give me this big wet kiss on the back of my neck. Everybody saw her do it. They saw her coming at me too, but none of 'em said nothing, like to warn me. So I swung around and rapped her right alongside her head. She falls on top of me and we're going at it, hitting and pulling each other's hair, and all of a sudden, I feel someone

feeling me up. Right in the middle of this fight, I look down, and I see this other freak, this Elaine, touching me down there and kissing me.

"I start to yell for help but none of them does nothing. They're just watching and clapping and making sure we ain't making too much noise. So pretty soon I figure what the hell, there's nothing else to do in here so I let this Elaine get off on me and when she was done I let a few others do, you know, like she done. That's all. Nobody said nothing. I ain't about to yell 'cause when they caught you messing around like that they'd put you both in solitary for three, four, maybe five days. And when you've been in there, you know you'll do anything, including getting raped, before you'll go back.

"The name of the game in there is survival. Hell, I was the youngest there. Sometime you fight, sometime you lie, and sometimes you just say to yourself, all right Angela, baby, settle down."

After about three months in the women's jail, Angela found out that her assignment there had been a mistake. "First, one of the inmates told me. Then this one guard told me the same thing. Even when they told me it still didn't make a helluva lot of difference. Just 'cause they say you're in the wrong place don't mean they're going to move you right away. Like with me, they told me in February and I was still there in May. I figured, they're giving me clean clothes, they're giving me food, I'm only getting raped once every couple of weeks, what I got to complain about? I never said nothing.

"I wonder a lot about why they put me in the wrong place. I heard they put a lot of kids my age in these places. I figured in my case it was either a mistake or they were trying to tell me something. Like, maybe they thought that if I saw what the worst place was like I'd stay out of trouble. You know, if you let the kid see the worst punishment maybe he'll stay clean. But I ain't going to stay clean. Seein' all these different prisons don't make a person decide whether they're going to break the law. You can make every promise in the book, swear on your life, and it don't mean nothing. One night you ain't got money or any place to go, and nobody in the world's got a job for you, and maybe you got a lot of people you owe money to, you know, and you'll get into a lot of trouble if you don't pay 'em back, you better believe you'll do something like break into some place or grab somebody's purse in the street. You *got* to do it. You don't *decide* these things, you're forced to do 'em. So I'll be back, only next time, if they send me to the old ladies home, I'm going in there with a chastity belt, 'cause I've got to be protected when those maniacs come at me.

"Maybe a lawyer could figure this out for me, but it seems like with all the smart people they got walking around someone ought to be able to figure out a better way to help kids. There's always going to be kids like me getting into trouble. Right? Seein' lousy prisons ain't going to stop nobody like I say. Electric chair and gassing people don't stop 'em from murdering people. So you'd think they'd find a better way somehow. I lost my education in the jail. That shouldn't have been. That was maybe the only good thing I had going for me. So now I ain't got that either."

Chapter 2

Why Are Children Jailed?

We found that the reasons or explanations given for jailing children were as vague and as contradictory as the information on the numbers of children held in jails. As we examined records, interviewed children and spoke to those responsible for placing or holding them in jails, the jailing of children seemed haphazard, determined largely by accident of geography, or time of day, the lack of separate facilities for children, public unawareness about what happens to children when jailed, and the ignorance of law enforcement officials of the laws in their own states restricting or prohibiting the use of jails for juveniles.

Children are jailed to await hearings and are held unduly despite code provisions for an early hearing. Children are returned to jails while awaiting dispositional decisions and when no dispositional placement is available to the juvenile court. Children are sentenced to serve time in jails in violation of law. Dependent and neglected children are jailed for shelter in the absence of appropriate foster care facilities. If a child is picked up at night and the nearest juvenile facility is hours away, the sheriff may simply drive to the nearest secure facility, usually a jail or police lockup, and leave the child there until the next morning or for several days until a judge can hear the case or until personnel are available to transport the youth to another facility.

These reasons, however, do not really explain why children are jailed. They explain something about a system that holds children wherever there is a place to put them. But that place should not be a jail. Why then are they jailed? We believe the real answers lie submerged in several prevailing myths about children, the law and jails.

The Conventional Wisdoms and the Harsh Realities

One of the first rationales people use to justify jailing children is: *"The community must be protected."* No one can argue with the goal of community protection. We all want to feel secure on our streets and in our homes. As crime statistics escalate, and as reports show increasing arrests of juveniles, the pressure on and by law enforcement officers to crack down on and lock up offenders — not matter what their age — is intensified. Too little distinction, however is made between the number of arrests and the far smaller number of juveniles found involved in reported offenses.

But are the children we found in jail serious threats to the community? Are they in jail because of dangerous misdeeds or behavior?

A look at the offenses for which children were being held in the jails we visited does not support the notion of jailing juveniles to protect the community. Only 19 (11.7 percent) of the 162 children for whom jails had recorded charges were in jail for allegedly committing a dangerous act. The overwhelming majority of the youngsters were charged with nonviolent offenses — crimes against property (34.6 percent); behavioral offenses hurting only themselves (12.3 percent) and status offenses which would not even be criminal if the offender had been an adult (17.9 percent).

TABLE 1
Offenses of Juveniles Found in Jail on Day of CDF Site Visit

Charge		*Number*	*Percent of Known*
Serious Crimes Against the Person[a]		19	11.7
Property Crimes[b]		45	27.8
Minor Assaults		6	3.7
Minor Property Crimes		11	6.8
Behavior Crimes[c]		20	12.3
Children's Status Offenses (Non-Criminal)		29	17.9
Runaway	17		
Delinquent	8		
Truant	4		
Protective Custody		7	4.3
Hold for Transfer		25	15.5
Total Offenses Known		162	100.0

[a]FBI Index of Violent Crimes: Murder, Rape, Robbery
[b]FBI Index of Property Crimes: Burglary, Larceny, Auto Theft
[c]Prostitution, Drugs, Drunkenness, Vagrancy

Some of these children may have needed a temporary shelter or detention (for example, for children with histories of running away), but protection of the community surely did not require their incarceration in jails. If the "dangerousness" of the child is not the determining factor for jailing children, what is? A judgment based on the age, size, appearance or mannerisms of the youth? These are not reliable indicators for predicting whether a child is a threat to the community. The room for error is too great, and police or other law enforcement officers (who generally decide whether to hold or release a child) are not trained to evaluate children and are in no position to do so. Even if psychologists or psychiatrists could more reliably predict what sort of child is likely to be violent or a menace to the community, such diagnostic services are not available in jails.

In sum, the majority of children arrested do not need to be locked away in maximum secure settings. For the relatively small number of children who do, jails are inappropriate because they lack the ability to screen and to help children with serious behavioral problems. Finally, these few very troubled children should not be placed at the mercy of adults in jail, and they should not be used as an excuse to jail the far larger number of children who pose no danger to the community.

A second argument related to community protection contends: ***"Tough children are jailed to protect other children held in custody."***

> Almost every juvenile detention supervisor I interviewed, even the most progressive and reform minded, admitted sending some of their tough cases to local jails.[1]

Here, too, we found that the facts belie the theory. Small, quiet, shy, vulnerable and terrified children were in the jails we visited along with those who were big, street-wise, or who were charged with serious offenses. And even the "tough" ones face conditions and threats in adult jails which are beyond their ability to handle.

If protection of the community is not cited as the reason children are jailed, the converse is: ***"To protect children from themselves or from dangerous home environments."*** But in the

[1] Ronald Goldfarb, *Jails: The Ultimate Ghetto of the Criminal Justice System* (New York: Anchor Press/Doubleday, 1975), p. 293.

name of protecting children, we found many youngsters in the filthiest, most neglected and understaffed institutions in the entire correctional system. One child was in jail because her father was suspected of raping her. Since the incest could not be proven, the adult was not held. The child, however, was put in jail for protective custody.

Putting a child in jail to protect against harmful home environments can have contrary and unwanted effects. As Dr. Rosemary Sarri commented:

> Besides being terrifying and lonely... the kids perceive being jailed as totally unnecessary... A truant and a curfew violator and a runaway ... if they're jailed with people who have committed robbery, homicide... the word "justice" becomes ridiculous. Expecially if they, say, ran away from an intolerable situation.[2]

Jailing children charged with self-destructive behavior for their own protection is a hollow effort. Without sufficient staff to supervise inmates and without adequate medical and psychological support services, jails are the worst possible place for such children to be.

> It is terribly terrifying being locked up. The door slamming behind you... a lot of kids have talked about the trauma of really being locked up. The feeling of being caged... In addition to being terrifying, it's also a very lonely experience. That's why there is suicide ... the probability of a kid being able to commit suicide when... held for 4 days is not high. But, if a child is put in total isolation the chances are greater. Some children just totally panic. They can't stand it. They hallucinate ... An adult learns it is not the end of the world; but a kid is, a lot of times, just not enough experienced to know.[3]

Finally, it is a cruel hoax to confine children in jail in the name of protection when jails contain motley and dangerous offenders, with inadequate facilities or staff to provide adequate security. As a prominent criminologist told us:

> ...when I was the assistant warden of the Cook County Jail, they tried to commit an eleven year old to the jail. I said I would not accept him. They said, "We have a valid minimum [age] and you will accept him." I said, "I will not. You will give him to somebody else because I will resign and I will go across to the press room and tell them why I resigned." So, they took him back... The reason, among others, that I did this, was because I knew it would be a miracle if I could protect that child inside the institution... .[4]

Children are also put in jails, ***"To teach them a good lesson."*** Some police and some parents believe that a brief encounter with the horrors of jail will scare a youngster so much that he or she will never again behave badly. An informal trip to the local jail does not have to be recorded if no charges have been brought, and so some parents therefore feel that no lasting harm will come to the child. They do not realize what may happen to their child in jail or that the experience of having been jailed may haunt a child even if there is no formal "record" to be used against the child.

The myth of jail "therapy" was condemned by Albert Deutsch a quarter of a century ago, when he said that it was

> ...disgraceful for a community to belong to that category referred to by the Juvenile Dentention Committee of the 1946 Conference in these words: "In so many communities the jailing of children continues because it is believed in... The myth that to jail is to reform still has a firm grip on some authorities and on large segments of the population."[5]

The myth, however, clings fast. One juvenile court judge committed juveniles "to the jail on the theory that a few days confinement would constitute shock treatment which would be of value to them"[6] A higher court reversed his decision and prohibited him from continuing to do so, holding that such action violated children's constitutional rights.[7] However, scaring chil-

[2] Interview with Dr. Rosemary Sarri, Co-director, National Assessment of Juvenile Corrections Project, School of Social Work, University of Michigan, Ann Arbor, Michigan, 16 April 1975.

[3] Interview with Dr. Rosemary Sarri, 16 April 1975.

[4] Interview with Hans W. Mattick, Director, Center for Research in Criminal Justice, University of Illinois at Chicago Circle, Chicago, Illinois, 14 April 1975.

[5] Albert Deutsch, *Our Rejected Children* (Boston: Little Brown & Company, 1970), pp. 238-239.

[6] *See Baker v. Hamilton*, 345 F. Supp. 345, 347 (W.D. Ky. 1972).

dren into behaving well by subjecting them to jail persists.

In addition to using jails to scare children as a deterrent, some judges believe jailing children is a suitable punishment. We found that jails in five of the nine states we visited held juveniles who had been sentenced there by juvenile courts. Jailers we visited told us (for the most recent year data was available) that 41 children had served jail sentences in Indiana; 39 children had served jail sentences in Ohio; 34 children had served jail sentences in Virginia; 5 had served jail sentences in Maryland; and one child had served a jail sentence in New Jersey. These figures are not the total for any of these states, but are based only on information from some of the jails we visited during our study.[8] The *1970 National Jail Census* reported that of the nation's jails surveyed 2,218 juveniles were serving their sentences in jail: 1,365 were serving sentences of one year or less; 853 were serving sentences of more than one year.[9]

Some of the children serving time in jail were held illegally. For example, Florida and Maryland had statutory provisions in their juvenile codes which prohibited sentencing children to jails, yet we learned that children had served sentences in jails in both these states.

Morgan County and Porter County Juvenile Courts in Indiana ordered weekend jail sentences as a condition of probation, even though the state law authorized jailing only if a child was found to be a "menace." If a child's behavior is such that he or she can safely be placed on probation in the community during the week, what is gained by weekend confinement?

Do these scare and punishment tactics work? Indeed, children *are* frightened by being jailed.

> Kids in correctional programs... say the worst experience in their lives has been in jail. They say it's worse than training schools. They associate jails with abuse — homosexual abuse, abuse by guards, abuse by other prisoners — they're scared to death about the kinds of things that happen to them in jails.[10]

But what do the frightening experiences really teach jailed children? According to experts whom we consulted, the lessons they learn in jail will not be good ones.

Children learn they cannot trust their parents:

> There's also a loss of trust in adults... for most adolescent kids... for whom this is a first experience, being in jail more than a day would start them thinking... my parents are trying and are helpless or my parents are not trying — either way has to make you feel helpless, has to produce a loss of trust... and a resentment against parents and the authority they represent, which means resentment against society.[11]

Children learn they cannot trust adults charged with carrying out the law:

> Calling for help and not getting it... can really do much to develop basic mistrust of adults. ...Nightmarish experiences in nightmarish conditions can tremendously intensify the sense of unreality, of fantasies, and further distort reality. They can further reduce the rather tenuous hold on reality that some of the kids may have.[12]

Children learn to hate:

> If you take a child and put him in a situation where he feels absolutely impotent to do anything about his situation, and on top of that you heap abuse... you are producing an enraged child who is eminently susceptible to committing an act of violence with the right stimulus. Now this is something which is clini-

[7] *Baker* v. *Hamilton*, *supra*.

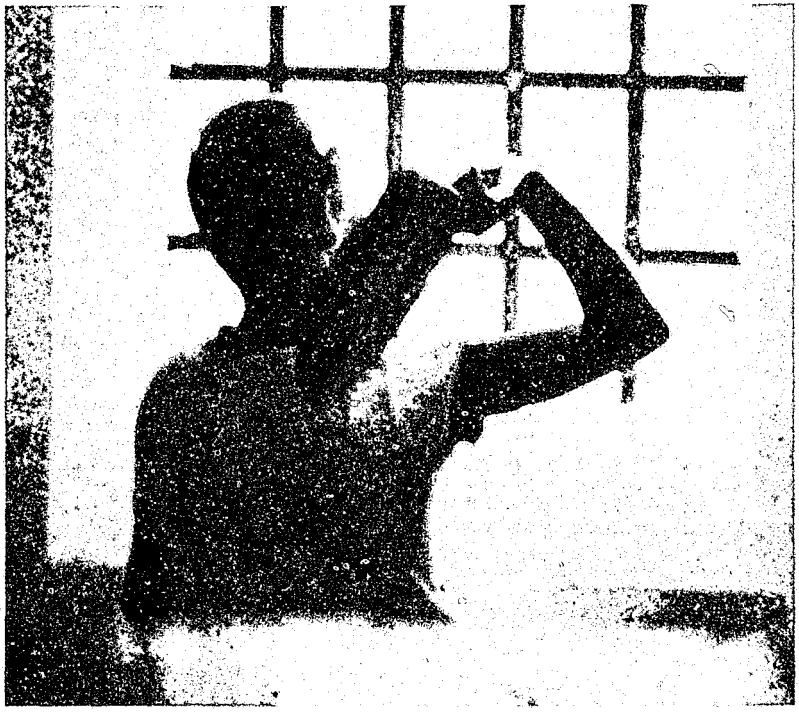
[8] Thirty-seven children served sentences in Allen County and 2 in Erie County, Ohio; 15 children served sentences in Floyd County, 14 in Wayne County and 12 in Elkhart County, Indiana; the five Maryland children were held in the Washington County Jail and the one New Jersey child was sentenced by the Municipal Court to the Sussex County Jail.

[9] *National Jail Census*, 1970, p. 11. This includes a large number of children ages 16-18 in New York City not within the jurisdiction of the juvenile court.

[10] Interview with Dr. Rosemary Sarri, 16 April 1975.

[11] Interview with Dr. Philip G. Zimbardo, Professor, Department of Psychology, Stanford University, Stanford, California, 18 April 1975.

[12] Interview with Dr. Viola W. Bernard, Chairperson, Council on Children, Adolescents and their Families, American Psychiatric Association, Committee on Adolescent Psychiatry, in New York City, 18 June 1975.



cal and which has obvious relevance to what is done when a kid is placed unfairly, unjustly, against the law and with all the abuse involved in jails or lockups.[13]

Children learn to be like the adult offenders with whom they come into contact:

> In the teens, problems of identification are probably most acute...And teenagers are enormously vulnerable...Their sense of their goodness, badness, conscience, social identity, psychological identities...are still in a great state of flux. You have a very vulnerable group in terms of precisely some of those things that are going to decide whether a person is going to be "a good citizen" or an "offender."[14]

> Jailing may accentuate identification with the aggressor, and result in a pattern either of submissiveness to a brutal type of adult or taking it out on younger victims.[15]

There are those law enforcement officials and judges who do not justify the jailing of children, who regret it, but who feel "forced" to do so: ***"Children are jailed because juvenile detention facilities are unavailable, overcrowded or inappropriate,"*** they say. Each of these assumptions should be examined carefully.

First, does the unavailability of juvenile detention facilities force police to jail youngsters? To ask the question another way: Where there are dentention centers readily available, are children still found in jail? The answer is yes. Over 58 percent of the counties and independent cities we visited had juvenile detention centers. Yet, 83 jails in these same jurisdictions with detention centers reported that they held children. Indeed, on the day of our staff visits, there were 120 children in these jails and these jails estimated they held over 9,000 children annually. Dallas County, Texas, has a large detention center. The Dallas City Jail and most other city jails in the county do not detain children, but three city jails were still used by police to detain children. Two of these jails detained an estimated 1,000 children each in 1973. Therefore, one cannot assume that the availability of a detention center eliminates the use of jails for children.[16]

Second, does overcrowding of juvenile facilities force the jailing of children? There seems to be general agreement that this does in fact happen. As many have observed,

> Even where specific non-jail detention facilities exist they frequently become over-crowded so that the excess overflows into the local county jail. This is true even when existing legislation prohibits the jailing of juveniles.[17]

Is this spillover necessary? Are jails used only occasionally, at peak periods, when the demand for secure settings is excessive? It appears not. As long as jails are permitted (either legally or through lack of enforcement of statutory prohibitions) to hold children, jails and detention facilities are both seen as available options for placement. Overcrowding should not be allowed to "force" the use of jails. The total number of detained children doubtless could be reduced (since most could be released or held in a community-based setting pending trial), thus making room in juvenile centers for the children who need detention temporarily. And if the population is still too large, law enforcement officials and the public ought to demand that sufficient places be made available in separate juvenile facilities.

Third, if a juvenile detention center is inappropriate for holding a child because of mental or emotional illness or retardation, should jails

[13] Interview with Dr. Michael J. Kalogerakis, Associate Commissioner, New York State Department of Mental Hygiene, Office of Children and Youth, 18 June 1975.

[14] Interview with Dr. Willard Gaylin, Professor of Psychiatry, Columbia Presbyterian Hospital, New York City, 18 June 1975.

[15] Interview with Dr. Viola W. Bernard, 18 June 1975.

[16] Other national and local studies bear out this point. After reviewing several studies and conducting her own analysis, Dr. Sarri concluded, "The existence of a juvenile detention facility does not in itself preclude youth from being placed in jail...." (*Under Lock and Key: Juveniles in Jails and Detention*, p. 65.)

[17] Sid Ross, Editorial Consultant, *Parade Magazine*, "Pre-adjudication Jailing of Juveniles," Statement before the U.S. Senate Committee on the Judiciary, Subcommittee to Investigate Juvenile Delinquency, 11 September 1973. Ross spent almost six months looking into local and county jails all over the country in 1963 and reported on his findings in *Parade*, 7 November 1963. In the spring of 1973 he looked at jails once more and testified, "I found little had changed." His conclusions were confirmed again in 1974 by Ronald Goldfarb, who reported the use of jails "in some jurisdictions to relieve overcrowding in juvenile facilities." (*Jails: The Ultimate Ghetto*, p. 293.)

be used instead? Clearly jails are even less appropriate places for such children, yet we found numerous children in jail who were mentally ill or seriously retarded for whom placements were difficult to find or who were on waiting lists of mental hospitals. In a visit to a jail in Selma, Alabama, we learned that when youths seemed mentally retarded or disturbed they might be held in jail for many weeks while efforts were made to find appropriate placements. A juvenile court judge in South Carolina expressed his great unhappiness about being forced to send mentally retarded children to jail because the state schools had long waiting lists.

We also found children who simply had no place to go. One boy's mother had been hospitalized, and because no relative or neighbors had been able to take him, the sheriff took him to jail. Too often dependent and neglected children are housed in jail cells. Having no place else to go should never be a reason for jailing a child. More humane alternatives must be provided.

Some people believe that while jailing children generally is not a wise practice, it is appropriate to ***jail children who have been waived from juvenile court to adult criminal court.***[14] They contend that if a child is to be tried in court as an adult, it is logical that the child be held in an adult jail prior to trial.

The increased waiving of children from the juvenile justice to the criminal justice system is an alarming trend. We found children waived to adult status when we visited jails in all our study states, except those in New Jersey.

While the reasons for this trend are complicated, we believe there is no sound basis for holding waived children in jail while awaiting trial any more than for children considered juveniles by the courts. The need for assessment and help, the emotional harm resulting from the awful conditions of jails, and threat of serious harm by adult inmates are just as real to waived children as they are to unwaived ones. The harms to these children are also just as real. We learned of one 16-year-old boy in Seminole County, Florida, who was waived to adult court for purse-snatching. He spent 201 days in jail, between October, 1974 and June, 1975, while his case in adult court was repeatedly continued. Although he became increasingly disturbed, nothing was done in jail to help him. On the 202nd day of his incarceration in jail, he set a fire in which eleven people, including the boy himself, died.

None of the reasons given above for jailing children can offset or compensate for the lasting injury inflicted on youngsters who are jailed. Nor do the reasons offset the risk that those youngsters will become an even greater risk to the community as a result of being jailed with adults.

TABLE 2

Number of Juveniles Waived to Adult Court in Jail on the Day of CDF Visit, by State

State	*Number Waived*
Florida	1
Georgia	8
Indiana	30
Maryland	16
New Jersey	—
Ohio	10
South Carolina	1
Texas	3
Virginia	24
Total	93

[14] By waiver or transfer, children whose age places them within the jurisdiction of the juvenile court are subjected to adult criminal jurisdiction and thus are treated as adults, by court order, for the purpose of prosecution, trial and sentence. Further, it is reported that 48 states have provisions in their laws which permit selected children to be transferred to adult court jurisdiction. New York and New Hampshire do not have waiver provisions. In 12 states other procedures allow the criminal court to take jurisdiction over a juvenile. In some states the prosecutor is "empowered to weigh the competing policies and make the initial decision about which court will try certain juveniles." See, Mark M. Levin and Rosemary C. Sarri, *Juvenile Delinquency: A Comparative Analysis of Legal Codes in the United States* (Ann Arbor, Michigan: National Assessment of Juvenile Corrections, 1974).

Chapter 3

What Are Jails Like For Children?

