BY THE COMPTROLLER GENERAL

Report To The Congress

OF THE UNITED STATES

Removing Status Offenders From Secure Facilities: Federal Leadership And Guidance Are Needed

Concern has been expressed about using secure detention and correctional facilities for status offenders--juveniles who have been charged with or have committed offenses that would not be criminal if committed by an adult. The Juvenile Justice and Delinquency Prevention Act of 1974 stated that the Law Enforcement Assistance Administration could not award formula grants authorized by the act to a State unless it included a provision in its comprehensive plan that status offenders would no longer be placed in such facilities.

Problems in implementing this provision have been that

--State laws and practices frequently conflicted with the act,

--not enough alternate services have been developed and uncertainty exists about appropriate dispositions for status offenders, and

--monitoring systems to determine compliance with the act have not been established.

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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To the President of the Senate and the
Speaker of the House of Representatives

This report discusses our observations on problems the States are having in removing status offenders from detention and correctional facilities and presents our recommendations on how to deal with those problems. Removal of status offenders from such facilities is required of participating States by the Juvenile Justice and Delinquency Prevention Act.

We made this review because of the concern expressed by the Congress and others about the use of such facilities for status offenders. It was done pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to the Director, Office of Management and Budget, and the Attorney General.

Comptroller General
of the United States

COMPTROLLER GENERAL'S
REPORT TO THE CONGRESS

REMOVING STATUS OFFENDERS FROM SECURE FACILITIES: FEDERAL LEADERSHIP AND GUIDANCE ARE NEEDED

D I G E S T

The practice of using secure detention and correctional facilities for status offenders has been questioned. Such offenders are juveniles who have been charged with, or have committed, offenses such as truancy and running away that would not be considered criminal if committed by an adult. Many people believe such practices are unjust and encourage criminal behavior.

One estimate suggests that each year 500,000 youths who have committed no criminal acts are brought to the attention of the juvenile justice system. The Congress attempted to change this extensive practice by passing the Juvenile Justice and Delinquency Prevention Act of 1974. The act states that the Law Enforcement Assistance Administration could not award formula grants authorized by the act to a State unless it included a provision in its comprehensive law enforcement plan that status offenders would no longer be placed in detention or correctional facilities. States were given 2 years to implement this requirement; in subsequent amendments to the act, the time was extended to 3 years.

GAO reviewed efforts to implement this requirement at the Federal level and in five States (California, Florida, Louisiana, Massachusetts, and Virginia). It found that

--State laws and practices frequently conflicted with the act,

--not enough alternate services have been developed and uncertainty exists as to the appropriate disposition for status offenders, and

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--monitoring systems to determine compliance with the act have not been established.

GAO has already provided its preliminary findings on these matters during hearings conducted by the Subcommittee to Investigate Juvenile Delinquency, Senate Committee on the Judiciary. Also, GAO issued a separate report to Senator Birch Bayh on Indiana's progress in response to his request during these hearings. (See app. V.)

STATE LAWS AND PRACTICES

According to the Law Enforcement Assistance Administration, most States have laws allowing status offenders to be placed in detention or correctional facilities under certain circumstances. Four of the five States GAO visited had such laws. Although data on their use was not available, GAO was told that all four States were detaining status offenders, and that one State was placing them in correctional facilities. (See pp. 4 to 9.)

One reason why status offenders are still being placed in detention and correctional facilities could be that juvenile justice officials believe such incarcerations to be justified--most officials whom GAO interviewed held this view. (See pp. 9 and 10.) The questionable authority of State criminal justice planning agencies to implement the Federal requirements appears to be another reason. (See pp. 10 to 12.) In one of the States visited by GAO, the lack of alternate facilities was cited as one of the most important reasons.

The Law Enforcement Assistance Administration has done little to fully explore the problems the States are having in meeting the requirements of the act.

The Attorney General should direct the Administrator, Law Enforcement Assistance Administration, to (1) identify problems which are preventing the removal of all status offenders from secure detention and correctional facilities in each participating State, (2) evaluate

them to determine how States could be given assistance in meeting this requirement of the law, and (3) examine and judge the merit of the reasons for any opposition. (See pp. 13 and 14.)