> Even though I have passed through steel jail doors hundreds of times, the sound created by their closing still sends a shiver through my body. I know the doors will open again. Yet, that sound always triggers the question: "But what if they do not?"[1]

The most forceful, lasting impression on CDF staff as they visited jails across the country was that jails, relics of many decades, were fetid places in which punishment by neglect and indifference were so pervasive as to corrode every aspect of life for the children held in them. While they varied in their physical plants from place to place — a particularly ancient, dirty one here or a spankingly sterile-clean, new one there — there was always a sameness about them. The walls, the bars, the hard-surfaced floors, and the clanging of steel on steel as doors were locked and unlocked created sounds and hollow echoes peculiar to jails, inhuman and terrifying. Barren of normal activity, like tombs, jails seem uninhabited by human beings despite cells crowded with inmates. The forced coming and going of prisoners did not lessen the sense that no one lives in these jails.

A County Jail in a Large City

This jail is in a new four-story stone structure in the downtown area and is operated by uniformed deputies and inmates chosen as trusties. The first floor contains the office for admitting and booking persons on arrest and two "tanks" to hold people, including those who must be "sobered up" before being processed.

Male juveniles are placed in a large dormitory unit on the second floor that has over 30 double-deck bunks adjacent to the section for adult males. Both the juvenile and adult male units are manned by a uniformed deputy in a closed booth from which the electronic units to all cells are controlled. This modern equipment did not provide for visual control of what occurred within the units, or of auditory control unless the noise level becomes extreme. Within each unit every inmate had full access to all others.

[1] Memorandum from Don Rademacher, Austin, Texas office, Children's Defense Fund, 15 June 1975.

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A County Jail in a Medium-Size Town

This jail is old, dismal, and dark. The section for boys consists of three barred cells surrounded on all sides by a walkway. Each cell contains only a steel bunk. The section for girls is in the basement adjacent to the furnace and a storage room. It is dark, dirty and so far removed from other sections of the jail that no one is within shouting distance of the girls held there, except on rare occasions. The dirty walls of the section were covered by layers of juvenile graffitti. A twin metal bedframe held two dirty, uncovered mattresses. Stacks of old magazines lay scattered on an old table and the floor. No light fixture could be seen.

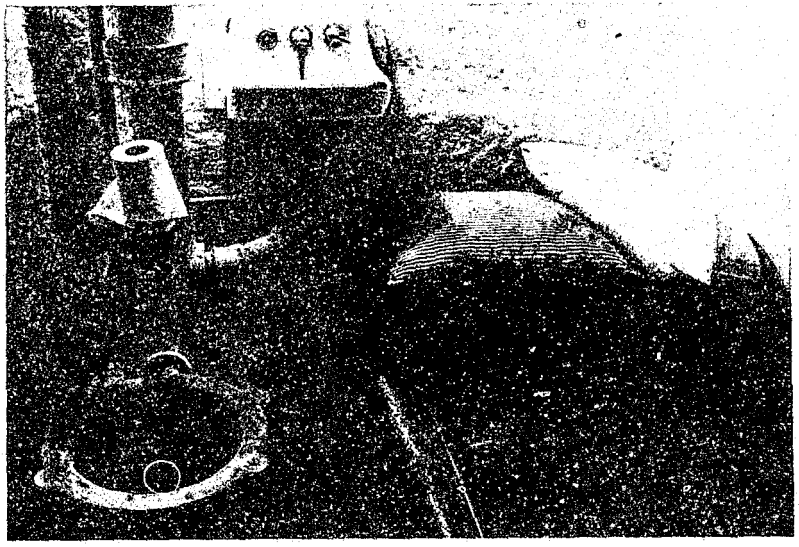
Before going through the jail, the sheriff spoke at length about his concern that children were held in this jail. Yet, when we got to the girls' section, he opened the door without warning and walked in. No matron was present.

A Small City Jail in the Midwest

An old, three-story building built around the turn of the century houses the local police department, and in the dank basement was the jail, consisting of three barred cells, each with two steel bunks. The only light came from barred windows placed high on the walls.

The cells were dirty, covered with dust and cobwebs. Uncovered pipes ran across the cells, and some were broken. There were holes in the ceiling, and there were no toilet facilities in the cells.

This jail looked like a place that both people and time had forgotten. It brought to mind stories of child suicides in jails.



A Police Lock-up
in a Small Rural Southern Town

> There were no separate facilities for children in this jail. One large room held two rows of four cells with an aisle running between them. The four cells on each side were separated by bars, and each cell contained one or more cots with dirty, uncovered mattresses. No toilet facilities were visible.
>
> The room was so badly lighted, that one's eyes had to become accustomed before one could make out what was within. But the dank smell of a cellar combined with the smells of urine and accumulated filth struck one without any waiting.

Report after report, investigation after investigation have found that these descriptions are not isolated examples of unusually decrepit jails. Jails are the lowest priority when law enforcement resources are allocated. Historically used as depositories for the village drunkard, the vagrant, the insane — and now used for traffic violators and transient offenders presumably on their way somewhere else — jails never have commanded the attention or resources to provide even minimally decent environments. As noted criminologist Hans Mattick has commented,

> One of the problems with jails and their inmates is that they have gotten the reputation of being unimportant, and that unimportance rubs off on everything that is associated with the jail. The people who are in the jails, whether they are inmates or staff, are very easy to neglect since they have no political sex appeal. You can't run for office on a jail.[2]

Some officials excuse the niggardly funding of jails by arguing that it is impractical to improve places where the inmate population is supposed to stay for only 48 to 72 hours and then moves on. But as we have already seen, the average length of time a child is in jail is at least 6 days, and some children are sentenced to jail for a year or more. Not all jail populations, therefore, are transient. Furthermore, even if they were, the subhuman conditions of sanitation, safety, lack of medical and psychological help and inadequate security from those with whom cells and showers are shared cannot be tolerated, even for a short time, for children.

These wretched conditions persist in jails today, despite the scandals and disclosures, despite the courts which have ruled that certain jail systems constitute cruel and unusual punishment in violation of the Constitution. There are no agreed on national standards for minimally necessary conditions, even for jails receiving federal funds. Indeed, the lack of national leadership has meant that millions of dollars spent to improve local jails have not produced adequate results.[3] Left unmonitored, without guidance, resources, reporting requirements or supervision, local jails manage on their own to exist — barely.

For the children locked inside them, the desperate conditions of jails have special significance. First, children do not have the experience or psychological maturity to endure jail conditions even temporarily. For them the age, filth, stench and unpleasantness of the jail itself can be horrifying.

Second, children regularly depend on adults for their safety and protection. In jail, the inadequate number of any staff, the lack of anyone specifically trained to take care of children, and the probability that inmate trusties will be their caretakers endanger rather than protect children.

Third, children are weaker than adults. The inability to separate completely adult criminals from juvenile inmates presents real danger to them.

Fourth, children are not mature enough or are often afraid even to ask for needed medical, psychiatric or other services. The total lack of diagnostic services in jail places children in trouble at extreme risk.

Fifth and finally, children do not have the same ability as adults to put the passing of time in perspective. Locked in a barren cell — perhaps in solitary confinement — with nothing to do for hours and days, jail may seem interminable and

[2] Interview with Professor Hans Mattick, 14 April 1975.

[3] For an excellent discussion of the results of LEAA-funded jail improvement projects and the need for federal leadership in this area, see *Report to the Congress by the Comptroller General: Conditions in Local Jails Remain Inadequate Despite Federal Funding for Improvements.*

TABLE 1
Age of Cells in Jails of Cities and Counties with Population over 25,000
1970 National Jail Census — For CDF Study States

Age of Cell	*Percent of all Cells*								
	Fla.	*Ga.*	*Ind.*	*Md.*	*N.J.*	*Ohio*	*S.C.*	*Tex.*	*Va.*
1 day to 25 years old	81.7	46.2	43.6	75.5	15.1	32.3	54.7	54.8	74.9
26-50 years old	12.8	30.8	10.7	4.4	44.7	18.5	27.4	31.5	14.9
51-75 years old	2.9	14.5	9.7	7.1	20.8	10.2	14.6	10.0	6.5
76-100 years old	2.7	3.3	29.4	9.1	8.9	15.6	2.1	3.7	1.3
over 100 years old	—	5.1	6.6	3.9	10.5	23.4	1.2	—	2.5

drive a child to despair. The utter inadequacy of recreational, educational and visitation opportunities in jail makes days and nights seem endless.

"Warehouses of Human Flesh"[1]

> As you enter this forbidding two-story jail you realize it is very old. The jailer took me to the section reserved for juveniles and women. The first room is a cell about 6 by 8 feet enclosed by old strap steel rather than bars. This cage was used to detain male juveniles. Resembling a woven reed basket, it is hard to see in or out of this cell. It contained two steel bunks and no toilet facilities. The inside of the cell was dirty. I smelled rather than saw the dirt. This cell served as an ante room through which women prisoners had to pass to reach their section, which contained three beds, a toilet, and a single cell, also enclosed by strap steel.
>
> Some of the male juveniles were held in the adult male section of the jail, which contained six cells with four metal bunks in each. These cells fronted on a walkway and the inmates gathered behind the doors to the walkway. I could not enter the cells as they were locked, but I could see filthy mattresses on the bunks, and water stood about a half-inch deep on the floors.

Most jails are very old, deteriorating and unsafe. In one state we visited, only 11 of 62 jails used for children could pass minimal standards even for sewage disposal, plumbing and cleanliness. Many lack toilet facilities in each cell; others have toilets but no privacy. Old jails do not have fire extinguishers. They do not provide inmates with such basic things as soap, toothpaste, toilet paper. The list of horrors can go on. But what do these mean to children?

> Jon was put in a cell alone. There was no sink and nothing to drink. No pillow. The sheets were sandy and dirty. There were two bunkbeds with a toilet between them. "Rusty, grungy. I wouldn't use it. Anyway, everyone could see in. There were bars on two sides. I could see other cells. Could see a bunch of crazy-looking people. They looked mean. I just wasn't used to seeing people like that. One was beating on the bars to get attention. There was a lot of yelling. It took a long time to get to sleep."
>
> Fred, not yet 13, was placed in a concrete cell with two small barred windows looking out on to the street. There was a mattress and one blanket, a sink, toilet, shower. There was one old dirty cup, too soiled to drink from. Fred slept badly: "The beds were mangy, with big stains on them. I felt kind of scared. I kept

[1] This quote is taken from one state's assessment of its local jails. See, *Report to the Congress by the Comptroller General: Conditions in Local Jails Remain Inadequate Despite Federal Funding for Improvements*, p. 6.

walking around the cell. There was just a big thick steel door and a little round window." The light was left on all night. When Fred asked to have it turned off, "they said 'no.' They said they were afraid that I'd kill myself if it is dark. Once I threw a blanket over the light. It caught on fire."

No One to Help

There are two tiers of authority and control for children in jail. First are the administrative officials in charge of the jails. These are primarily the officials of local law enforcement agencies.

The second and far more direct authority and control for children lies with the actual adults in whose hands they are placed and who are responsible for monitoring their safety and for providing services while they are in jail. These people are by far the worst-paid, most ill-trained and over-extended personnel associated with corrections. Like the physical neglect of jails, the people charged with control and care of inmates have been neglected in terms of their education, training, salaries, hiring criteria, supervision and the assistance they need to function decently. In large jails, a child may be booked by a uniformed officer. But from then on — and in smaller jails from the very start — overworked custodial staff on the lowest rung of the corrections ladder are the principal people to whom children can turn for help. They often are not sympathetic:

> Fred's cell had a wooden bench and some chairs. There was no sink and no toilet. "You have to ask permission to go to the bathroom but there's never anyone around. So you have to sit around and wait for someone to come. A lot of times I'd ask and they wouldn't let me. "If I yelled for the cops and they didn't come, I'd just have to sit there. The only time they come is in the daytime. In the daytime, there are people from the outside who are around so they try to keep you quiet. At night they wouldn't come in. If you had to go to the bathroom, tough luck."

James had not eaten for a day and half after he was locked up. "They don't care whether you eat or not. All they do is bring the tray back. "The jailer was mean to everybody. We had to holler in a loud voice to get him. He came back and told me not to be hollering in the jail. I was going to ask him to make a phone call. He told me to shut up or he'd put me in the drunk tank. I didn't ask nothing.

"They were worse to me because I was a kid. It was easier to push me around. They called me names and threw me against the wall. The cops scared me. They threatened me. They'd tell me I was to be there for a month. They said the Boys' Training Center was bad. It kept getting worse. They kept hitting us a little harder every time."

When custodial staff are in short supply, they designate adult inmates to serve as trusties to help them with their chores. In some of the jails we visited, the regular staff was outnumbered four to one by trusties. In several instances of abuse of children in jails, the trusties were directly responsible, though the system that gave them power over the lives of children must ultimately be held accountable. In one case, when two boys were repeatedly sexually abused and burned with cigarettes by older inmates, the trusty in charge did not respond to their cries for help. In another case, the trusty regularly accepted bribes from adult inmates to permit them to enter the cells of teenage girls to have sexual relations.

While these are not isolated events, the trusties, jailers and police officers are not the sole villains. They too were victims of the indifference and neglect meted out to jails and their occupants.

Dangerously Exposed or Dangerously Alone

The ability to separate various kinds of inmates in jail — men from women, persons accused of violent crimes from minor offenders — is crucial in the case of juveniles held in jails. All of the states we visited had laws requiring that children be kept separate from adult inmates. The states thus officially recognized that children need protection from incarcerated adults.

The definition of separation varies, however, depending on the wording of state law and on its application at the local level. We defined the degree of separation we found in the jails we visited in three ways: (1) Substantial separation, where serious efforts are made by jail personnel to prevent any contact between children and adult inmates, either verbal or visual, except at the time of initial admission or during release. This would require a separate juvenile unit. (2) Partial separation, where there is the potential for verbal and/or visual contact with adult inmates in passage to the juvenile unit, through use of portions of adult cellblocks to house children, or by contact with inmate trusties. (3) No separation meant that children are regularly placed in adult cellblocks, pens or tanks.

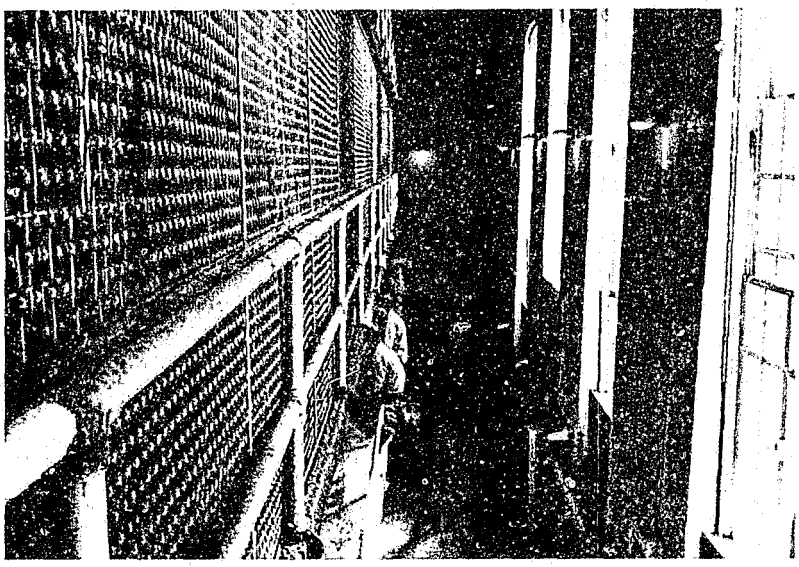
Of the 139 jails for which information on separation was secured, slightly more than one-third (35.9 percent) were able to assure substantial separation of children from adults. Another 42.3 percent had only partial separation. Finally,

TABLE 2

Person Administratively Responsible for Jails which House Juveniles

Administrator	*Number of Jails*	*Percentage*
Chief of Police	85	49.7
County Sheriff	75	43.9
Sub-station Captain	4	2.3
Jail Administrator	3*	1.8
Director Public Safety	1	.6
County Corrections Administrator	1	.6
City Council	1	.6
Director Juvenile Probation	1	.6
Total	171	100.0

*Includes 2 wardens and 1 county jail administrator



over one-fifth (21.8 percent) of the jails provided no separation at all. In some instances, separation was impossible due to physical constraints and overcrowding. One Florida jail, for example, held 200 inmates but had only eight individual cells; the rest of the space was divided into 17-bed dormitories. In another county, the sheriff explained as he led us through his four-cell jail which could not separate children from adults, "You may be surprised that the cells have no locks. This county is poor. I cannot get funds for locks." In other jails, however, it would have been possible to separate children, but no attempt was made to do so.

What does lack of substantial separation mean? It can mean that children are placed in cells with adults charged with violent crimes. We learned that:

A 15-year-old girl was confined with a 35-year-old woman jailed for murder.

A 16-year-old boy was confined with a man charged with murder, who raped the boy on three occasions.

A 16-year-old boy, arrested for shoplifting, was confined in a cell with a man charged with shooting another man.

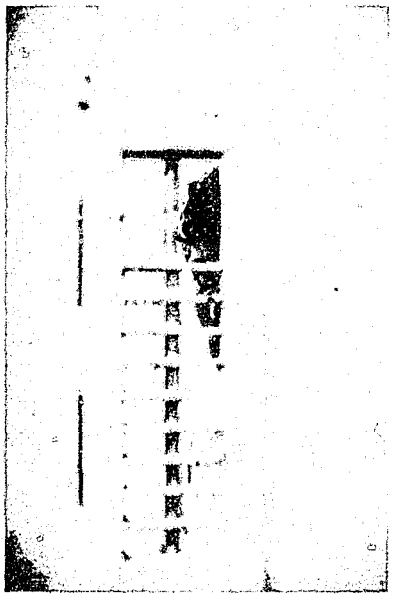
A 16-year-old boy was confined with five men. One was AWOL from the military, one was charged with assault and battery, one was an escaped prisoner from another state, one was in jail charged with murder of his wife, and one was charged with molesting three boys on the street.

A 14-year-old girl was confined in a cell with two women charged with drug use, who constantly cut themselves with pieces of glass.

A 16-year-old boy was confined in a cell with a man charged with murder.

A 15-year-old boy was confined with three adults, two were charged with drunkenness and one with murder.

Inadequate separation also means that children are held in cells with the mentally disabled. We learned that juveniles are regularly mingled with inmates who are mentally ill or retarded or with inmates awaiting competency hearings. In the words of Gumpy, held with ill and senile men:



They're driving me crazy in here, man. They got guys locked up in there, man, who shouldn't be in here. I mean nobody should be in here but these guys are off the wall, man. They're off the wall. They ought to be in a hospital. All night long I hear 'em talking to each other. They're whispering back and forth, man, they don't even make any sense. They're just talking. You can't believe it. There are old guys, too. Everybody calls me son. Hey son, do this, son, do that. It give me the creeps, man. They're going to drive me crazy.

Sometimes the only way to separate juveniles from adults in the absence of separate juvenile facilities is to place the children far away, in some closet or basement or tiny cell reserved for solitary confinement. What starts as a well-intentioned, last resort effort to protect children in jail turns into a living nightmare for the children so placed. As one juvenile corrections expert testified:

> [I]n my opinion extended isolation of a youngster exposes him to conditions equivalent to "sensory deprivation." This is a state of affairs which will cause a normal adult to begin experiencing psychotic-like symptoms, and will push a troubled person in the direction of serious emotional illness.
>
> What is true in this case for adults is of even greater concern with children and adolescents. Youngsters are in general more vulnerable to emotional pressures than mature adults; isolation is a condition of extraordinarily severe psychic stress; the resultant impact on the mental health of the individual exposed to such stress will always be serious, and can occasionally be disastrous.[1]

And in the words of a child:

> Nick went to jail for a week. He was locked in a converted conference room on the third floor. He was the only prisoner up there. It was all right during the day but at night there was no light. The only person Nick saw during the entire week was the inmate trusty who brought his meals. "He was allowed to stay for about five minutes and he would talk to me. I was so lonely. But I wasn't going to cry -- I was going to be strong. You know, they weren't going to break me."
>
> The 48 hours during which Johnny was held in solitary still haunt him two years later. "I can barely think about those two days. Those tall walls coming in on me, one standing there looking up and that ceiling like it was going down on top of me real slow. Inch by inch. And it was so wet in there; like I was sweating, and there wasn't anywhere for the sweat to go, so it just stayed in there with me. Then it got hot, and then it got cold. Holy God, it was the worst thing I ever knew about. I'd touch the walls and they'd be cold a minute and maybe hot the next.
>
> "I can still see that room, man. They wouldn't put a sick dog in one of those and still they had no problems sticking me in there. I kept thinking, somewhere in here I'm going to find a body of some kid just like me who they stuck in there once and he never got out. . . ."

[1] *Lollis v. New York State Department of Social Services*, 322 F. Supp. 473 (S.D.N.Y. 1970). Excerpt annexed by Judge Lasker to decision of testimony by Dr. Joseph R. Noshpitz, past president of American Association for Children's Residential Centers, Secretary of American Academy of Child Psychiatry, Chairman of the Group for Advancement of Psychiatry on Adolescence, Member of the Board of Directors of Joint Commission on the Mental Health of Children, pp. 16-17.

Who Sees to Children at Risk?

If a diabetic adult is jailed, he can tell the jailer exactly what he needs to eat (or not eat) and what kinds of medical attention he must receive. If a woman in jail is experiencing severe pain or a high fever, she knows enough about her body to request aid. If an adult inmate is in psychological distress, the chances are he will call out for help.

But what about children in these circumstances? As we talked to jailers and others who deal with children in trouble, they reported that children are usually too frightened to ask for help, afraid to call attention to themselves for fear something worse will happen to them. Or they may not know what is wrong with them, or what information is important to tell someone, or what medication they have been taking. For children, the abysmal absence of regular diagnostic medical and psychological personnel can be disastrous.

> A newly appointed probation officer visited jails in three Texas counties in an effort to become familiar with the children being held. In Starr County, he noticed a 14-year-old boy who appeared to be ill. He asked the jailer if there was a problem, but the jailer said the boy hadn't said anything so he guessed everything was all right. But when the probation officer asked in Spanish, the boy said he was in a lot of pain. A doctor was called. He examined the youth, who apparently had been suffering for days from diphtheria. He took the boy to the clinic for isolation and care.
>
> But no one had told the boy in Spanish what was happening. Frightened and alone, the boy escaped that night and swam the Rio Grande to return home to Mexico. Only when the probation officer convinced the boy's parents of his concern for getting the boy medical help and not in arresting him was the child produced and medical care begun.

We found that unless a child is visibly acutely ill, no medical attention is given.[6] When we asked whether children are given a medical examination upon admission to jail (even if it was done by someone other than a physician), only 27 (15.8 percent) of the 171 jails holding children answered yes. Of these, 14 said trained medical personnel did the examining; the rest were "eyeball" examinations performed by the guards.

The absence of medical examination on jail admission involves many health risks for children. In testimony before the Senate Subcommittee to Investigate Juvenile Delinquency, Dr. Iris Litt, a distinguished pediatrician, testified that the incidence of medical problems found at the time of admission among juvenile delinquents remanded to detention facilities in New York City during a five-year period was very high. Nearly 50 percent of these youths were found to require some kind of medical care.[7]

The absence of medical screening and medical supervision of juveniles in jails can have serious

[6] In contrast to the absence of medical examination in jails, it is reported that 80 percent of juveniles admitted to separate juvenile detention facilities receive some type of physical examination at the time of their admission. (See, Donnell M. Pappenfort, Lee Morgan Kilpatrick, et al., *A Census of Children's Residential Institutions in the United States, Puerto Rico, and the Virgin Islands: 1966* (Chicago, University of Chicago, Social Service Monographs, 1970) Vol. 7, "Detention Facilities," p. 145.)

The low incidence of medical examinations we found was also found by other investigators. In 1,108 responses by jails to a questionnaire sent out by the American Medical Association, only 75 or 6.8 percent reported that they provided medical examinations for all inmates on admission. See, American Medical Association, Center for Health Services, *Medical Care in U.S. Jails—A 1972 AMA Survey* (Chicago: AMA, 1973), p. 12. In state studies, admission medical examinations in jails were found to be almost nonexistent. In Illinois, such examinations were provided in 3 percent of the county jails and 1.7 percent of the city jails. See Hans W. Mattick and Ronald P. Sweet, *Illinois Jails: Challenge and Opportunity for the 1970's* (Chicago: University of Chicago Law School, 1969), p. 170. In Indiana, medical examinations were given to inmates in 2.1 percent of the jails. Robert G. Culbertson and James A. Decker, "Jails and Lockups in Indiana: A Case of Neglect," *Indiana Law Journal* 49 (Winter 1974), pp. 353-259.

[7] See, Dr. Iris F. Litt, Medical Director, Juvenile Center Service, Division of Adolescent Medicine, Montefiore Hospital and Medical Center, Statement before the U.S. Senate Committee on the Judiciary, Subcommittee to Investigate Juvenile Delinquency, 17 September 1973. During a five-year period (1968-1973), 31,323 youth remanded by the Family Court were examined on admission in the program under Dr. Litt's direction. Of this number, 14,976 (47 percent) required some kind of medical care; 1,935 required infirmary care, and 369 required hospitalization. Serious medical problems, previously unidentified, were found and referred for treatment.

TABLE 3

Responses to 1972 Survey by American Medical Association

No medical facilities	194
First aid only	759
Examining rooms only	161
Clinics/dispensaries	91
Infirmaries	78
Other facilities	72
No answer	76
Total	1,431

Source: *Medical Care in U.S. Jails — A 1972 AMA Survey*, p. 12.

consequences. A noted professor of psychiatry and law said,

> I've been very concerned about medical care in jails... Statistically when you're dealing with aberrant behavior, you're going to have some kids who are diabetic, who are in a drug psychosis, who are undergoing all sorts of stress ...and if you don't have legitimate screening, predictably you're going to have a certain number of unnecessary deaths when behavior, even that [which] caused the lock-up, might be masking a medical condition... It's outrageous... that there's no medical screening at all particularly [for]...acting out adolescents.[8]

Our findings confirm those of other studies of medical care in jails. For example, the *1970 National Jail Census* found that only 51 percent of jails replying to its questionnaire reported having medical facilities.[9] Subsequently, when the American Medical Association sought information on the types of medical facilities available in or to jails, many of the medical facilities reported by jails turned out to consist of only first-aid kits.[10]

Alone With Nothing to Do

The lack of decent medical services in jails was out-distanced by the all but complete lack of educational, recreational or visiting facilities, or indeed any services or programs for children in jails. Boredom, frustration, idleness and pent-up energy, like the impersonal processing of admissions and the physical conditions of the jails, create a nightmarish world from which escape seems unsure or distant.

> When Fred was 12, he was confined in a jail cell in the men's section, "all steel and you can't see nothing. There was nothing to read, nothing to do at all. I did nothing. I screamed at the cops. It's the only thing to do. Then sometimes they'd push me around. The worst thing — it was boring. You could be dying in there and they wouldn't even know. Once I ripped a handle off the wall. There was a camera on the wall. I wanted to see if they would see me in the camera. But no one came. Another time I smashed a great big hole in the wall and they didn't know."
>
> James was not allowed out of his cell for thr days; he found the night-time the hardest. "In the daytime you could see and hear more. At night you couldn't see or hear . thing Nightime would be dark and silent. Make you feel like you're all alone. In a place where there's nothing."

In most jails, children and adults were forced to stay in their cells or cellblocks without interruptions — most of the time with nothing to do. After many jail visits a CDF staff member described the usual day in one county jail and likened it to what he had observed in other county jails:

> Breakfast, sit, talk, play cards, read old magazines, sleep if permitted, watch T.V., if there is one, lunch, then repeat the morning schedule. Then the evening meal and the same morning schedule once more till lights out. The only break in the routine is when law officers want to question you or you have a court appearance, need a doctor or have a visitor. But visitor privileges are at set times and can be used only if someone knows you are in jail and cares enough to visit.

[8] Interview with Dr. Willard Gaylin, 18 June 1975.
[9] *National Jail Census, 1970*, p. 19.
[10] *Medical Care in U.S. Jails - A 1972 AMA Survey.*

The interminable boredom or unrelieved anxiety is commonplace among jail inmates. According to the *1970 National Jail Census,* only 9.8 percent of the jails in our survey states reported any educational facilities, and 25.2 percent said they had no visiting facilities whatsoever.[11] While there is considerable variation among our nine study states, none provides adequate facilities for children locked in jail. Statistical reports can be misleading: CDF found that a "recreation facility" might be nothing more than a yard fenced in by walls or barbed wire with no equipment. In one jail we found "educational facilities" consisted of a blackboard, a few chairs, no books and a guard. Provision of services seemed to be absent from the minds of those who plan, fund and administer jails.

[11] *National Jail Census, 1970,* pp. 18-19.

During a visit to one new jail for juveniles, we learned it had been built through a grant from LEAA. The plumbing, the tiled bathrooms and the paint colors chosen were excellent. But juveniles were lying behind bars on metal frames looking forlorn and with nothing to do. Funds for educational supplies, recreational equipment and even for toothbrushes and towels had not been included in the budget.

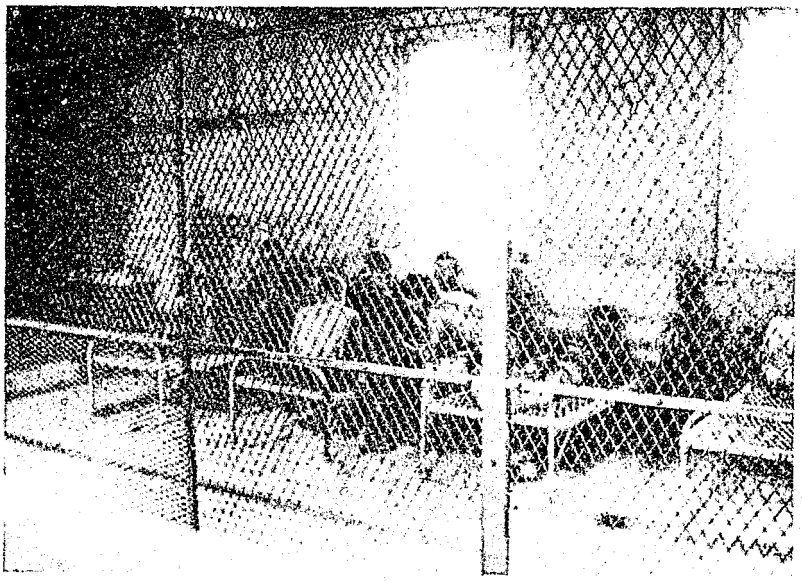
Other constructive social or rehabilitative services, such as counseling, vocational training or guidance, or job placement are virtually nonexistent in jails. Again, the rationale is that it is too costly and impractical to provide such services to a short-term, transient population. Yet to a child in trouble, personal counseling could do much to relieve fear, anxiety and the sense of helplessness. Since jails cannot provide such services, they should not hold children.

TABLE 4

Number and Percent of City and County Jails with Selected Facilities in Study States (1970 National Jail Census)

State	Total Number of Institutions	Percent of Jails With: Recreational Facilities	Educational Facilities	Medical Facilities	Visiting Facilities
Florida	101	24.8	1.9	64.4	90.1
Georgia	205	20.5	17.1	42.9	77.6
Indiana	94	7.4	4.3	54.3	75.5
Maryland	23	21.7	26.1	73.9	87.0
New Jersey	31	32.3	51.6	80.6	83.9
Ohio	112	8.0	2.7	57.1	71.4
South Carolina	101	14.9	9.9	38.6	71.3
Texas	265	2.6	3.0	37.7	68.3
Virginia	89	7.9	6.7	74.2	71.9
Total	1,021	12.4	9.7	50.4	74.8

Source: U.S. Department of Justice, Law Enforcement Assistance Administration, National Criminal Justice Information and Statistics Service, *National Jail Census, 1970: A Report on the Nation's Jails and Type of Inmates,* series SC — No.1 (Washington, D.C.: U.S. Government Printing Office, 1971), Table 8, pp. 18-19.



Chapter 4

Is Jailing Children Legal?

A case can be made on humane grounds that conditions in adult jails make them absolutely unfit places for children. Based on what we know about rehabilitation and the negative psychological impact jails have on children, a case can be made against using jails for children on these grounds as well. But what does the law say in this area? What are the legal grounds for removing children from adult jails?

There are several legal avenues to explore: state and federal statutory mandates and their enforcement; constitutional and other legal bases for court actions; and a range of advocacy activities through which lawyers can have a critical impact.

State Laws Concerning Jailing Children

While every state has statutes or a juvenile code and regulations defining how children should be treated under the law, state legislatures have enacted an incredibly varied set of statutory approaches in an attempt to control the placement of juveniles in jails and other adult correctional facilities. There are at least nine different ways in which these laws vary. The result in most states is a patchwork quilt scheme that fails to offer comprehensive protection to juveniles taken into custody.

First, states have made a variety of distinctions between different types of children. Few states completely prohibit the placement of all children in jails.[1] Children generally are grouped into several classes based on (1) age; (2) the offense with which they have been charged (i.e., status offenses, delinquent acts, or serious felonies); and (3) whether they are handled through the juvenile court system or have been transferred to the adult court system.[2] Each of these classes of children is then treated differently from one another.

Second, state statutes distinguish among children at varying stages of custody. Prohibitions are different for a child who only has been charged with an offense, one who has been adjudicated, one where a dispositional order has been made and one who is awaiting transfer to a long-term facility. For example, in Ohio, an alleged juvenile delinquent may be placed in an adult jail while awaiting trial, but once adjudicated delinquent, must be placed in a juvenile facility.[3] This legislative practice of permitting short-term detention in jails but prohibiting jail placement for a child's sentence overlooks the serious consequences that any time held in an adult jail may have for a child.

Third, state statutes permit several different types of public officials to initiate and continue the placement of children in jails. Some indicate that any person taking a child into custody has

[1] None of our survey states have such a clear and comprehensive policy on this issue.

[2] *See* Va. Code Ann. §6.1-196 which prohibits jailing for those under 15 years of age but allows it to occur under certain conditions for those 15 years of age or older; Ga. Code Ann. §24A-1403 (1076 Rev. Ed.) which allows placement of alleged delinquents in jails but prohibits children alleged to be deprived or unruly from being held there.

[3] Ohio Rev. Code Ann. §2151.354 and .355 (1976 Supp.).

the authority to bring that child to a jail for detention. This includes the police or other enforcement officers. In other states such action can only be taken by a juvenile court judge. Even in these states, however, a decision need not always be based upon evidence adduced at a hearing at which the child is represented by his parents and/or counsel.[4]

Fourth, in some states jail detention is listed as only one of a long list of possible detention places. Even if a statute takes this approach and indicates that jailing is to be considered a last resort, a public official may have few actual placement options in a particular jurisdiction. The fact that a decision maker must examine alternative placements before authorizing jail detention for a child is only significant if state statutes also require that separate juvenile detention facilities and alternatives to secure detention (foster care, group homes, etc.) be established either by the state or local government in sufficient numbers and locations. Such a requirement provides a fifth level upon which state statutes vary considerably.[5]

For example, following legislation in Florida, a statewide system of regionally located, state-run juvenile detention homes — both secure and non-secure — was established. The Division of Youth Services is responsible for making sure that the needs of each child placed is being met. In Ohio, by contrast, each board of county commissioners is authorized *but not required* to provide for separate juvenile detention homes. As a result, citizens in one county had to sue in order to get a home established. They were unsuccessful since the court held that while their claim was valid, the law did not compel counties to build such facilities.[6] Strong statutory language fixing responsibility for implementation is essential.

Sixth, once a state sanctions the placement of children in jail, for whatever reasons, an attempt is often made to require that juveniles be handled differently from adult inmates. One standard approach is to require that children be separated from adult prisoners. Separation, however, is not always defined in precise terms — sometimes a statute may specify that a different room, dormitory or section is necessary, in other cases statutes provide that no visual, auditory or physical contact will be permitted. In still other states the language is unexplained and vague.[7] Although we have seen that one response to implementing this separation requirement is to place children in solitary confinement, legislatures seem not to have realized this would result, and a separation requirement is not usually accompanied by a prohibition on placing children in isolation. In fact, none of our study states' statutes prohibit isolating children in jail.

Seventh, it is important to note that a clear and strongly worded separation requirement is no guarantee that children held in jails will receive services particularly geared to their special needs, i.e., educational programs, counseling, medical examinations, and so on. While many separate juvenile detention facilities are required by state statute to have a full range of such services, including sufficient personnel trained in handling and working with children, children in these same states who find themselves in adult jails are not required to be provided with a similar set of services.[8]

Eighth, some states at least appear to recognize that the longer a child is detained in jail the greater the possibility of harm. As a consequence, their statutes establish time limitations on the period that children can be held in jail; in some states a time limit is tied to a detention hearing.[9] Even where time limitations exist, however,

[4] Compare Ohio Rev. Code Ann. §2151.314 (1976 Supp.) providing for a detention hearing with representation for the child within 72 hours of the child's being taken into custody by any public official in the county or state with Va. Code Ann. §16.1-197(3) which does not require that a hearing be held before a judge makes a detention decision.

[5] *See* Texas Family Code, Title 3, §51-12 (1973).

[6] Fla. Stat. Ann. §959.022; *State ex rel. Johns v. County Commissioners*, 29 OS2d 6, 58 002d 65, 278 N.E.2d 19(__).

[7] The following definitions were found in some of our survey states: (1) "A room separate and removed from those for adults" so that the child cannot "come into contact or communication with any adult convicted of crime, under arrest or charged with crime." (Ohio); (2) "A separate cell apart from criminals or vicious or disolute persons" (Virginia); (3) to be held "apart" from adults (New Jersey); (4) "separate confinement" (South Carolina).

[8] *See*, for example, Florida and Virginia state statutory law.

[9] *See* Ga. Code Ann. §24A-1404(c) (1976 Rev. Ed.) (72 hour time limit).

extensions of indefinite duration are often sanctioned upon court order.[10]

Ninth, even the best state statutes with complete detailed and clear prohibitions on jailing of children may result in little actual protection unless the state also provides for an efficient monitoring program for its jails.[11] Standard setting, frequent unannounced inspections and enforcement power to assure that violations are corrected (fines, revocation of operating licenses, etc.) would be necessary in order to have an adequate enforcement program. Only a few states come close to meeting such a description.

Federal Laws Concerning Jailing Children

Since responsibility for the care and treatment of juvenile offenders historically has rested with state and local authorities, until recently the federal government's role has been extremely limited. In 1974, however, Congress passed two pieces of legislation which, if they are aggressively enforced, could greatly reduce the extent to which children throughout the country are incarcerated in adult jails.

The Federal Juvenile Delinquency Act

Most children who are charged with offenses and placed in jail are prosecuted by local authorities acting under state laws. Other children, however, are charged with offenses which violate federal law. These children are prosecuted by United States Attorneys in federal district courts under the general supervision of the United States Department of Justice. The Federal Juvenile Delinquency Act (FJDA)[12] regulates the conditions under which these children may be incarcerated, both prior to their trial and after disposition.

As amended in 1974, the FJDA provides that when a juvenile is taken into custody for an alleged act of juvenile delinquency, and when a magistrate finds that the juvenile must be detained in order to insure his or her appearance at trial or "to insure his safety or that of others," the juvenile "may be detained only in a juvenile facility or such other suitable plase as the Attorney General may designate."[13] Furthermore, the FJDA provides:

> Whenever possible, detention shall be in a foster home or community-based facility located in or near his home community. The Attorney General shall not cause any juvenile alleged to be delinquent to be detained or confined in any institution in which the juvenile has regular contact with adult persons convicted of a crime or awaiting trial on criminal charges. Insofar as possible, alleged delinquents shall be kept separated from adjudicated delinquents. Every juvenile in custody shall be provided with adequate food, heat, light, sanitary facilities, bedding, clothing, recreation, education, and medical care, including necessary psychiatric, psychological, or other care and treatment.[14]

Children who are adjudicated delinquent and committed to the custody of the Attorney General may not be "placed or detained in any adult jail or correctional institution in which they have regular contact with adults incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges," and they must be provided the same services and treatment which are guaranteed prior to disposition.[15]

While the vague language prohibiting "regular contact with adults" is a loophole in the legislation and must be corrected legislatively, the intent in the FJDA suggests the outlook of some Department of Justice officials, one of whom has stated that he was opposed to jailing children because "anyone not a criminal will be one when he gets out of jail."[16] It is also a step toward complying with Bureau of Prisons findings and policy. "Juveniles do not belong in a jail," a Bureau report states, and it continues:

[10] Ohio Rev. Code Ann. §2151.314; Juvenile Rule 7(F)(3) (1976 Supp.).

[11] Texas Family Code, Title 3, §51.12 (1973) and Vernon's Ann. Civil Stat., §5115.1 (1976 Supp.).

[12] 18 U.S.C. §5031 *et seq.* (1976 Supp.)

[13] 18 U.S.C. §5035 (1976 Supp.) Unfortunately, the language of "such other suitable place" is a dangerous loophole in the law, which opens the door for rationalizing the detention of children in jails and other places which may not be appropriate or safe for children.

[14] 18 U.S.C. §5035 (1976 Supp.)

[15] 18U.S.C. §5039 (1976 Supp.)

However, when detaining a juvenile in a jail is unavoidable, it becomes the jailor's responsibility to make certain that he is provided every possible protection, and that an effort is made to help him avoid any experiences that might be harmful. This means that the juvenile must always be separated as completely as possible from adults so that there can be no communication by sight or sound. Exposure to jailhouse chatter or even to the daily activities of adult prisoners may have a harmful effect on the juvenile. Under no circumstances should a juvenile be housed with adults. When this occurs, the jailor must check with the jail administrator to make certain that the administrator understands the kinds of problems that may arise. There is always a possibility of sexual assault by older and physically stronger prisoners, with great damage to the juvenile.

Keeping juveniles in separate quarters is not all that is required. Juveniles present special supervisory problems because they are more impulsive and often more emotional than older prisoners. Their behavior may therefore be more difficult to control, and more patience and understanding are required in supervising them. Constant supervision would be ideal for this group and would eliminate numerous problems.

Juveniles in close confinement are likely to become restless, mischievous, and on occasion destructive. Their tendency to act without thinking can turn a joke into a tragedy. Sometimes their attempts to manipulate jail staff can have serious consequences. A fake suicide attempt, for example, may result in death because the juvenile goes too far; no one is around to interfere.[14]

Unfortunately, the intention to the FJDA to limit the use of jails for children, the stance of the Department of Justice, and the policies of the Bureau of Prisons are contradicted by the Bureau's own practices. CDF found that, according to the Bureau's own records, during 1974 it contracted to have available cells in adult jails for the incarceration of juveniles in all but four states (Delaware, Illinois, New Hampshire and Vermont). Some 378 jails had contracts to detain males under 18 charged with federal offenses; 249 jails had contracts to detain juvenile females charged with federal offenses. In addition, 189 local jails had contracts to house juveniles serving federal sentences of six months or less, and 49 jails had contracts to house federal juvenile prisoners for more than six months.[15] It should be noted that contracts with local jails reserve the right to place juveniles — they do not reflect the actual number of juveniles placed. When we asked the Bureau of Prisons how many children charged with federal offenses actually had been placed in jails, they said that there was no information at the federal level on that question. To get such information, the Bureau of Prisons informed us we would have to call all the marshals in the country who actually pay the bills for services purchased from local jails in each state.

Jails are one of a number of types of facilities that the Bureau of Prisons uses, including half-way houses, approved foster homes and selected juvenile detention centers, but the Bureau does not have information on the total number or proportion of juveniles sent to jails as opposed to the other alternatives. It is difficult, therefore, to see how the Bureau can monitor whether serious efforts are being made at the local level to reduce or end the use of jails for juveniles.

The material accompanying Bureau of Prisons contracts with local jails describing the policies and regulations governing the confinement of federal offenders in non-federal facilities gives no specific guidance for how juveniles are to be treated or how the Bureau interprets the FJDA prohibition against "regular contact with adults."[16] Thus, the practices of one agency and the lack of

[14] Norman A. Carlson, Director, U.S. Bureau of Prisons, "Drive to Halt Prison Violence," *U.S. News and World Report*, 27 December 1971, p. 79.

[15] U.S. Bureau of Prisons, *The Jail: Its Operation and Management*, Nick Pappas, Editor (Washington, D.C.: U.S. Bureau of Prisons, 1971) p. 71. Note that even when jail is recognized as totally inappropriate for children, as in the first line of this quotation, it is not ruled out as a possibility. Such lack of standards and leadership on the part of the Bureau of Prisons is inexcusable.

[16] See Department of Justice, December 6, 1974, Report No. 95-26 on microfiche, U.S. Bureau of Prisons, *Correctional Program Division Composite Profile of Contract Resources*, Washington, D.C.

[17] U.S. Department of Justice, Bureau of Prisons, Washington, D.C. contract for service by/in a nonfederal facility, June 15, 1974. (Mimeograph) and Exhibit A. "Policies and Regulations Covering the Confinement of Federal Offenders in Nonfederal Facilities" (Mimeograph — attached to above mentioned contract).

vigorous leadership by others to discourage the jailing of juveniles severely undercuts the intent of federal legislation and policies toward juvenile federal offenders.

The Juvenile Justice and Delinquency Prevention Act

The federal government provides millions of dollars annually to states and local governments for their law enforcement programs and facilities for juveniles under the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDPA).[20] As a condition of receiving these funds, Congress has required the states to improve conditions for juvenile offenders by ordering them to: (1) within two years of submission of their annual plans remove status offenders from juvenile detention or correctional facilities and place these children in "sheltered facilities,"[21] and (2) insure that juveniles who are adjudicated delinquent are not "detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges."[22] Furthermore, states are required to establish "an adequate system" to monitor jails and other detention facilities to insure that these requirements are being met.[23]

In spite of its weak language which, like the FDJA's, permits the placement of children with or near adults so long as there are no "regular contacts," the JJDPA could become a significant force in changing the practices of local law enforcement officials if it were aggressively enforced by the federal agency which administers the program, LEAA. Advocates should begin to put sustained pressure to make LEAA enforce the law. To date, however, LEAA has unfortunately not been sympathetic to the requirements of the JJDPA or to the needs of the children who might benefit from it. For example, if states removed juvenile status offenders from juvenile detention or correctional facilities, as they must do within two years under the Act, they would reduce significantly the number of children placed in adult jails, and many of the juveniles for whom jails are least appropriate and most dangerous. However, LEAA has ruled that states will be in compliance with the requirement of deinstitutionalizing status offenders if they have removed only 75 percent of these children within the required two years.[24] This blanket relaxation of the statutory mandate was made without specific Congressional authorization and without a showing by individual states that they would not be able to comply with the statute if they made reasonable efforts.

LEAA also has failed to enforce the separation requirements of the JJDPA in an effective manner. First, LEAA guidelines issued to the states do not prevent children from being placed in isolated areas of jails without regular supervision and attention. As we have seen, this solitary confinement can seriously harm already frightened youngsters in jail. Second, the guidelines fail to specify that juveniles must not have verbal or visual contact with adult inmates, although verbal and visual contacts with adult prisoners often result in the same emotional and psychological harm to juveniles as physical contact. Third, LEAA has permitted the states to determine their own timetables for complying with the separation requirement, without any deadline set by the federal agency.