ALTERNATIVES TO INCARCERATION

Not enough alternate services for status offenders have been developed. Uncertainty exists among State and Federal officials about what dispositions are appropriate. Consequently, status offenders that may need assistance are returned to society without receiving any services or are placed in programs that may not be structured to deal with their problems. (See pp. 16 to 26.)

The Law Enforcement Assistance Administration has developed little information concerning the types of services that appear most effective for status offenders under various situations. A number of research efforts are underway, but delays in starting and completing them have left the States largely on their own to deal with the problem. (See pp. 26 and 27.)

The Attorney General should direct the Administrator, Law Enforcement Assistance Administration, to identify those types of services that seem to be most successful in dealing with status offenders in various situations and inform the States as quickly as possible. The Administrator should also encourage the States to establish adequate alternate services that are considered appropriate for status offenders. (See pp. 27 and 28.)

MONITORING SYSTEMS

Few States have established comprehensive systems to monitor jails, detention facilities, and correctional facilities. Such systems are required of participating States by the Juvenile Justice and Delinquency Prevention Act. Without them it is difficult, if not impossible, to determine progress, establish when all status offenders are no longer institutionalized, or properly plan alternate programs for status offenders.

The Law Enforcement Assistance Administration's analysis of the initial monitoring reports submitted by 42 States showed that

--only 9 provided what could be considered complete data,

--8 could provide no monitoring data at all either because they started too late in collecting data or simply did no monitoring,

--17 had data missing.

--33 had not established baseline data against which to measure achievements, and

--only 4 monitored private facilities containing juvenile offenders.

GAO noted similar problems in the five States it reviewed. None of the States monitored all types of facilities required by the act and implementing guidelines. Officials in four States expressed reservations about whether their States had authority to monitor some local and private facilities. Officials in two States indicated that their States did not have adequate resources to carry out the monitoring requirements. (See pp. 29 to 36.)

GAO believes that unless improvements are made in States' monitoring efforts it will be difficult to determine if they are complying with the act. Such a determination is extremely important since future funding under the act is contingent upon a State's ability to demonstrate compliance with the requirement that status offenders no longer be institutionalized.

The Attorney General should direct the Administrator, Law Enforcement Assistance Administration, to make certain that the States understand the monitoring requirements and either develop or improve existing monitoring systems to realistically measure accomplishments. After the above steps are completed, the Administrator should take action against States that fail to comply with the monitoring requirements. (See p. 38.)

AGENCY COMMENTS

The Department of Justice commented on this report by letter dated April 7, 1978. It stated that the report strongly implied that little had been accomplished toward the goal of removing status offenders from secure facilities, that the facts did not support such a negative interpretation, and that the Law Enforcement Assistance Administration believed that significant progress had been made. (See app. III.)

GAO is not making the assertion that little has been accomplished. Progress has been made, but the question of how much is not only subjective but difficult to answer because of the absence of reliable data. GAO has incorporated the Department's comments, as well as those received from the States reviewed, into the report where applicable, and has included an analysis of the Department's comments as appendix IV.

Contents

ABBREVIATIONS

GAO	General Accounting Office
LEAA	Law Enforcement Assistance Administration
HEW	Department of Health, Education, and Welfare

CHAPTER 1

INTRODUCTION

Concern has been expressed in recent years about the use of detention and correctional facilities 1/ for juveniles who are charged with or have committed status offenses such as truancy, incorrigibility, and running away. Many people believe that it is unjust for the juvenile justice system to incarcerate youths for noncriminal behavior, and that such a practice tends to make criminals of juveniles.

Status offenders constitute a large proportion of all youths involved in the juvenile justice system. One estimate suggests that nearly 40 percent (500,000) of the youths brought to the attention of the juvenile justice system each year have committed no criminal act. The Law Enforcement Assistance Administration (LEAA) estimates that of the youths referred to juvenile courts on status offense charges, perhaps as high as 10 percent are ultimately placed in secure institutions.