As a result of these actions on the part of LEAA, together with an Administration which has cared more about the rhetoric of law and order than the appropriate treatment of juveniles, federal leadership in this area is woefully lacking. Until the Administration issues an executive order giving the Justice Department the authority to coordinate the actions of various federal agencies dealing with juveniles in trouble, and until LEAA takes its responsibility toward the children who come within its purview seriously, the laws passed by Congress in this area will have limited impact.

Another major barrier to the effective implementation of the JJDPA is that states found in

[20] 42 U.S.C. §5601 *et seq.* (1976 Supp.)
[21] 42 U.S.C. §5633(a)(12). (1976 Supp.)
[22] 42 U.S.C. §5622(a)(13). (1976 Supp.)
[23] 42 U.S.C. §5633(a)(14). (1976 Supp.)

[24] Richard W. Velde, Administrator, "Compliance Standard for Deinstitutionalization of Status Offenders — Section 223(a)(12) of the Juvenile Justice and Delinquency Prevention Act 7 1974," (Washington, D.C.: Law Enforcement Assistance Administration, 16 June 1976 (Mimeograph).

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TABLE 1

LEAA Grant Authority Requested for 1977

Recipient	*Purpose*	*Amount (millions)*	*Percent*
States	Comprehensive planning	60	9.0
States	Population grants	346	52.1
States & Others	High Crime Areas and Discretionary grants	111	16.7
States & Others	Aid to Corrections, Research, Technical Assistance, misc.	137	20.6
States	Juvenile Justice and Delinquency Prevention	10	1.5
	Total	664	100.0

Source: Budget of the U.S. Government, Fiscal Year 1977 Appendix, pp. 508-510.

noncompliance stand to lose only the receipt of funds provided under the JJDPA, which makes up only about 1.5 percent of all other federal law enforcement assistance to the states.

As a result, a number of states, including several in which reforms are needed the most, initially decided not to apply for JJDPA money rather than comply with the Act's requirements. These same states, however, continued to receive the far larger grants from LEAA under other programs which do not contain the required protections for status offenders and children placed in jails. Until funding for JJDPA reaches significant levels, or until the receipt of all LEAA funds are tied to compliance with standards and supervision, the federal government will not fulfill its obligations to remove children from adult jails.

The Role of the Constitution and the Courts

In the face of weak state and federal laws banning the jailing of children, and in the face of even weaker enforcement of the laws which do exist, the federal courts have been resorted to for relief. Jailing of children violates the United States Constitution in two critical ways. First, placement of children in jails constitutes punishment, a direct contradiction of the rehabilitative purposes of the juvenile court system and the due process requirements of the Fourteenth Amendment. Second, conditions in jails are so abusive and harmful to children that they constitute cruel and unusual punishment which is prohibited by the Eighth and Fourteenth Amendments.

The *Quid Pro Quo* of Juvenile Justice

The juvenile court system in the United States was created to supplant the adult criminal justice system for children who engage in criminal behavior and for children who otherwise need the assistance of the state, i.e., status offenders and neglected children. In its treatment of adult offenders, the concern of the state is punishment, deterrence and retribution. Because of the serious consequences to the individual convicted of a crime, the due process clause of the Fourteenth Amendment to the United States Constitution guarantees a wide variety of procedural protections to guard against an erroneous determination of guilt.

The nature of the state's role in the juvenile court system is totally different. Here, intervention by the state is based on the assumption that either by reason of the child's behavior, or the parents' neglect, it must step in to replace or supplement the parents' role, acting as a "wise parent" to help a delinquent child. This doctrine is known as *parens patriae,* the state as parent. Because of the benevolent purpose of juvenile proceedings, the states have been permitted to relax some of the usual requirements of adult criminal procedure in order to function not in the role of the child's adversary, but in the role of parent.

The reasons we have such a different system of justice for adults and juveniles was summarized eloquently by Mr. Justice Fortas: "The early reformers," he said,

> were appalled by adult procedures and penalties, and by the fact that children could be

given long prison sentences and mixed in jails with hardened criminals. They were profoundly convinced that society's duty to the child could not be confined by the concept of justice alone. They believed that society's role was not to ascertain whether the child was "guilty" or "innocent," but "What is he, how has he become what he is, and what had best be done in his interest and in the interest of the state to save him from a downward career." The child — essentially good, as they saw it — was to be made "to feel that he is the object of [the state's] care and solicitude," not that he was under arrest or on trial. The rules of criminal procedure were therefore altogether inapplicable. The apparent rigidities, technicalities, and harshness which they observed in both substantive and procedural criminal law were therefore to be discarded. The idea of crime and punishment was to be abandoned. The child was to be "treated" and "rehabilitated" and the procedures, from apprehension through institutionalization, were to be "clinical" rather than punitive.

These results were to be achieved, without coming to conceptual and constitutional grief, by insisting that the proceedings were not adversary, but that the state was proceeding as *parens patriae*.[25]

This is the *quid pro quo* theory of the juvenile justice system: Certain basic due process protections such as trial by jury and public trial were dispensed with in exchange for the commitment of the state to help rather than to punish the child in trouble.[26] If a child is deprived of liberty by the juvenile courts without receiving the *quid pro quo* of treatment, or if a child is subjected to conditions which are punitive, the state has not kept its end of the bargain and the child's confinement is illegal.

The incarceration of juveniles in adult jails under the conditions which we have described in the previous chapters clearly does not satisfy the constitutional obligations which the states have assumed in creating the juvenile justice system.

"In upholding the constitutionality of juvenile court acts, the courts have emphasized not only that the proceedings are non-criminal, but also that the institution to which that delinquent is committed is not of a penal character."[27] Adult jails are by their very nature punitive and are part of the penal system. Thus, in one of the earliest cases challenging the placement of a juvenile in an adult prison, the court stated:

> Unless the institution is one whose primary concern is the individual's moral and physical well being, unless its facilities are intended for and adapted to guidance, care, education, and training rather than punishment, unless its supervision is that of a guardian, not of a prison guard or jailor, it seems clear a commitment [of a juvenile] to such institution is by reason of conviction of crime and cannot withstand an assault for violation of fundamental Constitutional safeguards.[28]

Similarly, in a more recent case the court held that incarceration of children in facilities which

[25] *In Application of Gault*, 387 U.S. 1 at 15 (1967). From the inception of the juvenile court system, wide differences have been tolerated — indeed insisted upon — between the procedural rights accorded to adults and those of juveniles. In practically all jurisdictions, there are rights granted to adults which are withheld from juveniles.

[26] Whenever the Supreme Court has ruled that a procedure required by due process of law in adult courts must be followed in juvenile courts, it has emphasized that the particular procedure would not interfere with the non-adversarial nature of juvenile court proceedings. The *Gault* decision, for example, which afforded juveniles the right to counsel, underscored that

> the features of the juvenile court system which its proponents have asserted are of unique benefit will not be impaired by constitutional domestication. For example, the commendable principles relating to the processing and treatment of juveniles separately from adults are in no way involved or affected by the procedural issues under discussion. 387 U.S. 1 at 22.

Similarly, in holding that proof beyond a reasonable doubt is required for a finding of delinquency, the Court in *In re Winship*, 397 U.S. 358 (1970) noted that its ruling:

> will not disturb New York's policies that a finding that a child has violated a criminal law does not constitute a criminal conviction, [and] that such a finding does not deprive the child of his civil rights... And the opportunity during the post-adjudicatory or dispositional hearing for a wide-ranging review of the child's social history and for his individualized treatment will remain unimpaired. 397 U.S. 358 at 366.

And in *McKeiver v. Pennsylvania*, 403 U.S. 528 (1971) in holding that juveniles do not have a right to a jury trial, the court emphasized the juvenile court's commitment to treatment and rehabilitation:

> The imposition of the jury trial... [would] provide an attrition of the juvenile court's assumed ability to function in a unique manner... We are reluctant to say that, despite disappointments of grave dimensions, it still does not hold promise, and we are particularly reluctant to say... that the system cannot accomplish its rehabilitative goals. 403 U.S. 528 at 547.

[27] *White v. Reid*, 125 F. Supp. 647 (D.D.C. 1954).

[28] *White v. Reid*, 125 F. Supp. 647, 650 (D.D.C. 1954).

are intended for punishment by definition violates the juvenile's constitutional rights:

> Placement of...juveniles in [a jail] in predispositional matters and...as a dispositional matter, even though these commitments be for limited periods of time, constitutes a violation of the Fourteenth Amendment in that it is treating for punitive purposes the juveniles as adults and not yet according them for due process purposes the right accorded to adults. No matter how well intentioned [these] acts are, ...they cannot be upheld where they constitute a violation of the Fourteenth Amendment.[9]

Second, jails do not provide treatment and rehabilitative services directed to the needs of the child, as the state is obligated to do under the *quid pro quo* theory of the juvenile justice system. Thus, in *Martarella v. Kelley,* [10] the court held that children placed in secure detention by order of

[9] *Baker v. Hamilton,* 345 F. Supp. 345, 352 (W.S. Ky. 1972). The analogy to the situation of an adult who is confined prior to trial is compelling. Such adults, like all children in the juvenile system, have been convicted of no crime. Absent judicial determination of guilt in a due process procedure, courts have uniformly held that there is no justification for the imposition of any punishment upon adult detainees. *See Brenneman v. Madigan,* 343 F. Supp. 128, 136 (N.D. Calif. 1972), "punishment before conviction is anathema to American law"; *Inmates of Suffolk County Jail v. Eisenstadt,* 360 F. Supp. 676, 686 (D. Mass. 1973), *aff'd* 494 F.2d 1196 (1st Cir. 1974), *cert. denied, Hall v. Inmates of Suffolk County Jail,* 419 U.S. 977 (1974), supplemental remedy *aff'd,* 518 F.2d 1241 (1st Cir. 1975), " 'Punishment' cannot be justified without a judically-determined finding of guilt"; *Jones v. Wittenberg,* 323 F. Supp. 93, 100 (N.D. Ohio 1971), *aff'd sub nom., Jones v. Metzger,* 456 F.2d 854 (6th Cir. 1972), "For centuries, under our law, punishment beore conviction has been forbidden"; *Collins v. Schoonfield,* 344 F. Supp. 257 (D. Md. 1972); *Hamilton v. Love,* 328 F. Supp. 1182, 1191, 1193 (E.D. Ark. 1971), "Having been convicted of no crime, the detainees should not have to suffer *any* 'punishment', as such, whether 'cruel and unusual' or not...If the conditions of detainment are such that they can *only* be considered punitive, or as punishment, then, of course, the subjecting of such detainees to such conditions would violate the due process requirements of the Fifth and Fourteenth Amendments..." (emphases in original); *Anderson v. Nosser,* 438 F.2d 183, 190 (5th Cir. 1971), "where incarceration is imposed prior to conviction, deterrence, punishment and retribution are not legitimate functions of the incarcerating officials."

the Family Court of New York, and confined for more than 30 days were entitled to bona fide treatment services which they were not receiving.

> Where the State, as *parens patriae*, imposes such detention, it can meet the Constitution's requirement of due process and prohibition of cruel and unusual punishment if, and only if, it furnished adequate treatment to the detainee. . . .[31]

In *Morales v. Turman*,[32] the court held that where children were placed in long-term facilities by order of the juvenile court, the state agency that received them had violated their right to treatment because the state agency had failed to provide them with adequate medical, educational, recreational, vocational and support services.

One could argue that children confined for short periods in local jails and lockups may require less comprehensive services than those who are confined to juvenile facilities for longer periods. However, children taken into custody are entitled to receive certain minimal services, such as a medical examination, counseling, psychological assessments and the supervision of a caring adult, which should not be delayed for even a day. Thus, in *Martarella*, while the court imposed higher standards of treatment for children detained for longer periods, it required that information concerning every child must be sent by the juvenile court on the day a child was committed, that a caseworker be promptly assigned and that individual treatment planning at least should begin soon after commitment. The court also established minimum qualifications for the staffing of the educational, recreational and counseling programs.

Not a single jail visited by CDF staff provides or could provide the immediate treatment services required by the courts for juveniles who are placed in them.

[30] 349 F. Supp. 575 (S.D.N.Y. 1972), 359 F. Supp. 478 (S.D.N.Y. 1973).

[31] *Martarella v. Kelley*, 349 F. Supp. at 585.

[32] 364 F. Supp. 166 (E.D. Tex. 1973), 383 F. Supp. 53 (E.D. Tex. 1974). 535 F. 2d 864 (5th Cir. 1976) Reversed. Held because suit sought to engage operation and effectuation of state legislation and administrative policies to trigger three-judge court requirement of 28 U.S.C. §2281. It was without jurisdiction to consider the significant issues raised by the appeal, and it remanded the case for the convening of a 3-yr-judge and pursuant to 28 U.S.C. §2284.

[33] The *parens patriae* doctrine is not applied to children tried in adult courts. The incarcerated child, however, should not be left unprotected in violation of the prohibitions of the due process clause of the Fourteenth Amendment and the "cruel and unusual punishment" clause of the Eighth Amendment.

[34] *See, e.g., Collins v. Schoonfield*, 344 F. Supp. 257 (D. Md. 1972); *Gates v. Collier*, 349 F. Supp. 881 (N.D. Miss. 1972), *aff'd.* 501 F.2d 1291 (5th Cir. 1974); *Hamilton v. Love*, 328 F. Supp. 1182 (E.D. Ark. 1971); *Jones v. Wittenberg*, 323 F. Supp. 93 (N.D. Ohio 1971); *Holt v. Sarver*, 309 F. Supp. 362 (E.D. Ark. 1970), *aff'd.* 442 F.2d 304 (8th Cir. 1971); *Battle v. Anderson*, 376 F. Supp. 402 (E.D. Okla. 1974).

The Eighth Amendment

Conditions in many of the jails which CDF staff inspected are so harmful to the health and welfare of the children incarcerated in them that the jails also violate the Eighth Amendment to the United States Constitution.[33]

The Eighth Amendment prohibits "cruel and unusual punishment," either because of general confinement conditions imposed upon an entire inmate population or because of punishment inflicted on individual prisoners. Essentially, the definition of cruel and unusual punishment is treatment which is "shocking to the conscience of reasonably civilized people" measured by the "broad and idealistic concepts of dignity, civilized standards, humanity and decency."

In cases involving adult prisoners, courts have found cruel and unusual such common jail conditions as excessive over-crowding, poor sanitation, the presence of insects and rodents, faulty or inadequate plumbing, filth, systematic deprivation of all contact with the outside world, failure to provide any opportunity or facilities for exercise, inadequate medical care, poor ventilation. These same conditions constitute cruel and unusual punishment for young inmates incarcerated in adult jails.[34]

But CDF believes that even the "normal" jail conditions that might not amount to cruel and unusual punishment for adult prisoners are "shocking to the conscience" when applied to children. Children are more vulnerable than adults. They have fewer resources to deal with strange or threatening situations. They need

the security of familiar surroundings and are more easily overwhelmed when removed from their usual environments. As we have seen from previous chapters in this report, a cold, forbidding, barren jail cell is a nightmare for a child. Under these circumstances, incarceration of children in jails where they are cut off from their normal surroundings and have no trusted adult to turn to, subjects many children to such emotional and psychological harm as to constitute cruel and unusual punishment. Even those children considered adults by waiver to adult courts are, by virtue of their youth, protected by a higher Eighth Amendment standard.

> Since the plaintiffs have been transferred to adult authority, they will receive the full panoply of criminal constitutional rights to which any adult would be entitled. Defendants thus argue that plaintiffs are entitled to no higher standard of care than any other detainee in the criminal justice system. The Court cannot agree with this proposition. Children between the ages of 13 and 16 are not merely smaller versions of the adults incarcerated in Cook County jail. As noted, the effect of incarceration in Cook County jail on juveniles can be devastating. At present these juveniles remain unconvicted of any crime and therefore must be presumed innocent...Under the Eighth Amendment children who remain unconvicted of any crime may not be subjected to devastating psychological and reprehensible physical conditions, and while other juvenile law cases are not strictly on point, they recognize that juveniles are different and should be treated differently. Thus, the evolving standards of decency that mark the progress of a maturing society require that a more adequate standard of care be provided for pre-trial juvenile detainees. Plaintiffs therefore have demonstrated that there is a likelihood of success on their Eighth Amendment claim.[35]

In addition to the trauma caused by the harsh conditions and absence of services in most jails, two other common practices make jail confinement of children cruel and unusual punishment.

First, there is a pervasive risk from the exposure of children to harm from adult inmates. In a lengthy and authoritative series of cases, the federal courts have held that it is the responsibility of the state to insure every prisoner's physical safety by providing adequate protection from assault by other prisoners:

> Both actual assaults by other inmates and the constant fear of such assaults add immeasurably to the burden that must be borne by inmates. If security in a prison reaches such a degree of laxness that such assaults become the rule rather than the exception, then conditions have developed that are intolerable to accepted notions of decency. In short, there exists a constitutional right of inmates to be afforded at least some degree of protection from attacks by fellow inmates.[36]

The Eighth Amendment mandates protection not only from actual harm, but from the threat of harm as well:

> A prisoner has a right, secured by the Eighth and Fourteenth Amendments to be reasonably protected from constant threat of violence and . . . assault by his fellow inmates. He need not wait until he is actually assaulted to obtain relief [against the jailer].[37]

It is undisputed that assaults by adults upon children often do occur in jail. Frightened children, physically and mentally incapable of standing up to stronger and more experienced fellow inmates, are obvious targets of abuse.

[35] *Swansey v. Elrod,* 386 F. Supp. 1138, 1143 (N.D. Ill. 1975).

[36] *Penn v. Oliver,* 351 F. Supp. 1292, 1294 (E.D. Va. 1972). For other decisions with similar holdings, *see Cox v. Turley,* 506 F.2d 1347 (6th Cir. 1974); *Holt v. Sarver,* 309 F. Supp. 362 (E.D. Ark. 1970), *aff'd.* 442 F.2d 304 (8th Cir. 1971), "An inmate who is physically attractive to other men may be, and frequently is, raped in the barracks by other inmates... Such confinement is inherently dangerous. A convict, however cooperative and inoffensive he may be, has no assurance that he will not be killed, seriously injured, or sexually abused. Under the present system the state cannot protect him," 309 F. Supp. at 377 and 381; *Gates v. Collier,* 349 F. Supp. 881, 894 (N.D. Miss. 1972), "The defendants have subjected the inmates at Parchman to cruel and unusual punishment by failing to provide adequate protection against physical assaults, abuses, indignities and cruelties of other inmates," *Brown v. United States,* 486 F.2d 284 (8th Cir. 1973); *Woodhous v. Virginia,* 487 F.2d 889 (4th Cir. 1973); *Bethea v. Crouse,* 417 F.2d 504 (10th Cir. 1969); *Roberts v. Williams,* 456 F.2d 819 (5th Cir. 1971), *cert. denied,* 404 U.S. 866 (1971); *Kish v. Milwaukee,* 48 F.R.P. 102 (E.D. Wis. 1969) *aff'd.*, 441 F.2d 901 (7th Cir. 1971).

[37] *Woodhous v. Virginia,* 487 F.2d 889, 890 (4th Cir. 1973).

Obviously, the risk of harm to children increases drastically when children are confined in the same cells with, or within proximity to, adult prisoners. If they are in the same facility, whether or not in the same cell, they face grave risks. There are countless occasions — meals, recreation, showers, chapel, sick call, visiting — in which prisoners from various parts of the jail co-mingle. Total separation can be seldom achieved when children are held in the same facilities as adults.

Second, as we have seen, children are frequently placed in small faraway rooms or basements to separate them from adults which amounts to "solitary confinement." Although this form of isolation may sometimes be intended to protect the child, its psychological effects may be as harmful as direct exposure to adult prisoners. For this reason, the courts have held that although solitary confinement *per se* does not violate the Eighth Amendment for adult prisoners, isolation of children is unconstitutional. In *Lollis v. New York State Department of Social Services*,[38] for example, the court found that the isolation of a 14-year-old girl in a bare room without reading materials or other recreation constituted cruel and unusual punishment and was illegal. The court relied on the affadavits of seven experts who unanimously agreed that extended isolation as imposed on children is "not only cruel and inhuman, but counterproductive to the development of the child."[39] Hearing the evidence, the court was convinced that

> ...it is not necessary to present evidence of beatings or starvation to state a §1983 [Civil Rights] claim. It is sufficient, for example, to show, as here, that plaintiff was held for two weeks in isolation which, according to a Family Court Judge of New York inspecting the institution, was "augmented by surroundings so oppressive as to destroy the integrity and the identity of the child...." Quite obviously, the conditions in which plaintiff was held shocked the conscience....[40]

[38] 322 F. Supp. 473 (S.D.N.Y. 1970).

[39] *Lollis v. New York State Dept. of Social Services*, 322 F. Supp. at 480.

[40] *Lollis v. New York State Dept. of Social Services*, 322 F. Supp. at 478.

Theoretically, it could be argued that a juvenile under adult court jurisdiction could be held in an adult jail facility that meets acceptable standards of cleanliness, space, food, access to family, friends and recreation, and in which there was no contact or threat of contact whatsoever with adult prisoners. However, the jails we visited have convinced us that such circumstances are, in fact, only theoretical. Under conditions which actually exist in adult jails in this country today, the incarceration of juveniles in them violates the Eighth Amendment.

How Lawyers Can Help

The gap between the significant rights and entitlements we have just outlined and the realities confronting children in jail is large. It is not enough to identify the legal claims these children have. Their rights must be translated into realistic, enforceable remedies. This will take more than legal theories. It will require pursuing solutions to the problems in legislatures, before regulatory bodies, within the executive branch and with the county and local officials responsible for the conditions. It will require concerted effort by groups and advocates concerned and committed to ending the jailing of children.

Nevertheless, court action and lawyers can help. Lawyers along with parents and other groups concerned with the problem can be part of a process which:

- exposes the extent and charact[illegible] of practices in particular communities;
- builds knowledge, experience and continuing relationships among individuals and groups seeking change;
- contributes to the pressure on existing institutions to bring jailing of children to an end.

In the next chapter we will present the specific content and character of our recommendations for change. What follows is only a brief overview of the ways lawyers and litigation may be enlisted in these efforts.[41]

[41] Although the discussion here focuses on court strategies, we do not mean lawyers cannot also play an important role in (i) helping groups in legislative or administrative reform (reviewing existing laws and regulations, drafting new provisions, negotiating changes in regulations); (ii) assisting in documenting the scope and nature of present abuses; and (iii) participating directly in other efforts to publicize the problem. The law suit is one of several advocacy tools.

Getting the Lawyers Involved

Although the availability of lawyers willing to do *pro bono* work varies greatly from community to community, the number nationally is increasing.[42] A parent or local advocacy group interested in possible legal challenges to the practice of jailing children might contact (a) the local bar association; (b) the community's lawyers reference service; (c) the legal services program; (d) the public defender office in their community, as well as lawyers who regularly are appointed to represent indigents in the juvenile and criminal courts.

In addition, lawyers interested in this problem can visit and interview children currently in the jails.[43] Despite general restrictions of soliciting and advertising by lawyers, the new Code of Professional Responsibility of the American Bar Association makes it clear that lawyers working for nonprofit organizations can contact prospective claimants to advise them of their rights, even if the advice results in the lawyer becoming counsel for the litigants.[44] In the District of Columbia,

[42] The private bar has not always been as responsive as it might be to requests for legal services by those who cannot afford usual fees. In 1975, the American Bar Association House of Delegates took a step towards resolving this problem by passing a resolution making it "the professional responsibility of each lawyer engaged in the practice of law to provide public interest legal services..." which include providing assistance to clients who cannot afford counsel, or whose civil rights are at stake. Substantially similar resolutions have been passed by the Chicago Council of Lawyers, Beverly Hills Bar Association, and the Arizona, Philadelphia, Boston and District of Columbia Bar Associations. Lawyers, parents and community groups should not hesitate to call upon members of the bar to meet their obligations under these resolutions by providing counsel (or funds to support counsel) to children facing court proceeding or already being held in adult jails.

[43] The interviews themselves and subsequent contact with parents, community groups or officials should, of course, be initiated only with the permission of the child (or the child's parent(s) or guardian depending on the child's age, maturity, etc.).

[44] The lawyers must be associated with a nonprofit organization or otherwise be engaged in non-commercial activity.

the Bar Association upheld leafleting and advertising designed to advise prospective claimants of their rights against the city's welfare department.[45] Such publicity might identify families of formerly jailed children who were unaware that they might have been treated differently. It would also begin a more general process of public education on the legal status of jailed children in a particular community.

Getting the Attention of a Court

Developing a cadre of attorneys interested in handling individual cases on behalf of jailed children is important, but it is not a prerequisite to legal action. There is authority in some states for members of a concerned group to seek review of questioned governmental practices as litigants themselves.[46] Parents in the group might similarly be able to bring suit on behalf of their children.[47] The court would have to be convinced, however, that a statutory or constitutional standard has been violated, and that it has authority to remedy it. The following are some of the sources of judicial power available to respond to the jailing of children.

The Supervisory Jurisdiction of the Juvenile Court. The juvenile court can exercise jurisdiction to[48] (a) systematically inquire into the detention and incarceration of children in jails; (b) prohibit such placements in all cases brought to the attention of the court and (c) transfer all children so placed to facilities which would provide suitable services and protection. The juvenile courts themselves have the responsibility for making a major contribution to solving the problem of children in jails.[49] Judges who are frustrated by the lack of juvenile facilities but who are passive in their absence become unwitting conduits to

See, Disciplinary Rules 2-103 (D), 2-104(a) (2) (3). Informal Opinion 1234 says that such lawyers may not go so far as deciding "... in the abstract what legal propositions should be placed before the courts, and then seek out litigants who are willing to have issues raised." However, so long as (a) the purpose of the contact with potential litigants is to advise them of their rights or (b) any litigation that results is responsive to the grievances the client presents, the ABA would find no ethical problem.

It is very important, however, to find out whether the ABA provisions permitting legal services and other "public interest" lawyers to actively seek out clients have been adopted by the state in which such activities are contemplated. In the absence of similar provisions in the code of conduct that governs law practice in a State, advocates must rely on a series of Supreme Court opinions that have carved an exception to the general ban on lawyer solicitation and advertising that is at least as broad as the one in the ABA Canons. See *NAACP v. Button,* 371 U.S. 415 (1963) (NAACP activities that involved advising black families of their civil rights, and referring those who wanted to pursue legal claims to NAACP funded or affiliated attorneys is protected by first amendment); *United Transportation Union v. State Bar of Michigan,* 401 U.S. 576 (1971) (Union's referral of members with claims under federal statutes to panel of attorneys who would handle cases at pre-arranged fees as a "collective activity undertaken to obtain meaningful access to the courts is a fundamental right within the protection of the First Amendment"). *See also Virginia Citizens Consumers Council v. Virginia State Board of Pharmacy,* ___ U.S. ___, 96 S.Ct. 1817 (1976).

[45] Report of the Committee on Legal Ethics, "Ethical Considerations in the Practice of Public Interest Law," 41 *J.B. Ass'n. D.C.* 91 (1974).

[46] For example, if it can be shown that tax revenues are involved in supporting children in adult jails, taxpayers in many states would have a basis for suing to challenge the legality of the expenditure. For a discussion of this possibility see Annot., 58 A.L.R. 588 (1929); Annot., 131 A.L.R. 1230 (1941). Also see *Blair v. Pitchess* 5 Cal. 3d 258, 96 Cal. Rptr. 42 (1971).

[47] The question for the court would be whether children who are not yet but might be held in adult jails have sufficient interest in this issue to bring a lawsuit. Some states have entertained suits in similar situations. *See,* e.g., *American Friends Service Committee v. Procunier,* 33 Cal. App. 3d 252, 109 Cal. Rptr. 22 (1973); *Diaz v. Quitoriano,* 268 Cal. App. 2d 807, 74 Cal. Rptr. 358 (1969). In most jurisdictions, a specific statute would be necessary. For a discussion of this issue under federal law, see Note, "Administrative Law — Standing to Sue," 53 *J. Urban L.* 355 (1975).

[48] Courts in several states have interpreted juvenile statutes to give judges the power to enforce their orders subsequent to commitment of the child. *See Gault v. Board of Directors of State Institutions for Juveniles,* 103 Ariz. 397, 442 P.2d 844 (1968); *In re M* 76 Misc. 2d 781, 351 N.Y.S.2d 601 (Fam. Ct. 1974); *City and County of Denver v. Juvenile Court,* 182 Colo. 157, 511 P.2d 898 (1973). For contrary authority, see, *In Interest of J.N.,* 279 So. 2d 50 (Fla. App. 1973); *Carter v. Montoya,* 75 N.M. 730, 410 P.2d 951 (1966).

The juvenile court similarly has authority, and, indeed responsibility, for children in detention status. *Fulwood v. Stone,* 394 F.2d 939 (D.C. Cir. 1967); *Baker v. Hamilton,* 345 F. Supp. 345 (W.D. Ky. 1972).

For the extension of this authority beyond the territorial limits of the court, see *Interstate Compact on Juveniles* (1957).

punitive facilities which violate the rights of the children they are charged with protecting.

In criticizing the juvenile courts, it must be recognized that they have been burdened and plagued in their day-to-day work, confronted by responsibility to make dispositions that might reasonably be expected to help children in the absence of facilities appropriate to meet this responsibility. In fairness to many juvenile court judges, the endless search for the best facilities available generally goes unrecorded and unreported. But there are exceptions. In *D.C. Family Welfare Rights Organization* v. *Thompson*,[50] for example, after extended hearings and a personal visit to an agency to which children were committed, Judge Green ordered their removal on a finding of a "neglectful environment." The court held that, "In the final analysis, the duty of determining the suitability of placement facilities for these children rests upon the court."[51] Children in jails deserve no less.

Actions in State Court for Damages and Other Relief. In addition to the juvenile courts' power to act on behalf of children under their jurisdiction, there is the general authority of state courts to provide a remedy for injury or violation of a child's rights. If specific violations of state, federal or constitutional law can be identified, children who have been or are threatened with placement in a jail can seek relief directly in state court for themselves and others in similar situations.[52] A state court clearly has the power to define and enforce remedies for actual and threatened violations of a child's civil rights. Similarly, state court judges have the power to award damages when a child is injured as a result of the negligent or intentional conduct of government officials.[53] Although the precise contours of state laws may vary, a child is entitled to damages resulting from the mistreatment and neglect of judges, jailers and other public officials who have failed to meet their responsibility under the law.[54]

Actions in Federal Court for Damages and Other Relief. There is also the possibility that the particular circumstances which result in jailing children in a community are reviewable by a federal court.[55] Although the power of the federal courts generally extend only to violations of constitutional rights or federal statutes, the conditions confronted by children in jails raise a number of constitutional claims.[56] There are already on the books federal decisions restricting or prohibiting placing children in jail.[57] Such decisions provide a basis for asking a federal court to grant remedies through injunctive relief and damages when a child is subjected to jailing.[58]

Habeas Corpus. Review of the intolerable conditions jails present to children can also be obtained by writs of habeas corpus.[59] Over a

[49] Where the Court itself is committing juveniles to jail, it is part of the problem rather than the solution. Commitments by Juvenile Courts are themselves appealable to a reviewing court, although the scope of review is still unclear. *See, generally,* National Conference of Commissioners on Uniform State Law, *Uniform Juvenile Court Act,* 359a; *Standard Juvenile Court Act* §28, National Probation and Parole Association.

[50] Docket No. 71-11503 Superior Ct., D.C., June 1971. Unpublished memorandum decision by Judge Joyce Green. No appeal taken.

[51] *Id.*

[52] These are often referred to as "class actions." The court has the power, when a class is certified as the petitioner, to grant relief to all persons who are or may be in circumstances similar to those who actually bring suit.

[53] *See generally Restatement (Second) of Torts* §320 (1965). Claims for damages might also be heard by a jury; in some states, actions of this nature are cognizable in a separate court of claims.

[54] *See, e.g., Bartlett v. Commonwealth,* 418 S.W.2d 225, 228 (Ky. 1967): . . . It is well-settled law in this and most other jurisdictions that the keeper of the prison must exercise ordinary care for the protection of his prisoner if there is reasonable ground to apprehend the danger to the prisoner . . . The liability of state employees and departments of state government is recognized and provided for by KRS 44.070. All the cases we have examined involve injury or death to adults. Instances in which infants are involved would certainly demand no less duty than the general rule requires as to adults. Indeed the duty may be greater in the case of an infant, for in the final analysis in the present case the keeper of the prison (Kentucky Village) stands *in loco parentis* of the infant prisoner. (Citations omitted).

[55] The most likely basis for a federal suit would be under the Civil Rights Acts, 42 U.S.C. §§1983, 1985, and the accompanying jurisdictional statute, 28 U.S.C. §1343, or the Fourteenth Amendment itself. *See, e.g.,* Note, "Federal Jurisdiction: Federal Constitutional Cause of Action Against a Municipality," 42 *Brooklyn L. Rev.* 1103 (1976). There are, however, a number of limiting doctrines complicating this general statement about the accessibility of the federal courts which would have to be discussed with counsel. A suit on behalf of children who are, were, or might be placed in jail, for example, might encounter problems relating to (a) whether the State courts should hear such a claim first; (b) whether the action might interfere with the state's judicial

hundred years ago, years before the enactment of the first juvenile court law, the court in *People ex rel O'Connell* v. *Turner*[40] granted a writ of habeas corpus brought by a father to secure release of his son from commitment to what was then described as the Chicago Reform School. The court, noting the absence of facts to sustain the claim of humanitarian purposes presented on behalf of the school, granted the writ.

Writs of habeas corpus have been used and have provoked a number of decisions which helped individual children escape being jailed but also developed law in this area. We believe such writs should be used more often. While individual writs alone will not solve the rampant jailing of children, they can begin to (a) identify the nature and extent of the problem; (b) clarify ambiguous or improperly interpreted statutes and regulations; (c) develop expertise and knowledge in lawyers and advocates concerned with the problem. Most important, they can immediately relieve the plight of children languishing in such facilities. Counsel for children in the juvenile courts have the duty to inform parents or anyone concerned with the welfare of a child of the right to institute a habeas corpus proceeding for the release of any child held or placed in jail by a juvenile court judge.[41]

Defining What Is Wanted

It is important to remember that, even when litigation is not successful, it can have a beneficial impact on efforts to solve problems. Officials are required to give justification for their actions. Long accepted patterns and practices come under scrutiny. If the lawyers are active and systematic in the ways they investigate the cases, a good deal of information, previously uncollected or unknown, can come to light. Very often, litigation, if it is linked to local advocacy efforts, adds leverage and legitimacy to the negotiations and debate which almost invariably accompany challenges to long established institutional practices.

A court order can have similar effects. It can also clarify and establish the standards that will govern resolution of the problem.

It is important, therefore, in considering the specific recommendations in the next chapter, to consider whether any of them might be appropriately sought from a court. In a number of cases courts have issued detailed orders concerning the rules, procedures, conditions and services which must be afforded to institutionalized children. Although total removal from jails should not be compromised as an objective, such interim relief would at least minimize the worst deprivations and dangers facing jailed children.

process; (c) the immunity of the governmental entity being challenged to certain kinds of relief; and (d) the effect of the "good faith" of the challenged officials. *See generally* Nahmod, "Section 1983 and the 'Background' or Tort Liability," 50 *Ind. L. J.* 5 (1974); McCormack, "Federalism and Section 1983; Limitations on Judicial Enforcement of Constitutional Protections, Part I," 60 *Va. L. Rev.* 1 (1974).

[39] It would be far more difficult to develop a private right to sue under the federal statutes and regulations we've identified. Such a basis for federal judicial action has been found under other federal statutory schemes. *See* Note, "Implying Civil Remedies from Federal Regulatory Statutes," 77 *Harv. L. Rev.* 285 (1963). However, none of these have related to the kind of federal regulations involved here.

[40] *See, e.g., Baker v. Hamilton,* 345 F. Supp. 345 (W.D. Ky. 1972) (action brought by mother and father on behalf of their son and all others similarly situated); *Inmates of Boys Training School v. Affleck,* 346 F. Supp. 1354 (D.R.I. 1972) (class action brought by confined juveniles).

[41] For an example of the sort of equitable relief a federal court can offer in this area, *see Morales v. Turman,* 364 F. Supp. 166 (E.D. Tex. 1973), 383 F. Supp. 53 (E.D. Tex. 1974). Damages have been less frequently ordered but are clearly authorized under the Civil Rights Acts. *See Generally* Note, "Damage Remedies Against Municipalities for Constitutional Violations," 89 *Harv. L. Rev.* 922 (1976).

[42] Such suits may be brought either in state or federal court, although particular procedures and requirements differ. *See generally* "Developments in the Law — Federal Habeas Corpus, 83 *Harv. L. Rev.* 1038 (1970); Note, "State Habeas Corpus for Juvenile Delinquincy in Texas," 12 *Houston L. Rev.* 1126 (1974). There is now authority for federal habeas corpus petitions to be brought on behalf of a group of prisoners as well as by particular individuals. *See United States ex rel. Sero v. Preiser,* 506 F.2d 1115 (2d Cir. 1974), *cert. denied,* ___ U.S. ___, 95 S.Ct. 1587 (1975).

[43] 55 Ill. 280, 8 A. 645 (1870).

[44] Other extraordinary writs are also often available, particularly when appeal of the juvenile court's actions might be ineffective. For example, the writ of prohibition has been used in a number of states to present transfer of juveniles to adult courts pending appeal. *See, e.g., Leach v. Superior Court For County of Los Angeles,* 21 Cal. App. 3d 596, 98 Cal. Rptr. 687 (1971).

Chapter 5

How Can We Stop the Jailing of Children?

> [T]rue justice can only be obtained through the actions of committed individuals, individuals acting both independently and through organized groups.[1]

No one who has studied the jails of this country believes they can be readily reformed.

> The jails...are giant crucibles of crime. Into them are thrown helter-skelter the old, the young, the guilty, the innocent, the diseased, the healthy, the hardened, and the susceptible, there to be mixed with the further ingrediants of filth, vermin, cold, darkness, stagnant air, overcrowding, and bad plumbing, and all brought to a boil by the fires of complete idleness.[2]

This description of jails, written in 1923, describes with utter accuracy what we found — over 50 years later — during our site visits to jails. Yet, children, most of whom are under the jurisdiction of the juvenile court, continue to be thrust into such jails in increasing numbers, and continue to be held under conditions far worse than those provided in prisons for adults convicted of crimes.

The absence of information concerning the number of children in adult jails and what happens to them must be remedied.[3] In community after community, CDF staff found that professionals and citizens concerned with child welfare problems had never visited local jails where children were held. They did not even know where the jails in their county were located. Although we asked at a meeting of over 60 directors of child care agencies from all over the country how many of them had visited jails where children were held, not a single hand was raised. And yet, who, if not these people, will challenge this harmful practice? Who can reason with the jailers who excuse placing children in adult jails with ready — if not accurate — answers, like:

[1] Justice Thurgood Marshall, "Group Action in Pursuit of Justice," *New York University Law Review*, 44 (October, 1969), pp. 661-672.

[2] Joseph Fishman and Lee Pearlman, *Crucibles of Crime* (New York: Cosmopolis Press, 1923), pp. 251-252. For summary of facts about jails, see Lynn Dixon and Stephen Davis, *City Jails: A Call to Action* (Washington, D.C.: National League of Cities, 1972), p. 3.

[3] A survey conducted by Louis Harris and Associates pointed up the absence of factual information about corrections: "The findings of this survey point unmistakably to the failure of corrections as a public service field to acquaint the public with its goals, its problems, its successes, about its very existence." Joint Commission on Correctional Manpower and Training, *The Public Looks at Crime and Corrections* (Washington, D.C.: U.S. Government Printing Office, 1968), p. 34.

"The law allows it."
"We have no other place."
"The juvenile detention center is overcrowded."

And those who make excuses for the awful conditions of jails:

"We have no money for medical services."
"Our staff is so small, we have to use trusties."
"We can't provide education or recreation for everyone."
"There is no way we can separate children and adults."

The Need for Child Advocacy

Community advocates are essential to shed light on a subject too long kept in the shadows. They must compel the courts, Congress, state legislatures and the appropriate administrative agencies responsible for children and jails to take swift and sufficient action to end the practice. Professional child caretakers can not do the task alone. As one professional consultant told us bluntly:

> When they get into prisons, something happens to psychiatrists; they all become guards out of uniform... What is needed is a sterner watchdog: more public access, newspaper people, lawyers and others able to get in.[4]

Advocates who seek the removal of children from adult jails will have to face the growing public hostility and anger toward juvenile delinquents. The current sentiment is often to "lock them up and throw the key away." But precisely because of these responses, which are made without knowledge and understanding of what happens to children in crime-breeding jails, advocacy based on fact-finding is imperative.

The issues raised by the jailing of children go far beyond debates about how best to handle juvenile delinquents. They reach two of the core problems of the juvenile justice system.

First, the use of jails for children cannot be reconciled with the basic purposes of juvenile court legislation: to remove children from penal institutions and all contact with or contamination by adult offenders, and to provide the benefits of rehabilitative services in place of punishment. As we have shown in Chapter 4, the constitutional basis for upholding the legitimacy of the juvenile court rests on compliance with these purposes.

Second, the warehousing of children in jails reflects the tragic failure of government to provide adequate services needed to protect and rehabilitate children within the jurisdiction of the juvenile courts. A range of services to meet the individual needs of children removed from their homes by the juvenile justice system — from the most dangerous juveniles to the most helpless — are possible and should be developed and funded.

It will take hard work by all of us if these entitlements are to be honored. Statistics or reports submitted by one government agency to another thus far have proved ineffective to end the jailing of children or to improve the conditions of jails. Traditional ways of challenging violations of law and reliance on governmental agencies to fulfill their responsibilities are not enough. Legislative prohibitions against the confinement of children in adult jails have been circumvented by language loopholes and will require amendments, regulations and careful monitoring by citizens if they are to become effective. The few federal court decisions which have held that jailing children violates their constitutional rights have failed to have a significant impact on ending the use of jails, except in limited geographical areas. Special advocacy groups for mentally retarded children and other handicapped children have not challenged the broader abuse against all children subjected to adult jails, and such fragmented advocacy cannot muster sufficient support to stop this practice.

Advocacy does not lessen the need for ongoing efforts to secure legislation and judicial decisions to prohibit jailing. Rather, it can provide necessary support for such efforts and can help monitor compliance with state and federal laws. Advocates and the enormous volunteer man and woman power available can and should work to secure alternative, separate facilities and services for children in trouble. Without these, both good laws and court decisions will fail for lack of implementation.

[4] Interview with Dr. Willard Gaylin, 18 June 1975.

What Needs to Be Done?

Child advocates at the local level, committed to the goal of complete removal of children from jails, face the necessity of undertaking three major tasks.

Fact-finding by Child Advocates

The first task requires advocates to investigate the facts concerning the use of jails within their state and county. They will have to find out where the jails are, visit them and learn firsthand to what extent they are being used to contain children. They will have to find out to what extent children are in fact separated from adult offenders, how long children are held in jail, and by whose authority they are contained.

Practices of the police will have to be questioned:

- How often are children jailed by the police "to teach them a lesson" and subsequently released without lodging any charge?
- Do the police notify parents promptly when they arrest children and advise children and parents of the right to counsel?
- Do the police notify probation or the juvenile judge before locking up a child overnight?
- Do the police discriminate in deciding which children to hold or release to parents?

Practices of the juvenile court will have to be questioned:

- Do the judges by telephone authorize the police to hold a child in jail?
- Do they require that a probation officer interview the child at the police station before a decision is reached to hold him?
- Do judges arrange for prompt hearings on notice that a child is held in jail?
- Do judges advise the child and parents of the right to counsel when they are unable to engage private counsel?
- Do the judges observe laws that permit detention only if the child is unlikely to appear at the date set for trial or there is a substantial danger he will commit another offense if released pending trial?
- Are judges showing evidence of discrimination in holding or releasing children on the basis of economic, social or ethnic factors?
- Do judges follow legislative mandates requiring prompt trials when children are held pending trials?
- Do different judges in a state show wide variations in use of jails to hold children?
- Are such variations rational or justifiable?
- Do the judges visit and report on jail conditions?
- Have the judges taken any action to end the jailing of children by police in violation of law?
- Have judges shown any leadership in seeking appropriate alternative services or facilities to end the jailing of children?

Child advocates will need to familiarize themselves with state laws to determine whether children are jailed in violation of existing laws, or whether such jailing is in fact permissible because of loopholes in the legislation.

State legislation and rules of the court will have to be questioned:

- Does the statute purport to absolutely prohibit the use of jails for children of juvenile court age?
- Are "weasel words" included in prohibitions such as "except where necessary" or "except on order of the juvenile court judge"?
- Does the statute require absolute separation or partial separation of juveniles from all adult offenders? Does it permit the loophole of allowing juveniles to be placed with adult inmates "with no regular contact"? Is it silent on this subject altogether?
- Does the statute impose responsibility for monitoring jail conditions on any state or other public agency?
- Is there a specific prohibition against holding a child in jail who is charged with an offense that would not be a crime if committed by an adult?
- Does the law require that a child held by the police is entitled to a court hearing in 24 hours, in 48 hours, in 72 hours or is no maximum time fixed? Is the law obeyed?

Finally, child advocates have to find out about

the actual conditions of the jails in their areas and what alternative services exist or need to be created in order to eliminate both the necessity and the excuses for jailing children.

The specific facilities and circumstances in jails will have to be questioned:

— What is their physical layout: the cleanliness, the plumbing, the heating, the ventilation, and the lighting?

— What provisions are made for emergency admissions, regular medical services, and mental health services?

— What, if any, arrangements are made for keeping inmates occupied?

— Is there provision for regular out-of-door exercise, education or other recreation?[1]

— How long are children held in the local jails?

— Are the jails used to hold mentally ill, mentally retarded or emotionally disturbed children?

— Are the jails used to "shelter" neglected or abused children in the absence of appropriate foster care facilities?

— Are the jails used to hold children charged with status offenses, including truancy, disobedience to parents, violations of curfew?

— Does the state plan required by the 1974 Juvenile Justice Act as a condition to receiving federal grants provide for the establishment of alternative facilities, and how have they been implemented?

[1] Courts have held that juveniles placed in detention facilities are entitled to educational instruction comparable to that provided for children in the community, to indoor recreational facilities, to counseling and to daily review of all youth placed in isolation. *In re Savoy*, No. 70-4808, (D.D.C. Nov. 6, 1970). See also, *Lollis v. New York Department of Social Services, supra*, fn. 5, where the court held that conditions in detention must not constitute cruel and unusual punishment, and that detention facilities must provide appropriate care, including mental health services, for any child detained over 30 days.

There is surely no basis in law for having lower requirements in a jail because the community has failed to provide a separate detention facility for children within the jurisdiction of the juvenile court.

Child advocates will have to discover which of the absent services for children should be delivered by other agencies of government such as Welfare and Mental Hygiene, and why the children entitled to these services have been placed in jails.

Presentation of Findings

The second major task for child advocates committed to ending jail abuses of children is to present the facts as they find them. Strategies or tactics for doing so will vary from place to place. Advocates will have to learn how to cut through the apathy concerning the rights of children who are generally poor, disproportionately members of minority groups and targets for anger because they are charged with breaking the law. Advocates will have to learn how best to pierce the barriers which have protected citizens and public officials from knowing about the jails in their communities. What actually happens to children in jails will have to be conveyed to citizen groups and the public, generally through the media, to professional groups, legislators, Governors and judges. These findings will also have to be presented to whoever is directly responsible for jailing children and to the legislative and executive bodies whose failure to provide or fund alternative facilities or services makes them ultimately responsible for jailing children.

A Program for Action

The third task facing child advocates is to set forth clearly the specific goal of ending the use of jails for children, and not allowing for compromise. In presenting the goal, both the harms done to children in adult jails and the right of children not to be jailed must be set forth. The target for efforts must therefore include not only jails and jailers, but the system which involves all who use jails or who, by inaction, allow their continuance. For the limited number of children whose offenses require secure detention, the response of advocates should be to press for small, secure detention centers with decent services, and not accede to demands that such children be placed in adult jails.

In order to become an effective force, child advocates will need to reach out to many inter-

ested groups of people, including parents of children who have been held in jails. These parents may be poor and fearful of the police and the courts. Without assistance, they may not know or be able to assert the rights of their children. They will need support from child advocates, including lawyers willing to challenge the violation of children's rights, whenever they are subjected to jails. Public officers must be forced to recognize that they will be held responsible for harms done to children in jail and that there are legal remedies for such harms.

Child advocates should seek to involve professionals from many fields in this effort. There are certainly professionals — in child welfare, medicine, mental health, and other allied fields — who have knowledge about the children who have been jailed, why they were not placed in less restrictive facilities, and of the resulting harm that is done to children in jails or in other custodial institutions. They also have knowledge and therefore special responsibility for correcting classification systems which are all too often based on paper referrals that exclude children from potentially helpful services. These people have a moral responsibility to make sure that agencies with which they are affiliated do not cloak discriminatory practices that exclude children from appropriate services. Findings by federal courts of practices in institutions that impose cruel and unusual punishment on children should cause the teachers, social workers and physicians in these institutions to ask why they were silent in the face of such conditions. And further, they should resist being coopted by any institution or agency that harms children.[4]

Professionals must cease resorting to excuses for nonintervention on behalf of children, such as: We have tried, you must be patient; jailing happens everywhere; we are studying the problem; the problem is too big for us; or, this is a political issue and we are professionals, not politicians. If enlisted as child advocates, professionals can provide important facts and present the facts to citizen, professional, and public bodies. They can give expert testimony when needed in court cases and before legislative bodies. Their expertise can also be invaluable in the planning of alternative facilities to jails and in projecting what will be needed for staffing and services.

In addition to reaching out to parents and to professionals, child advocates should seek to involve a cross section of the community in opposing the jailing of children. Physicians concerned with health problems of children or adolescents, professional and citizen groups concerned with preventive and child care services, members of the bar and members of public law groups concerned with the rights of children should be brought together in a common effort. Public officers, including legislators and judges concerned with the welfare of children, should also be urged to participate. In the long run, it is citizens, as represented by their legislatures, who determine what price to put on the health and welfare of children and how much the state is ready to do for the rehabilitation of children deprived of their liberty.

In summary, child advocates — as an instrumentality to end the jailing of children, unlike cyclical or occasional interest in response to the suicide of a child held in jail — will have to engage in hard and persistent efforts in order to be effective. Unlike many broad social problems that affect vast numbrs of children, the jailing of children is one that can be targeted, tackled and remedied. It is a cruel and mindless way of dealing with children, in violation of constitutional rights. If the harm it does to large numbers of children is challenged at the community level, it can be ended.

Recommendations for Action

Federal Action

The federal government can and must play a key leadership role in the elimination of jail incarceration of children. The federal government should prohibit the use of jails for juveniles charged or convicted of federal offenses.

The federal government should vigorously enforce the legislation it has enacted which substantially curbs the use of jails for juveniles under 18 years of age charged with violations of

[4] See Justine Wise Polier, "Professional Abuse of Children: Responsibility for the Delivery of Services," *American Journal of Orthopsychiatry*, 45 (April 1975).

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federal law and subject to federal jurisdiction. All federal departments and agencies should be prohibited from entering into or continuing agreements or contracts with local jails to hold juveniles subject to federal jurisdiction, either for detention awaiting trial, in jail after adjudication pending disposition, or to serve time in jail.

The Department of Justice should issue strong regulations prohibiting the Bureau of Prisons from negotiating or extending contracts with local, state, county or city jails to hold juveniles under 18 years of age charged with or convicted of federal offenses. The Congress should prohibit completely the incarceration of children in jails by eliminating the language of "regular contacts."

The federal government should be required by law to secure accurate and current information on the location of all jails and lockups where persons are incarcerated.

1. The federal government should develop, or cause every state to develop and submit, a central registry of all jails and lockups.

2. The federal government should require the collection of the following information from all jails and lockups:

- About juveniles in custody: their age, sex, race, date of admission, date of discharge, agency or authority by which they were taken into custody; agency or authority by which they were released; official reason given for custody; court(s) exercising custody and what actions were taken; legal status of custody and a record of all changes of that status; what medical and other services were provided.
- About jails holding juveniles: their age, size and/or capacity; physical condition; services provided on intake; services generally provided; staffing patterns; the degree to which juveniles are separated from adult offenders.

3. The federal government should use the information it collects to trigger site visits to jails and monitor the use of all jails holding juveniles.

4. Federal requirements for information should apply to local authorities, and require the submission of data to each state for compilation. In turn, such data should be made available at the federal level.

The federal government should set a date after which no federal law enforcement aid will be granted to any state that continues to hold children of juvenile court age in any adult correctional facility, including jails or lockups.

As a condition to approving the state plans which are submitted to LEAA for funding each year, the federal government should:

1. Strengthen Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 by adding an amendment to require that state plans shall include provisions for ending the incarceration of children in jails within 12 months. We have seen how the present requirement (subdivision 14), which only restricts the use of jails for juvenile delinquents to where they have "no regular contacts" with adult offenders, cannot protect children from physical or sexual abuse any more than state laws with similar provisions have protected children in the past. Children who have not been charged with any offense or who are mentally disabled, mentally ill or retarded, should be removed from jails and lockups immediately.

2. Require that all state and local governments, as part of state plans for juvenile justice, submit monthly reports on all juveniles held in their jails or lockups for any time whatsoever.

3. Require LEAA to maintain current information on the progress made by each state to end jail incarceration of children and on the progress made to provide adequate and appropriate alternatives. On the basis of such information, LEAA should give priority to the support of state and local efforts to remove children from adult jails and to the development of alternative appropriate programs for children who require detention.

As an interim step, until all jailing of all children is ended, the federal government should adopt minimum standards for all jails that hold juveniles as a condition to federal grants or assistance.

Standards should include requirements for decent physical conditions, for complete separation of juveniles from adult offenders, and for provision of educational, recreational and medical services.[7]

Having adopted minimum standards, LEAA should be given the authority and responsibility

to monitor the enforcement of such standards in any state where juveniles continue to be held in jails or lockups. Sanctions should be established under which federal law enforcement funds will be withheld after notice and hearing when the state or local correctional systems are found not to be in compliance with either federal standards or the state plan.

The federal government has responsibility to investigate and take action against the disproportionate use of jails for minority children.

The Department of Justice should investigate whether the disproportionate jailing of minority group children results from discriminatory admission policies by alternative facilities (public or private) which receive LEAA funds or are licensed by the states. Appropriate actions to correct discriminatory practices should be taken immediately.

State Action

The states have the primary responsibility for ending jail incarceration of children, regardless of whether jails are operated under the immediate sponsorship of counties, townships or independent cities within their borders.

To achieve the goal of ending jail incarceration of children, states should review their laws to prohibit absolutely the holding of children of juvenile court age in jails or lockups used for adult offenders. Such legislation should impose a cut-off date within 12 months and eliminate all loopholes that permit the admission of any juvenile.[8]

[7] Standards for children in jails should meet the same standards set for children in juvenile detention centers listed in *Standards and Guides for the Detention of Children and Youth* (New York: National Center on Crime and Delinquency, 1961).

[8] Such legislation should prohibit the jailing of children prior to trial, following adjudication, and to serve sentences.

As an interim step, states should enact emergency measures to provide maximum protection for children held in adult jails pending the effective and absolute ending of the use of jails or lockups for children.

States should enact legislation to close the loopholes that permit mingling of children with adult offenders in jails or lockups. All visual or aural contact between children and adult offenders, including trusties, should be prohibited. States should create a special division (within the appropriate state-wide agency) to adopt and enforce written minimum standards for the care and custody of children held in jails or lockups.

1. The state agency authorized to supervise and protect children in jail should be given authority and staffing to locate and inspect all jails and lockups within the state, and report regularly on those that continue to hold children.
2. States should require that any jail or lockup which admits children have adequate staffing, twenty-four hours a day, seven days a week.
3. States should require that any jail or lockup which admits children shall provide for medical examination on admission and for medical services for the care of children while held in detention.
4. States should require that mental health facilities be available for children in detention and that provision be made with proper safeguards for due process for children found to have mental disabilities to be transferred to appropriate facilities.
5. States should provide authority to juvenile courts to secure prompt diagnostic studies by a hospital or out-patient facility in any case where the child is alleged to be dangerous to self or others or where there is evidence of any mental disability.
6. States should require that educational and recreational services, including out-of-doors recreation, be made available for any child held in jail for more than 48 hours.
7. States should prohibit the isolation of children in locked cells or in any other part of a jail.

The effectiveness of a state-wide agency charged with the responsibility to diminish abuses of children still held in jails, will depend on the extent to which it is given the power and resources needed to meet such responsibility. For this purpose, the following recommendations are proposed:

1. The agency must be given authority to set standards and staffing competent to inspect all jails that hold children.
2. The agency should be authorized to bar the use of any jail which fails to provide: the minimum services required by the division, the separation of children from adults, and protection of children from cruel and unusual punishment.[9]
3. The agency should be authorized to review and investigate all grievances and take action to correct violations of standards established by it. The agency should concern itself with any factual information or grievances which allege disproportionate use of jails for minority group children.
4. The state agency should be required to submit written reports on its findings and actions to the governor and state legislature at least quarterly.

A state-wide agency charged with responsibility for ending the abuses of children in jail and for adopting minimum standards of care will be confronted by general ignorance and apathy concerning jails and a lack of child advocacy for delinquent children who are incarcerated in jails. To help overcome these difficulties, it is recommended that:

A Board of Visitors should be appointed by the Governor composed of citizens, including youth, professionals knowledgeable in the fields of juvenile justice, child care, and mental health. This Board should be given authority to visit all jails and lockups where children are held. It should be given responsibility to report its findings and recommendations to the state agency, the Governor, and the legislature, with authority to make public its findings and recommendations.

[9] Such authority must include the power to close jails where they are so physically deteriorated as to have no capacity to meet minimum standards. To be effective, authority will be needed to transfer children found in such jails to the most appropriate facilities available.

State legislation should mandate the improvement of its detention programs. Legislation authorizing but failing to mandate such action has proven inadequate to effect the needed improvements, including the ending of jail abuses against children.

States should join the goal of ending the jailing of children with the development of appropriate alternative services and facilities.

The widespread use of jails for children and the over-use of secure detention[10] result from: (1) the absence of sound detention criteria, (2) the absence of adequate screening, (3) the reluctance of persons in authority, including law enforcement officers, probation and judges, to establish sound criteria as to who should be detained; and (4) periodic public demands for the use of incarceration. It also results in large part from the lack of alternative services and facilities for children removed from their own homes. Temporary detention pending court action is needed for only a comparatively small number of juvenile delinquents. The vast majority of those who cannot be released to their families require care and supervision in foster homes, group homes, and other open community facilities. States have responsibility to provide such alternatives so that the least restrictive placements needed to benefit a child and protect the community are made available. To meet this responsibility, states must establish state-wide agencies capable of transforming such goals into reality.

1. States should develop a state-wide agency with responsibility and authority to provide a variety of facilities through programs under its own auspices, under the auspices of local governmental agencies or by purchase of services.
2. Such a state agency should have authority to set standards for all detention facilities, to monitor and enforce compliance with its standards.
3. Such a state agency should develop plans for facilities that will meet the needs of children in sparsely populated as well as metropolitan areas, through the development of regional facilities.[11]
4. Metropolitan areas should provide small secure detention centers for not more than 20 to 25 juveniles charged with serious offenses supplemented by foster and group homes.
5. In less populous areas, regional programs may be needed for small detention units that can serve a large number of communities. The need for such units will be minimized where provision is made for non-secure facilities.

Juvenile Court Action

Juvenile courts carry heavy responsibility and unique opportunities for ending the jailing of children. They have responsibility for developing rules and procedures consistent with their obligation under the constitution and state laws to secure appropriate care of juveniles separate and apart from the adult correctional system. They can play a significant role by refusing to order jail detention in violation of state laws and the constitutional rights of children. Their insistence on protecting such rights would do much to force the legislative and executive branches of state governments to provide alternatives to jail incarceration of children.

Until states have outlawed the jailing of children effectively, the juvenile courts must provide leadership to restrict the use of jails to the maximum extent possible.[12]

Juvenile courts should lay down clear procedures for law enforcement officers. These should require advising children of their constitutional rights in understandable language, notifying parents promptly of arrests and releasing children wherever possible to parents or other re-

[10] Even among juveniles in detention centers, Professor Sarri found that "most who receive secure confinement do not need it." See, *Under Lock and Key: Juveniles in Jails and Detention*, p. 63.

[11] Ten states had no facilities primarily designated for juveniles and four out of five such juvenile facilities were located in metropolitan areas. A majority of states had four or less detention facilities designated primarily for juveniles. See, *Under Lock and Key: Juveniles in Jails and Detention*, pp. 38-40.

[12] "Abdication of the [Juvenile Court] authority to police officers, parents, educators, and even detention personnel is inexcusable." See, Regnal W. Garff, *Handbook for New Juvenile Court Judges* (Reno, Nevada: National Council of Juvenile Court Judges, 1972), p. 21.

sponsible adults. When this is not possible, children should be released to the least restrictive kind of facility.[13]

Juvenile courts should require screening by a probation officer of every child arrested, who is not released pending court hearing.[14]

Juvenile courts should require by court rules, if not by legislation, that detention hearings be held within 24 hours, regardless of the day of the week, after a child is arrested if the child is not released by the police pending a court hearing.

The juvenile court or the highest judicial officer of the state in consultation with the state's department of youth services, should determine the facilities to be used for detention; law enforcement officers should be restricted to using such facilities. Juvenile court judges should be responsible for visiting and inspecting all detention facilities used for children and prepare written reports on their findings and recommendations for the highest judicial officer of the state.

The juvenile courts should review any complaints that juveniles are mingled with or have contact with adult offenders in jail. On a finding of the lack of separation, the court should order the removal of the child and direct full compliance with statutory requirements by those responsible for the operation of the jail. Any public official responsible for violations of such orders should be held subject to contempt proceedings.

In the absence of legislation, rules of court should prohibit the commitment of juveniles to serve time in an adult jail or any facility which holds adult offenders.

Juvenile courts should collect information on the unmet need for services for children coming before the court, including the need for both non-secure and secure detention facilities. They should present their findings promptly to the legislative, executive and judicial branches of government together with recommendations for filling these needs. These findings should be treated as public record so that advocacy groups will have the opportunity to examine them and seek the corrective actions needed so the reports do not simply gather dust.

[13] The exception to release should be limited to when the alleged offense or the child's behavior is such that release might reasonably be expected to constitute a danger to the juvenile or the community, or where there is reason to believe the child would not appear for the court hearing. The reasons for holding a child should be submitted in writing to the court within 24 hours of arrest. It should state the charged offense, the general physical condition of the child, and the reasons for not releasing the child to parents or other responsible adults. In New Jersey, the requirement of such written explanations was reported to lead to a substantial decrease in the number of children held in jails.

[14] To make such screening effective would require availability of probation staff on a 24-hour basis. In Florida, when a 24-hour screening service was provided by law in each of the 67 counties, the use of jails for children was practically ended. This result was especially noteworthy in view of previous practices of holding juveniles in jails in some Florida counties for an average period of two and a half months.

Appendix A

171 Jails Receiving Juveniles Visited by CDF in Nine Survey States

FLORIDA

Gulfport Police Department
53rd Street
Gulfport, Florida

Manatee County Jail
W. Manatee Avenue
Bradenton, Florida

Pascho County Detention Center
Dade City, Florida

Sarasota County Jail
Courthouse
Sarasota, Florida

Volusia County Jail
130 W. New York
Volusia, Florida

GEORGIA

Brunswick Police Department
206 Mansfield
Brunswick, Georgia

Buford Police Department
Garnett
Buford, Georgia

Chatham County Jail
237 Habersham
Savannah, Georgia

Cheokee County Jail
Georgia

Clayton County Jail
McDonough Street
Jonesboro, Georgia

Floyd County Jail
511 W. 2nd Street
Rome, Georgia

Fulton County Jail
1135 Jefferson, NW
Georgia

Gwinnett County Jail
High Hope Road
Lawrenceville, Georgia

Hall County Jail
302 Monroe Street
Gainsville, Georgia

Kennesaw Police Department
Kennesaw, Georgia

Marietta Police Department
Marietta, Georgia

Rockdale County Jail
Conyers, Georgia

Rome Police Department
326 W. Third Street
Rome, Georgia

Savannah Police Department
325 Oglethorpe
Savannah, Georgia

Smyrna Police Department
1286 Banks Street, SE
Smyrna, Georgia

Suwanee Police Department
Hwy. 23
Suwanee, Georgia

Warner Robin Police Department
800 Young Street
Warner Robin, Georgia

INDIANA

Allen County Jail
Ft. Wayne, Indiana

Clark County Jail
City & County Building
Jeffersonville, Indiana

Elkhart County Jail
Elkhart County Security Center
111 3rd Street
Goshen, Indiana

Elkhart Police Department
Franklin Street
Elkhart, Indiana

Elwood Police Department
City Hall
Elwood, Indiana

Floyd County Jail
City & County Building
New Albany, Indiana

Grant County Jail
Marion, Indiana

Hamilton County Jail
Indiana

Hammond Police Department
5945 Calumet
Hammond, Indiana

Hendricks County Jail
40 S. Washington Street
Danville, Indiana

Henry County Jail
127 N. 12th Street
New Castle, Indiana

Hobart Police Department
(Hobart City Jail)
Hobart, Indiana

Howard County Jail
Berkley Road
Kokomo, Indiana

Johnson County Jail
Indiana

Madison County Jail
Indiana

Marion County Jail
330 E. Maryland
Indianapolis, Indiana

Monroe County Jail
116 Walnut
Bloomington, Indiana

Porter County Jail
157 Franklin Street
Valparaiso, Indiana

Tippecanoe County Jail
629 N. 6th Street
Lafayette, Indiana

Tipton County Jail
Indiana

Wayne County Jail
Wayne County Safety Building
32 S. 3rd Street
Richmond, Indiana

MARYLAND

Allegany County Jail
59 Prospect Square
Cumberland, Maryland

Anne Arundel County Police Department
Route 3
Millersville, Maryland

Anne Arundel Detention facility
Jennifer Street
Annapolis, Maryland

Baltimore County Jail
Towson, Maryland

Carroll County Jail
Court Road
Westminister, Maryland

Cecil County Jail
214 North Street
Elkton, Maryland

Essex Sub Station
216 N. Marlyn Avenue
Essex, Maryland

Frederick County Jail
South Street
Frederick, Maryland

Garrison Sub Station
Reishertown Road
Garrison, Maryland

Parkville Sub Station
Parkville, Maryland

Washington County Jail
201 N. Jonathan Street
Hagerstown, Maryland

Wicomico County Jail
Main Street
Salsbury, Maryland

Wilkins Police Station
Wilkins Avenue
Catonsville, Maryland

NEW JERSEY

Asbury Police Department
708 Bangs Avenue
Asbury Park, NJ

Bellmawr Police Department
Lews Avenue
Bellmawr, NJ

Bergen County Jail
Hackensack, NJ

Cape May County Jail
Cape May Courthouse
Cape May, NJ

Ocean City Jail
835 Central Avenue
Ocean City, NJ

Rutherford Police Department
176 Park Avenue
Rutherford, NJ

Salem County Probation Department
94 Market Street
Salem, NJ

Sussex County Courthouse
3 High Street
Newton, NJ

Westfield Police Department
425 E. Broad Street
Westfield, NJ

OHIO

Allen County Jail
W. North Street
Lima, Ohio

Ashtabula Police Department
Main Avenue
Astabula, Ohio

Brook Park Police Department
17401 Holland Road
Brookpark, Ohio

Clermont County Jail
Batavia, Ohio

Crawford County Jail
Courthouse
Bucyrus, Ohio

Delphos Police Department
W. Second Street
Delphos, Ohio

Erie County Jail
204 W. Adams Street
Sandusky, Ohio

Fairview Park Police Department
20777 Lorain
Fairview Park, Ohio

Fostoria Police Depoartment
S. Main Street
Fostoria, Ohio

Franklin County Jail
370 S. Front Street
Columbus, Ohio

Franklin Police Department
45 E. 4th Street
Franklin, Ohio

Fremont Police Department
Fremont, Ohio

Mahoning County Jail
19 Boardman
Youngstown, Ohio

Middleburg Heights Police Department
Bagley Road
Middleburg Heights, Ohio

Milford Police Department
18 Main Street
Milford, Ohio

Montgomery County Jail
330 W. 2nd Street
Dayton, Ohio

Niles Police Department
Franklin Alley
Niles, Ohio

North Canton Police Department
Main Street
North Canton, Ohio

North Royalton Police Department
13843 Ridge
North Royalton, Ohio

Perrysburg Township Police Department
Eckel Junction Road
Perrysburg, Ohio

Richland County Jail
Courthouse
Mansfield, Ohio

Sandusky Police Department
E. Washington Street
Sandusky, Ohio

Stark County Jail
Hwy. 62
Canton, Ohio

Tiffin Police Department
S. Monroe
Tiffin, Ohio

Warren Police Department
Warren, Ohio

Willoughby Police Department
31816 2nd Avenue
Willoughby, Ohio

Wooster Police Department
Wooster, Ohio

SOUTH CAROLINA

Aiken County Law Enforcement Center
Aiken, SC

Aiken Police Department
Aiken, SC

Anderson County Jail
County Home Road
Anderson, SC

Anderson Police Department
Markets Street
Anderson, SC

Bamberg County Jail
Hwy. 601
Bamberg, SC

Berkeley County Jail
Moncks Corner, SC

Cayce Police Department
Cayce, SC

Charleston County Jail
Charleston, SC

Charleston Police Department
Charleston, SC

Clover Police Department
Clover, SC

Columbia Police Department
Columbia, SC

Darlington County Jail
Darlington, SC

Darlington Police Department
Darlington, SC

Easley Police Department
Easley, SC

Florence Detention Center
Florence, SC

Fort Mill City Jail
Fort Mill, SC

Greenville County Women's Stockade
S. Hudson Street
Greenville, SC

Greenville Police Department
W. Broad
Greenville, SC.

Greer Police Department
312 Randall Street
Greer, SC

Hartsville Police Department
Hartsville, SC

Honea Path Police Department
Honea Path, SC

Horry County Jail
2nd Avenue
Conway, SC

Lexington County Jail
Lexington, SC

Myrtle Beach Police Department
Myrtle Beach, SC

N. Augusta Police Department
N. Augusta, SC

Orangeburg County Jail
Orangeburg, SC

Pickens County Jail
Pickens, SC

Richland County Jail
Columbia, SC

Rock Hill Police Department
Rock Hill, SC

Spartanburg County Jail
Spartanburg, SC

Spartanburg Police Department
Spartanburg, SC

Sumter County Jail
Sumter, SC

W. Columbia Police Department
W. Columbia, SC

York County Jail
York, SC

TEXAS

Abilene Police Department
City Hall
Abilene, Texas

Alamo Police Department
Alamo, Texas

Arlington Police Department
Main Street
Arlington, Texas

Belton Juvenile Probation Office
Bell County, Texas

Cameron County Jail
400 Van Buren
Brownsville, Texas

Carrollton Police Department
1002 Broadway
Carrollton, Texas

Dallas County Jail
Dallas, Texas

Denison Police Department
Denison, Texas

Denton Police Department
Denton, Texas

Edinburgh Police Department
117 N. 10th Street
Edinburgh, Texas

El Paso County Jail
El Paso, Texas

Farmers Branch Police Department
3723 Valley View Lane
Farmers Branch, Texas

Ford Bend County Jail
4th & Fort
Fort Bend, Texas

Galveston County Jail
715 19th
Galveston, Texas

Garland Police Department
217 N. 5th Street
Garland, Texas

Grayson County Jail
Sherman, Texas

Harlingen Police Department
1102 S. Commerce
Harlingen, Texas

Hays County Jail
183 S. Guadalupe
San Marcos, Texas

Hurst Police Department
Precinct Road
Hurst, Texas

Killeen Police Department
Killeen, Texas

La Marque Police Department
322 Laurel
La Marque, Texas

McAllen Police Department
1503 Pecan
McAllen, Texas

McKinney Police Department
303 Davis
McKinney, Texas

Mesquite Police Department
711 N. Galloway
Mesquite, Texas

North Richland Hills Police Department
North Richland Hills, Texas

Plano Police Department
Plano, Texas

Port Isabel Police Department
100 Maxam Point
Port Isabel, Texas

San Benito Police Department
143 S. Reagen
San Benito, Texas

Sherman Police Department
Sherman, Texas

Taylor County Jail
Taylor, Texas

Temple Police Department
112 W. 5th Street
Temple, Texas

Weslaco Police Department
500 S. Kansas
Weslaco, Texas

VIRGINIA

Alexandria Police Department
Alexandria, Virginia

Arlington County Jail
Court House Road
Arlington, Virginia

Chesapeake City Jail
Chesapeake, Virginia

Chesterfield County Jail
Chesterfield, Virginia

Fairfax County Jail
Fairfax, Virginia

Garfield Sub-Station
Woodbridge, Virginia

Hampton Police Department
Lincoln Street
Hampton, Virginia

Newport News Department of Public Safety
229 25th Street
Newport News, Virginia

Norfolk City Jail
Cith Hall Avenue
Norfolk, Virginia

Portsmouth Police Department
Portsmouth, Virginia

Richmond City Police Department
Richmond, Virginia

Roanoke Police Department
300 3rd Street, NE
Roanoke, Virginia

Virginia Beach Jail
Virginia Beach, Virginia

Appendix B

Consent Decree in *Escamilla v. Santos*

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

ESCAMILLA, et al,
Plaintiffs
VS CIVIL ACTION NO. 74-L29
SANTOS, et al,
Defendants

CONSENT DECREE

1. WHEREAS, this class action was commenced on July 29, 1974, by prisoners confined to the Webb County Jail, against the Sheriff of Webb County, the members of the Webb County Commissioners Court, and the Webb County Jail doctors;

2. WHEREAS, the Sheriff of Webb County and the members of the Webb County Comissioners Court are the defendants entering into this decree, and are hereafter referred to as the "defendants";

3. WHEREAS, defendants acknowledge that plaintiffs and their class have rights under 42 U.S.C. §1983 and Article 5115 of the Civil Statutes of the State of Texas; and defendants acknowledge their duty to implement those rights and to secure the enjoyment thereof;

4. WHEREAS, the most pressing problem at the Webb County Jail is that of overcrowding; the incarceration of large numbers of prisoners at a given time strain the physical capabilities of the Jail to provide a safe and suitable place of confinement as required by the Eighth Amendment to the United States Constitution and Article 5115 of the Civil Statutes of the State of Texas;

5. WHEREAS, pursuant to order of the Webb County Juvenile Court Mexican national juveniles accused or adjudged delinquent are confined to the Webb County Jail based exclusively on their alienage, while their American citizen and legal resident counterparts are treated according to the rehabilitative provisions of the Texas Family Code, in violation of equal protection of the laws guaranteed by the Fourteenth Amendment to the United State Constitution;

6. WHEREAS, Webb County Jail is not a suitable place for the confinement of juveniles, and the placing of said juveniles in separate quarters deprives adult prisoners of badly needed living space, and contributes to the general overcrowding of the Jail;

7. WHEREAS, the solitary confinement cells, otherwise known as "los tostones", located on the second floor, west side of the Webb County Jail, are not suitable places for the incarceration

of prisoners, and the use of said solitary confinement units fails to conform with Article 5115 of the Civil Statutes of the State of Texas and the Cruel and Unusual Punishment Provision of the Eighth Amendment to the United States Constitution;

8. WHEREAS, Webb County has no provisions for the release of pre-trial detainees on their personal recognizance, and this contributes greatly to the overcrowding of Webb County Jail;

9. WHEREAS, indigent pre-trial detainees at the Webb County Jail in many cases are not brought before a magistrate following their arrest and must wait in Jail until arraignment, not infrequently for periods over sixty days, before seeing a judge and having counsel appointed for their defense; and this also contributes greatly to the overcrowding at Webb County Jail and violates Article 14.06 of the Texas Code of Criminal Procedure and the rights to effective assistance of counsel guaranteed by the Sixth Amendment to the United States Constitution;

10. WHEREAS, state prisoners who are suspected of insanity and state prisoners who have been legally adjudged insane are at times confined in Webb County Jail in violation of Article 5115 of the Civil Statutes of the State of Texas;

11. WHEREAS, prisoners accused of violating the rules and regulations of the Webb County Jail are placed in segregated quarters and punished without adequate notice of the alleged violation and without a hearing, in violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution;

12. WHEREAS, the Webb County Jail currently lacks the medical personnel and the medical facilities to provide proper and adequate medical care for the prisoners confined therein;

13. WHEREAS, the plumbing facilities in the Webb County Jail are in general disrepair and in need of extensive improvements in violation of Article 5115 of the Civil Statutes of Texas, and the present number of toilets, showers, sinks, and drinking fountains cannot adequately meet the needs of prisoners confined to the Jail;

14. WHEREAS, no laundry facilities exist in the Jail, and prisoners must resort to outside assistance or use of the sinks in the tanks to wash and dry their clothes, creating unsanitary conditions;

15. WHEREAS, pre-trial detainees at the Webb County Jail are subject to the same punishments, restrictions and deprivations imposed upon prisoners convicted of violation of law; and pre-trial detainees are not segregated in any manner from those convicted of crime;

16. WHEREAS, the Webb County Jail lacks adequate ventilation, cooling, and heating;

17. WHEREAS, plaintiffs and defendants have agreed upon a plan and steps required for the implementation thereof which will secure the federal and state protected rights of plaintiff's class;

18. WHEREAS, in view of the shared understanding of principles, the parties and the Court have concluded there is no further need to litigate the issue of liability or the nature of the Plan to be provided, and the parties have mutually agreed to the entry of this consent decree;

19. WHEREAS, plaintiffs and defendants by consenting to the entry of this decree do not waive any rights they have under the Laws and Constitution of the United States and the state of Texas

IT IS THEREFORE HEREBY ORDERED, ADJUDGED AND DECREED, and the parties do hereby consent as follows:

1. This action is properly maintainable as a class action under Rule 23(b) (2) of the Federal Rules of Civil Procedure. Members of the class are: all persons confined to the Webb County Jail, whether in the past, present, or in the future.

2. The Order of the Juvenile Court in and for Webb County, dated July 14, 1975, titled CONFINEMENT AND DETENTION OF FOREIGN JUVENILES, is hereby declared null and void as violative of the Equal Protection Clause of the Fourteenth Amendment.

3. The Sheriff of Webb County, his agents and successors in office, shall release from the confines of the Webb County Jail all juveniles detained under the authority or jurisdiction of the Webb County Juvenile Court.

4. The Sheriff of Webb County, his agents and successors in office, shall not utilize the Webb County Jail for the confinement, detention or

incarceration of any juvenile who is subjected to the provisions of the Texas Family Code, except in cases of extreme emergency, where certain juveniles may be the cause of an imminent and serious danger to the safety and security of juveniles detained at the Webb County Juvenile Hall, and it is thereby necessary to remove said dangerous juveniles from the Webb County Juvenile Hall. Provided however that said juveniles may only be incarcerated on the first floor of the Jail, separate and apart from adult prisoners; Further provided, that attorneys for plaintiffs will be notified by the Sheriff of Webb County of said juvenile transfers to the Jail within 24 hours after such transfer; Further provided, that no juvenile may be incarcerated in the Jail for the above reasons for longer than 18 hours, except by order of the Juvenile Court Judge, or a magistrate if said judge is available, and that in no case may a juvenile be kept in the Jail beyond 72 hours.

5. The Sheriff of Webb County, his agents and successors in office, shall forthwith release to the general jail population those prisoners in the Webb County Jail relegated to the solitary confinement units on the second floor, west side of the Jail, otherwise known as "los tostones".

6. The Sheriff of Webb County, his agents and successors in office, shall not utilize the solitary confinement units, otherwise known as "los tostones," located on the second floor, west side of the Jail, for the confinement, detention, or incarceration of prisoners. The cell housing "los tostones" may be used by the Sheriff of Webb County for the detention, confinement, and incarceration of prisoners, if said cell is completely renovated and used as a regular cell comparable to other existing cells within the Jail. This must be done by disengaging, dismanteling, dislodging, and tearing down the present existing "tostones" steel walls, removing the unnecessary plumbing facilities therein, and placing up to eight steel bunks within said cell.

7. Defendants acknowledge that overcrowding is a major and pressing problem at the Webb County Jail, and that the early assistance of counsel for indigent defendants, as well as a prompt preliminary arraignment would significantly alleviate the overcrowding. The defendants, their agents and succesor in office, shall make certain that all pre-trial detainees are brought before a magistrate within 72 hours after arrest, and that counsel be appointed to represent indigent pre-trial detainees within 72 hours after arrest.

Defendants shall seek the cooperation of the state prosecuting and judicial authorities to establish workable methods by which all pre-trial detainees will be assured of a prompt preliminary arraignment, and indigent pre-trial detainees are promptly provided with appointed counsel.

The Sheriff of Webb County shall release on their personal recognizance all pre-trial detainees who are not taken before a magistrate within 72 hours after arrest, and shall release on their personal recognizance all indigent pre-trial detainees who have not been appointed counsel within 72 hours after arrest.

8. The Sheriff of Webb County, his agents and successors in office, shall provide each prisoner upon entering Webb County Jail with a copy, in English and Spanish, of the rules and regulations of the Jail.

9. The Sheriff of Webb County, his agents and successors in office, shall not punish prisoners at Webb County Jail by isolation or segregation in separate quarters unless the accused prisoner is afforded (a) written notice of the alleged infraction or violation, (b) an adequate opportunity to prepare a defense to the allegations raised, (c) an opportunity for an informal hearing before a neutral officer at which the prisoner is allowed to present his defense and confront adverse witnesses, (d) written findings of fact, and (e) an opportunity to appeal an adverse decision, including written notice of the right to appeal.

Prisoners will not be punished by being placed in isolated or segregated confinement until they have (a) received written notice of the charges, and (b) if the charges are controverted, a hearing officer has held after a fair hearing, that the allegations raised are valid. Provided, however, that a prisoner may be isolated from the prison population for up to three days without notice and hearing whenever there is imminent and serious danger to the security of Jail or the safety of any person therein. In no case may a prisoner be isolated longer than 72 hours without a fair hearing.

The Sheriff of Webb County, his agents and successors in office, is hereby ordered to classify and segregate pre-trial detainees from those convicted of criminal violations as required by Article 5115 of the Civil Statutes of the State of Texas. The Sheriff of Webb County, his agents and successors in office, shall impose upon said pre-trial detainees only those hardships requisite for the purpose of physical custody pending trial.

10. The Sheriff of Webb County, his agents and successors in office, shall not open any mail leaving the Webb County Jail addressed to a court, public official or attorney. The Sheriff may check all other mail entering or leaving the Jail for contraband, but may not censor such mail.

11. The Sheriff of Webb County, his agents and successors in office, shall not permit prosecutors or their agents to interview pre-trial detainees without the consent of his/her defense counsel or written permission from the prisoner.

12. The Sheriff of Webb County, his agents and successors in office, shall obtain health certificates for all persons employed in the Jail's kitchen, or who are utilized to handle and/or distribute food in the Jail. Said health certificates shall be renewed as required by law and shall otherwise be kept in force.

13. The Sheriff of Webb County, his agents and successors in office, shall provide each pre-trial detainee with three completed telephone calls immediately following his/her admittance to the Jail. Provided, however, that all long distance telephone calls will be made at the prisoner's expense.

14. The Sheriff of Webb County, his agents and successors in office, shall allow for visitation privileges at the Webb County Jail to be extended to Fridays from 9-11 A.M. and 3-5 P.M. and Saturdays from 9-11 A.M. and 2-4 P.M.

15. Within forty five days after the filing of this Order, defendants will present to Plaintiffs and the Court a Plan designed to alleviate the overcrowding of the Webb County Jail, and to improve the conditions of confinement. Said Plan will include at a minimum the following:

A. A program for the release of eligible pre-trial detainees on their own recognizance pending the disposition of their case. Said program to be modeled after the "Manhattan-Vera Foundation Personal Recognizance Program" presently in effect in Harris, Bexar, and Travis counties, Texas.

B. A "Work-Furlough" program whereby eligible prisoners are allowed the opportunity to work at their jobs during the day while receiving credit for time served on nights and week-ends.

C. Provisions for the comprehensive repair and improvement of the plumbing facilities at the Webb County Jail, as well as provisions for additional toilets, sinks, showers, and drinking fountains.

D. Provisions for the acquisition of adequate medical facilities for the Webb County Jail. The hiring of a full-time nurse to examine and treat prisoners, to dispense medication prescribed by a physician, and to aid in the prevention and spreading of disease. Defendants shall also study the feasibility of having a physician present at the Jail on a regular basis, said physician to examine and treat patients identified by the nurse as requiring the physician's attention.

E. Provisions for the hiring of additional jailers for the Webb County Jail.

F. Provisions for the effective laundering, cleaning, and sanitizing of all blankets, mattreses, mattress covers, towels, and clothes used by prisoners of the Webb County Jail including provisions for the furnishing of jail clothes, at the expense of Webb County, for use by men incarcerated at the Jail.

G. Provisions for the use of air coolers to ventilate the Webb County Jail, as well as additional heaters.

H. Provisions for a reasonable method by which prisoners may utilize the law library at the Webb County Jail, as well as the purchase of additional legal books and publications.

16. Within 90 days after the filing of this Order defendants will present to plaintiffs and the Court a Plan designed to further alleviate the overcrowding and improve the conditions of confinement at the Webb County Jail. Said Plan will include at a minimum the following:

A. Provisions for the proper care and custody of prisoners suspected of insanity or adjudged insane.

B. Provisions for the construction of a recreational facility for the use of prisoners at the Webb County Jail. The feasibility of all pos-

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sible alternatives shall be studied, reduced to writing and filed with the Court, with copies to plaintiff's counsel.

17. Within nine months after the filing of this Order, defendants will present to plaintiffs and the Court plans for the construction of a separate facility for the detention and confinement of Webb County prisoners. Said plans will include a report from defendants as to whether it is advisable to proceed with such construction, with documentation in support thereof, reduced to writing and filed with the Court.

18. The defendants are under duty to use their maximum feasible efforts to obtain and expend the funds required to implement the Plan pursuant to the Timetable. They shall make good faith efforts and undertake all necessary steps to secure sufficient funds from City, State, Federal and other sources for such implementation. In the event defendant's good faith efforts fail to generate sufficient funds to implement this Plan pursuant to the Timetable, defendants shall be required to show good cause to this Court why sufficient funds are unavailable, including what steps, if any, defendants have taken to generate sufficient funds from City, State, Federal, and other sources.

19. Representatives of the Sheriff's Department and the Webb County Commissioner's Court shall consult with counsel for plaintiffs with respect to the development and implementation of all items contained in this Consent Decree.

20. Defendants shall file with copies to plaintiff's counsel, detailed, monthly compliance reports commencing on September 1, 1976, on the progress of the implementation of the Plan. Such reports shall include copies of relevant supporting documentation and other materials relating to the implementation of the Plan.

21. Defendants shall allow attorneys for plaintiffs reasonable access to the Jail and records in their possession relevant to the progress and implementation of the foregoing Plan.

22. Notice of this Consent Decree shall be given to members of plaintiffs class by posting same in English and in Spanish within the individual tanks where prisoners are confined.

23. The defendants acknowledge that the plaintiffs by entering into this Consent Decree do not waive any rights plaintiffs may have with respect to costs, disbursements, and reasonable attorney's fees arising out of this action; and plaintiffs expressly reserve any and all rights they may have to costs, disbursements, and reasonable attorney's fees, arising out of this action.

24. The Court retains jurisdiction of this action for all purposes, including the entry of such additional orders as may be necessary or proper.

Dated: Laredo, Texas
July _____, 1976

ROBERT O'CONER
United States
District Judge

The parties to this Decree, by their Attorneys, hereby consent to the entry of this Order:

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Webb County Commissioners

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ATTORNEY FOR DEFENDANT
Sheriff of Webb County

ADDITIONAL STATEMENTS SUBMITTED FOR THE RECORD

STATEMENT OF GORDON SMITH, III, EXECUTIVE DIRECTOR, OFFICE OF CRIMINAL JUSTICE, STATE OF NORTH CAROLINA

I would like to begin by expressing my appreciation to you for offering me the opportunity to appear before you today. Progress in our efforts to deal with the problems of juvenile delinquency is crucial if we are to make headway in the overall fight against crime in this country, and I hope that these comments will be of use to you as you pursue this goal. I will discuss first North Carolina's response to the Juvenile Justice and Delinquency Prevention Act and will then make a few recommendations for your consideration in the reauthorization of the Act.

When Congress passed the JJDP Act in 1974, expectations across the nation were high that its implementation would offer opportunities for significant improvements in services to young people. Being in general agreement with the JJDP Act's stated goals and anxious to participate in an effort which promised to provide funds for these laudable purposes, North Carolina determined to take part in the program developed under the JJDP Act. The State submitted the required plan supplement document on July 31, 1975 and, subsequently, received a formula grant of $200,000 in fiscal year 1975 funds along with a planning grant of approximately $45,000. Steps were initiated to comply with the various mandates of the statute and the guidelines developed pursuant to the Act, including the appointment of an advisory board and establishment of a system for monitoring. Almost immediately, work also began on the development of the FY 76 plan supplement document which was submitted in November of 1975. The guidelines for that document were much more extensive and demanding than those for the FY 75 plan supplement document, and on April 19, 1976, the State was informed of a number of major changes and additions to its plan that would be expected prior to its approval. I would like to mention briefly several of those that caused us greatest concern over our ability to meet them:

1. The State was called upon to provide a specific plan for assuring 100% deinstitutionalization of status offenders by August, 1977. This requirement I will discusse in more detail in a moment.

2. The state planning agency was required to submit documented evidence that it had the authority to "be able to cause coordination of human services to youth and their families." Though the state legislation which established the SPA and gave it a coordinating role was submitted, it was not deemed sufficient.

3. There were extensive requirements for data collection to satisfy the guidelines for the detailed study of needs, although the State's own timetable for the creation of a systemwide computerized information system would have been disrupted by this demand.

Through the next few weeks, there was debate about the ability of North Carolina to meet these and other stated criteria for funding. The State's commitment to these goals of improving services to young people had already been made clear. The 1975 Session of the N.C. General Assembly had enacted legislation to prohibit within two years the commitment of status offenders to the State's training schools and to provide a county-by-county assessment of the needs of young people in the State, an action which affirmed the same concerns as those expressed by the Congress with the passage of the JJDP Act. And, at about the same time, the State's supervisory board for the LEAA program indicated a similar concern with the allocation of an amount in excess of $3.1 million in its FY 76 comprehensive plan to be used exclusively for juvenile programs.

Although the data were very poor, the best statistical information available showed that over 500 status offenders had been committed to training schools in 1975 and over 5000 status offenders had been held in local jails and detention facilities. (The revised state law had not dealt with the issue of local detention.)

Assuming that new shelter programs in the communities would have to be developed to serve this number of children each year to meet the mandate of the JJDP Act for deinstitutionalization, it was estimated that the cost of carrying out this program in the first year would be over $7 million. And even without the consideration of funds, the mechanics of developing alternatives in such large numbers were staggering.

With these major constraints and other complicating factors in mind, ultimately the only possible decision was to decline further participation. Although there was a sincere concern for young people and general agreement over goals, it was felt that it would not be in the best interest of the citizens of North Carolina to accept funds knowing it would not be possible to comply with Congressional requirements.

On June 11, 1976, therefore, North Carolina formally withdrew from the program. The fact that a standard calling for 75% deinstitutionalization within 2 years had been issued did not alter our position, since 100% compliance still was ultimately required. Since June, 1976, North Carolina has repeatedly reevaluated its position, but, not even considering other less handicapping requirements, it has remained a fact that the State cannot in good faith affirm that the requirement for deinstitutionalization can be met.

I want to make clear the fact that LEAA has attempted to be responsive to our needs and understanding of our constraints. We have found a willingness on their part to work with North Carolina in attempting to deal with the obstacles to participation. LEAA has not been in a position, however, to allow flexibility in deinstitutionalization and other statutory mandates, and, therefore, agreement has not been possible, in the final analysis.

With that historical perspective, I would like to discuss briefly a few concerns of North Carolina with the JJDP Act which we believe can be addressed by these amendments:

1. As evidenced by my description of our past participation, North Carolina sees a major problem with Sec. 223(a)(12) of the Act which requires the deinstitutionalization of status offenders. Though North Carolina is one of the minority of states not participating, I would not want you to think that our State is any less commited to the goal of deinstitutionalization. We, perhaps, have taken a more conservative approach than others. Believing that we could not, in good faith, state that we could accomplish the Act's goal for removing status offenders from secure surroundings within the time frame and with the limited resources that would be available for this purpose, we declined to participate. Although the State is making every effort to remove status offenders from its institutions, there is neither the money nor the time to meet the mandate of the JJDP Act. North Carolina has estimated, as I have said, a cost of $7 million to provide the needed alternative services for status offenders for one year. Our State's allocation under the JJDP Act for the past three fiscal years combined would have been less than $2 million. It is true that some other federal funds are available to supplement state and local resources. This brings me to another point, however. The problems of the juvenile justice system are many and complex. By focusing attention so sharply on just one of those major issues, the deinstitutionalization of status offenders, the JJDP Act may have had the effect, I fear, of diverting attention from a comprehensive approach. Certainly not all of our resources for new efforts can or should be earmarked for this one purpose, although attempting to meet this mandate would have required such an approach in North Carolina.

As an alternative to the present wording and the proposals of both Senator Bayh and the Administration, I would suggest that the standard for compliance be a good faith effort, supported by rigid guidelines. Frankly, many juvenile justice officials in North Carolina believe that 100% compliance may not be possible for many years. In our State, we are attempting to develop a system of state-operated schools which offer the best treatment services available anywhere for children placed there by the juvenile court. In some few cases, which should be determined by explicit guidelines, a judge may feel that services that can be provided in this setting best suit a particular child's needs. Or, in the case of a runaway, secure custory may be necessary if there is any chance of intervening in that child's situation. Particularly distressing in our State is the fact that 92 of 100 counties have the county jail as their only resource for the secure custody of juveniles. It is difficult to force an emphasis on a small shelter facility for status offenders when the counties see a crying need for a specialized detention facility that would take all young people out of the often deplorable surroundings of the jail. So, I recommend that a good faith effort at compliance

be permitted, with guidelines being set for the exceptional situations such as those I have described. Further, the time frame for compliance in this manner should be expanded so that the total resources of the juvenile justice system could be marshalled to deal adequately with all priority issues, not just deinstitutionalization.

2. The advisory board required by Sec. 223(a)(3) of the JJDP Act also is a source of difficulty to us. The North Carolina General Assembly has recently created statutorily the Juvenile Justice Planning Committee, which is to be an adjunct committee to the LEAA supervisory board. This commitee is mandated to plan comprehensively for the juvenile justice system in our State. The composition of that committee is designed to be broadly representative of experience and expertise in juvenile justice and is believed to be the most effective mechanism for juvenile justice planning in North Carolina. The composition, incidentally, does not coincide with that required by the Act for the juvenile justice advisory group, and, therefore, the participation of North Carolina in this program would necessitate another committee, a step that would only serve to fragment our efforts. The legislation proposed by Senator Bayh, I understand, would require policy-setting authority for those boards and allow the boards to award grants and contracts, though in our State, at least, a committee of a different composition but similar purpose has already been established. We agree that a juvenile justice advisory group is essential, but we recommend that its composition and role be determined by each state, dependent upon its own needs.

3. Currently, each state is required under Sec. 223(a)(5) to make available 66⅔ of its JJDP Act funds to local units of government, though guidelines permit a partial waiver of this requirement in some instances. North Carolina totally supports the concept of providing funds to local governments for juvenile programs; however, we endorse the proposal of the National Association of Counties for the provision of ". . . incentives to states for establishing state subsidy programs to counties . . ." and recommend that the JJDP Act provide the flexibility within the requirement to allow as much as 100% of the state's JJDP Act allocation to be granted to a designated state agency for the purpose of creating or supplementing a state subsidy program to counties for commmunity-based services to youth.

4. Lastly, I would like to mention a problem that I have noted concerning the many requirements of the JJDP Act. As they are briefly stated in the legislation, they are difficult to argue with, for their purposes are laudable. When translated into operational guidelines, however, they often become complicated and perplexing. It is confusing to agencies and units of government with whom the state planning agency works to have a number of guidelines for Crime Control Act funds and still others, sometimes contradictory, for JJDP Act funds. The differing pass-through requirements are one example; the additional data requirements are another. The guidelines (which, of course, are only outgrowths and clarifications of statements in the legislation) ought to follow as nearly as possible the Crime Control Act requirements and minimize additional requirements, keeping in mind that although the JJDP Act calls attention to an area of special interest, we maintain a common goal to reduce crime and delinquency.

In closing, let me express again my appreciation for your attention to these concerns. I assure you of the commitment of North Carolina to providing the best possible services to young people and to reducing and preventing juvenile delinquency. I urge you to consider these recommendations as you prepare for reauthorization of the JJDP Act. If you have any questions, I would be happy to answer them.

STATEMENT OF THE CHILD WELFARE LEAGUE OF AMERICA, INC.

In 1974 the Child Welfare League of America endorsed the Juvenile Justice and Delinquency Prevention Act as a forward step with the potential to provide alternative services and facilities in the States which would help prevent delinquency and divert troubled youth from the juvenile justice system.

Despite delays and the lack of adequate funding and staffing which has hampered progress in implementation over the past three years, the League continues to support the principles of the Act.

The League believes that troubled children and youth are best served and least harmed if alternative services are available to help them remain outside the law enforcement and juvenile justice system. For this reason, the Board of Directors of the League takes the position that the incarceration of "status offenders" must be totally prohibited, and that programs for alternative placements and services be developed.

The expert research and facts assembled in the development of the 1974 Act showed that almost 40% of all the children caught up in the juvenile justice system fell into the category known as the "status offender"—young people who have not violated the criminal law. But these young people—70% of them female—often end up in correctional institutions with both juvenile offenders and adult criminals. Incredibly, more juveniles adjudicated as status offenders are sent to juvenile correctional institutions than youths convicted of criminal offenses. And once incarcerated, status offenders spend more time in institutions than their juvenile delinquent counterparts who have committed criminal offenses.

Sec. 223(a)12 of the 1974 Act provided that, within two years after submission of the State plan, status offenders could not be placed in juvenile detention or correctional facilities. We believe this was a major step forward which should be implemented without further delay. Amendments to this section have been proposed, however, which would permit undetermined delay in full compliance by the States. The League believes that it is essential to maintain the basic two year requirement so that thousands of troubled adolescent youth—boys and girls—will not be harmed beyond repair and become part of the crime statistics.

In addition, the Child Welfare League supports an authorization level of $150 million for FY 1978, with appropriate increments in following years. We believe that the additional funds are needed to help States fulfill the mandates of the Juvenile Justice and Delinquency Prevention Act.

We also support a minimum two year renewal of Title III—The Runaway Youth Act—and an authorization level of $25 million for each year. Federal grants are made for the purpose of developing local facilities which deal with the immediate needs of runaway youth in a manner which is outside the law enforcement structure and juvenile justice system. Runaway programs provide the services necessary to protect and divert youth from the system and to help reunite families. Currently HEW funds 130 runaway centers. The additional funds would provide 300 new center throughout the country.

STATEMENT OF THE NATIONAL BOARD OF THE YOUNG WOMEN'S CHRISTIAN ASSOCIATION OF THE U.S.A., NEW YORK, N.Y.

The National Board YWCA appreciates the opportunity to submit this statement to emphasize the concerns and interests it holds with respect to the Juvenile Justice and Delinquency Prevention legislation—with special reference to its amendments and extension—as this legislation affects delivery of services to girls primarily through the resources of a private, voluntary organization, and the equitable participation of minorities in all aspects of OJJDP activities. Based upon its Program of Action and Standards adopted by the National Convention of the Young Women's Christian Association in 1976, the National Board YWCA is committed to supporting "measures to assure opportunities for those who have been discriminated against because of their age, race, creed or nationality for all persons to share equitably in . . . all services financed to any degree by governmental tax funds."

This statement, therefore, is directed basically to the nondiscrimination provisions of the Juvenile Justice and Delinquency Prevention Act of 1976 or to the comparable provision in the Omnibus Crime Act of 1976 which may become a superseding provision. In this context, we call attention to the fact that it is not just the funded agencies or organizations that may be involved in actions of commission or omission that can result in discrimination, but also any unit of the Law Enforcement Assistance Agency including the Office of Juvenile Justice and Delinquency Prevention and indeed other entities, such as Supervisory Councils and Advisory Committees. This leads to serious concern about the absence of legislative mandate, regulations, or structure assuring *affirmative* action at the National level: the results of this omission are discernible at all points of policy and decision making. The most compelling questions confronting us at this time are: who makes decisions? how are they made? and what controls are built into

decisionmaking mechanisms? To assure nondiscrimination, these questions are at the heart of this statement.

Preliminary to presentation of further comments, we wish to state that—

a) we strongly endorse and urge the extension of the Juvenile Justice and Delinquency Prevention Act for at least three additional years

b) we urge with equal force the authorization of funding at a level which will, in itself, preclude the continuation into the future of many of the problems experienced during the previous years of truncated funding upon which many criticisms—including some we present in this statement—are based.

This statement reflects operating experience in the administration of LEAA- and OJJDP-funded programs sponsored by the National Board YWCA and by many of its member Associations; therefore, it is rooted in the realities of working at the level where there are many instances in which neither the spirit nor the letter of the Act are followed; where interpretations of the meaning of much of the language of the law are slanted to reflect the biases and preferences of local law enforcement agencies; where the private non-profit organizations frequently are regarded as competitive with the public agencies for funding; and where these organizations are at a marked disadvantage in efforts to deal with those public agencies that tend to regard them as adversaries.

The operating experience has been derived from sponsorship by—

a) the National Board YWCA itself (Youth Workers Team Learning Program, a three-year project in training for delinquency prevention funded by DHEW under the Juvenile Delinquency Prevention and Control Act of 1968; the Texas YWCA Intervention Project, a three-unit project funded through LEAA Region VI; the New England YWCA Intervention Project, an eleven-unit project—terminated April 30, 1977, funded through LEAA Region II—for the first period under LEAA discretionary grant and for the second period under joint funding by LEAA and the Office of Juvenile Justice and Delinquency Prevention);

b) Community and Student YWCAs (approximately 250 projects since 1968 funded primarily through State Planning Agencies with some financed by State and Local governments, United Way organizations, private foundations, and other private resources).

Although we do not have access to documentation experiences of other organizations, we understand that many of them share our concerns: this appears to be particularly true with respect to those that seek to serve "high risk" target groups and those racial minority youth who too often bear the burden of discriminatory treatment before as well as after they become involved with law enforcement systems.

Some of the problems about which we are concerned may be amenable to legislative remedy; others may be affected by expression of legislative intent. There is no effort here to separate these different approaches.

We must say at this point that none of the critical comments in this statement are to be regarded as indicative of universal experience: the YWCA—nationally and locally—has enjoyed outstanding support and cooperation in much of the experience with the National LEAA and OJJDP and with numerous State Planning Agencies and other parts of the local justice system. The basis of concern is that those instances in which the experience has not been constructive must be regarded as a serious impediment to reaching and serving numerous youth for whom YWCA-sponsored programs could mean the difference between a future of delinquent behavior and an option favoring a supportive movement away from such behavior.

We also highly commend some of the amendments proposed in the extension bills, e.g.,

—provisions which would relieve private non profit organizations from the previous "cash match" requirements which for obvious reasons have severely restricted participation in service programs, thereby depriving many youth of the benefits of needed assistance in reversal of delinquent behavior;

—provisions for making grants as well as contracts directly to private agencies and organizations;

—amendments to Section 223 to modify the rigid requirements for deinstitutionalization of status offenders within "two years after submission of the plan." With respect to this, the YWCA has been concerned that the requirement in the original legislation can create pressure for release of status offenders in the absence of legislative and funding provisions for effective and protective alternatives, with special negative impact upon minority youth. Program priorities imposed by the requirements of Section 225 inadvertently have favored target

groups among which minority youth are least represented, and, because of overall funding limitations, have placed lowest priority upon the service needs of minority youth in deepest trouble in the justice system;

—addition of the provision for support programs stressing advocacy of activities aimed at improving services to youth impacted by the juvenile justice system.

May we suggest the Subcommittee's consideration of additional amendments further to improve and strengthen the Act:

(1) Addition to establish the position of a Deputy Assistant Administrator to supervise Formula Grants. Because the major share of the allocation is expended through the State and local agencies, it is seriously important that special attention be directed by the OCDPA to Part B. It is at the State and local level that private nonprofit voluntary organizations encounter the most difficulty. At this level, there is an unfortunate tendency to interpret "Community-based" as referring to any program or service located in the community as conforming to the legislative definition Sec. 103(1). Frequently this interpretation functions to exclude bona fide private voluntary agencies and to result in funding primarily of public and quasi-public agencies. Also there is gross misinterpretation and/or overt disregard for provisions which in the original legislation were believed to have established a clear role for private agencies, e.g., Sec. 221, which authorizes the Administrator to make grants to States to assist them in planning, establishing, operating directly or through contracts with public and *private agencies* [underscore supplied] . . . programs to improve the juvenile justice system. Many State Planning agencies regard this provision as permissive only. Furthermore, appeals through hearings conducted by the Advisory Councils or other administrative structures frequently are reported to be perfunctory; in one state, e.g., the Hearing Panel conversed with each other while a YWCA Executive Director—limited to five minutes to present an appeal—was ignored totally; she did not even receive the courtesy of "dismissal" nor of any response to her question. (This was witnessed by the LEAA Regional Representative to that State.)

Many other examples could be cited and most certainly would be revealed by official investigation.

(2) There is apparent need for additional staff positions in OJJDP in sufficient numbers to enable efficient and expeditious handling of the voluminous workload. Among the results of the staff inadequacy are long delays in processing of all applications. Those resulting in greatest hardship on nonprofit organizations are applications for refunding, to which we referred in previous testimony[1] as a "nightmarish experience." Delays in refunding, which not infrequently run into months, means that the organization—with no official assurance of reimbursement—must risk advance money to sustain continuation of project operations or disrupt project operations under conditions which have serious impact upon the youth participants, the justice system referral agencies, the project personnel, and the credibility of the YWCA in the community. Indeed, in addition to consideration of adequate staff to alleviate this problem, it would be extremely desirable if the legislation mandated protection of sponsoring organizations during the interval between grants.

(3) One of the most serious subjects for legislative attention relates to the composition and function of Advisory Committees. We believe this subject actually calls for Congressional Investigation, for it represents one of the grossest forms of "tokenism." A cursory review of the membership of the present Advisory Committee will reveal the fact that the legislatively prescribed formula for its composition does not result in balanced representation on the basis of sex or race. The most severe impact of the composition of this Committee is revealed in its breakdown into subject matter subcommittees, whose influence upon program decisions is extensive. There are not a sufficient number of women nor ethnic minorities to provide balance in these subcommittees. An outstanding example is the Research Subcommittee which functions in relation to the National Institute for Juvenile Justice and Delinquency Prevention—the most powerful units in OJJDP: the program in effect is dictated by the research developed through this unit and there are many questions concerning who does this research, what interests does it represent, how does it relate to practical program operations as distinguished from pure theory, and how eclectic is this research in relation to the many different and controversial disciplines and methodologies in the research field, upon what resources does it rely for program

[1] Hearings before the Subcommittee to Investigate Juvenile Delinquency, 94th Congress, April 29, 1974, p. 339.

presentation papers, what impact do review panels have upon agency decisions, and what is their composition in relation to nondiscrimination criteria? Until these questions are answered satisfactorily, there should be no proliferation of the numbers of members, nor further expansion of the authority.

Similar concern may be directed to the Local Advisory Councils. It is especially troubling to note that some legislation under consideration would provide 1% of the annual appropriation to the National Advisory Committee and 10% of the Part B funds to local Advisory Committees.

The empowerment implicit in the proposed action would be highly questionable in the absence of any effective standards or controls.

4) An amendment to legislation is urgently needed to require publication of Program Guidelines in the *Federal Register*. Only a listing of selected agencies and organizations now have an opportunity to review and comment on these crucial documents.

5) There also is critical need for re-enforcement of existing provisions for refund of projects which have been favorably evaluated. In actual practice—nationally and locally—projects frequently are terminated at the end of their second funding period, an obviously wasteful and demoralizing process which damages the credibility of the grantee organizations and is damaging to youthful participants. It follows that all projects should have the privilege of funded evaluations and in some instances this is not permitted.

6) A procedure for *overall* determination of discrimination should be instituted beginning at the National level and reaching into the program accountability process of program under Sec. B.

7) There should be provisions under the National Emphasis for Funding of National private nonprofit organizations to provide program guidance to their affiliated member organizations. This would enable local organizations to be effectively responsive to the decentralization of the funding agencies and to strengthen their technical capabilities to negotiate with these agencies.

In making this statement, we are accepting the challenge of the Congress of the United States to join in the fight against juvenile delinquency in full partnership with the government.

We cannot conclude this statement without strong commendation of the President of the United States, the Attorney General, and Congress for advancing and supporting the extension of the Juvenile Justice programs. Also we express our appreciation to those within the LEAA and OJJDP who have worked against so many disadvantages in an effort themselves to improve and strengthen the programs under their guardianship. Many of the regional offices of LEAA and the State Planning agencies have been an important part of the force that has contributed to tremendous gains in the whole national effort. It is our earnest hope that the amendments to the Act will fortify all of those who are dedicated to its purposes.

To Senator Birch Bayh, all of us in the voluntary agencies owe a special tribute. His statesmanship has brought to life in the Congress of the United States juvenile justice legislation. He has supported the key principles we seek to forward in this statement throughout the history of the juvenile justice legislation. As he now ends his chairmanship of the distinguished Subcommittee to Investigate Juvenile Delinquency, we assure him that we shall continue to strive for achievement of the goals we have shared with him for so many years. We hope in the future to merit in this effort the inspiring leadership he has exerted to bring all of us so far towards the ultimate goal of unqualified justice for all juveniles.

STATEMENT OF THE COMMITTEE ON CRIME REDUCTION AND PUBLIC SAFETY, NATIONAL GOVERNORS' CONFERENCE

The National Governors' Conference strongly supports extension of the Juvenile Justice and Delinquency Prevention Act. We believe that this legislation has significantly assisted state and local governments deal with one of our country's most pressing social problems, juvenile crime and juvenile justice. Because criminal justice and law enforcement are largely state and local issues, the Juvenile Justice & Delinquency Prevention Act cannot, of itself, eliminate juvenile crime. However, it has proved a crucial tool for state and local governments in helping them in their efforts to bring juvenile crime rates under control.

The National Governors' Conference supported the Act's FY '77 funding level and it believes that FY '78 funding should be at least $75 million as requested

by the Administration. Accordingly, we believe that in addition to extending the program for three years. Congress should assure that its authorization level is high enough to accommodate at least a $75 million funding level for FY '78, and necessary increases for subsequent fiscal years. In that respect, the authorization figure for FY '78 should allow the Administration to seek an adequate supplemental appropriation as it gains greater experience with and confidence in the program. During the course of the fiscal year, it may develop new initiatives which will require new funding. Consequently, an authorization level of at least $100 million is called for.

The National Governors' Conference is sympathetic with the Administration's quest for a balanced budget. It is also supportive of the aims of the Juvenile Justice and Delinquency Act. We believe that the purposes of this Act are of such importance that expansion of the program is inevitable and necessary, but that it can be done within the general overall budgetary restraints imposed by the President.

The second and third year authorizations can be set by designating authorization ceilings—which often have little relationship with what Congress actually intends to appropriate—or it can use the language of S. 1218. Either would be acceptable to the National Governors' Conference. However, we wish to note a special point which we believe should be given careful consideration by the Subcommittee. The authorizing committee bears a special responsibility to conduct meaningful and ongoing oversight of the program and to make detailed recommendations to both the Budget and Appropriations Committees based on that oversight. A failure to give the program this kind of scrutiny would mean that the Committee has largely abdicated its responsibility to two Committees which do not possess the same measure of program experience and expertise on which to base its decisions. We trust that this Subcommittee intends to conduct this kind of oversight. The National Governors' Conference pledges its support and aid for this endeavor.

Of equal concern to the Governors is the fact that one fifth of the States do not now participate in the program. In prior years that figure has been even higher, which indicates that the program's impact has not been as widespread as we would hope. The reasons for nonparticipation largely center on Section 223(a)(12) and (13) which require deinstitutionalization of status offenders and separation of adult and juvenile offenders in corrections facilities, respectively. Several States may philosophically disagree with the concept of deinstitutionalization; they may believe that so-called status offenses are appropriate and that existing state law should not be changed in order to be eligible for funding under this Act. That is a matter for each State to decide. But for those States which may agree to comply but which find that the two year compliance period is too rigorous, some accommodation should be made. In this respect, we believe that the proposal in HR 6111 which allows States greater flexibility to comply with 223(a)(12) is an improvement. Those States which philosophically disagree with the requirement may continue to do so. However, for those States which are attempting to comply with 223(a)(12) but have found it impossible to do so within the prescribed two year period, it is appropriate that the Administrator have the flexibility to extend the compliance period for a reasonable period of time. We suggest that such a provision authorize the Administrator to allow a State three rather than two years to comply with the provision, plus an additional two years if the State is making a diligent effort to attain the goal of deinstitutionalization and can demonstrate significant progress in meeting that goal.

The same argument should apply to the separation requirements of 223(a)(13) for States which find it impossible to give immediate assurance of compliance but which can do so if given a reasonable extension of time. We suggest that the same discretion provision apply to 223(a)(13) as would apply to 223(a)(12).

We would add a caveat here. Questions are being raised among many juvenile officials whether the Juvenile Justice and Delinquency Prevention Act is becoming a status offender law. By that we mean that in attempting to comply with 223(a)(12) with its high attendant costs, States are being diverted from other worthwhile delinquency prevention efforts. We strongly urge the Subcommittee to carefully examine this issue as part of its oversight function.

We urge that the work of the Office of Juvenile Justice and Delinquency Prevention be more closely coordinated with the work of LEAA, in which it is housed. The "maintenance of effort" provision in Sec. 520(b) of the Crime Control Act assures that nearly twenty per cent of the Crime Control Act funds are spent for juvenile delinquency prevention. That effort should be closely co-

ordinated with the work of the Office of Juvenile Justice and Delinquency Prevention. Unfortunately, it is the experience of many that such coordination is often lacking. This will assure that available resources are used to the best advantage. A strengthening and upgrading of the head of the Office of Juvenile Justice and Delinquency Prevention would help to bring this about.

We also urge the Agency to coordinate its discretionary grant efforts more closely with the States. The delinquency prevention efforts of the Crime Control Act should mesh with the Juvenile Justice and Delinquency Prevention Act to promote a comprehensive juvenile justice program at the state and local level.

Compared with many other federal programs, the funding level for the Juvenile Justice and Delinquency Prevention Act remains relatively small. Nonetheless, this program confronts and deals with one of the most critical social issues facing America today. We support the program and we support its purpose. We urge Congress to move rapidly to reauthorize this valuable program and to appropriate sufficient funds to allow federal, state and local juvenile justice agencies to carry out its directives.

THE SUPREME COURT OF MINNESOTA,
STATE CAPITOL, ST. PAUL, MINN.,
April 26, 1977.

HON. BIRCH BAYH,
United States Senator,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR BAYH: I have had an opportunity to review S. 1021–A Bill to Amend the Juvenile Justice and Delinquency Prevention Act of 1974. I believe it to be sound in principle, and I support its passage. The provisions of the Act which I think will prove most beneficial include these:

(1) The direction that the National Advisory Committee encourage the adoption and implementation of standards for juvenile justice within the state court systems.

(2) The proposal that the National Institute conduct research on such matters involving juveniles as violence, sexual abuse of children, and the fair treatment of juveniles committed by the courts to state institutions.

(3) The provision for grants for restitution projects, arbitration procedures, neighborhood courts, and other alternative methods for dispute resolution.

(4) The proposed amendment to section 206(a)(1) which will include the Office of Management and Budget in the membership of the Coordinating Council will help assure fiscal responsibility.

I would recommend that the statement of purpose in section 204(b) be expanded to include assistance to courts responsible for providing juvenile justice. The section could be amended to embrace this language—§ 204(b)(8):

Assist courts and judges responsible for the operation of traditional juvenile justice systems to improve the delivery of judicial services for those juveniles whose delinquent acts were not prevented and who it is not within the public interest to divert from the judicial system.

The subject matter of S. 1021 will be called to the attention of the Conference of Chief Justices at its next annual meeting. For the present, as Chairman of the Federal-State Relations Committee of the Conference and as one keenly interested in the improvement of the operation of our juvenile courts, I am taking this opportunity of expressing to you my support for this legislation. It will be appreciated if this letter can be made a part of the record of the proceedings in support of the bill. I regret the delay in response, and hope to be able to respond in the future in a more timely way.

Yours very truly,

ROBERT J. SHERAN,
Chief Justice.

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