The situation is worse for girls than for boys. According to a 1975 LEAA program document, 70 percent of all females in juvenile detention and correctional facilities are status offenders, compared to 20 percent of the males. In addition, status offenders confined in detention or correctional facilities tend to stay there as long as or longer than delinquents.

CONGRESSIONAL CONCERN FOR STATUS OFFENDERS

The Congress expressed a specific concern for status offenders in passing the Juvenile Justice and Delinquency Prevention Act of 1974. The act authorized LEAA to make grants to State and local governments for the development of more

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1/Detention facilities are secure facilites in which juveniles are held awaiting a court hearing or other decision on disposition. Correctional facilities are secure facilities in which adjudicated juveniles are placed.

effective programs on juvenile delinquency. The act further required the removal of status offenders from detention and correctional facilities as a condition for receiving funds. Specifically, it required that States submit a plan which, among other things, must

> "provide within two years after submission * * * 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."

In a report pertaining to the act, the Senate Committee on the Judiciary stated that it was well documented that youths whose behavior was noncriminal, although problematic and troublesome, have inordinately preoccupied the attention and resources of the juvenile justice system. It stated that status offenders generally were inappropriate clients for the formal police, courts, and corrections process of the juvenile justice system and that such children should be channeled to those agencies and professions which are mandated, and in fact purport, to deal with the human and social issues involved in these areas.

Recent amendments enacted subsequent to the completion of our fieldwork (Public Law 95-115) reaffirmed the requirement for complete removal of status offenders from detention and correctional facilities, but extended the deadline. Specifically, the amendments provided the States a total of 3 years to achieve compliance. Up to 2 additional years can be allowed if a State has reduced the number of status offenders in detention and correctional facilities by at least 75 percent and has demonstrated an unequivocal commitment to achieving full compliance.

The amendments also provide that not all status offenders need to be placed in shelter facilities and provide guidance on what types of facilities would be most appropriate for status offenders in such instances. Additionally, the amendments make it clear that other nonoffenders such as dependent and neglected children also shall not be placed in detention and correctional facilities.

STATE PARTICIPATION IN THE ACT

There are 56 States and territories eligible to receive formula grant funds under the act. 1/ The number actually participating in the program ranged from a low of 39 in fiscal year 1975 to a high of 46 in fiscal year 1977. 2/ As of December 31, 1976, approximately $77 million had been awarded to the States. Formula grants received ranged from a low of $112,000 for American Samoa to a high of $7.5 million for California. (See app. I.)

PROBLEMS OF DEINSTITUTIONALIZATION

Removing status offenders from detention and correctional facilities and preventing their entry into such facilities are referred to in this report as deinstitutionalization. While we did not attempt to evaluate the merits of deinstitutionalizing status offenders, we identified problems that, in our opinion, must be dealt with if deinstitutionalization is to be achieved. First, many States have laws which conflict with the Federal deinstitutionalization requirement, and in four of the five States we visited we were told that status offenders were still being incarcerated. Secondly, appropriate alternatives to incarceration have generally not been identified and developed. Finally, most States have not established the monitoring systems required to adequately demonstrate that deinstitutionalization has or will be achieved. Each of these issues is discussed in more detail in subsequent chapters of this report.

1/As defined by the act, formula grants are allocated among the States on the basis of relative population of people under the age of 18.

2/Not included in the 39 were 7 States which received formula grants and subsequently withdrew from the program.

CHAPTER 2

STATE LAWS AND PRACTICES CONFLICT WITH THE DEINSTITUTIONALIZATION REQUIREMENT

Although States participating in the act have agreed to comply with the deinstitutionalization requirement, according to LEAA most States had legislation allowing status offenders to be placed in detention or correctional facilities under certain circumstances. We found this to be the case in four of the five States we visited. While we did not determine the extent that these laws are being implemented, officials in the States we visited informed us that such placements were being made.

One reason why status offenders are still being placed in detention and correctional facilities could be that juvenile justice officials believe it to be justified--many officials whom we interviewed held this view. The questionable authority of State planning agencies to implement the deinstitutionalization requirement appears to be another reason. In one of the States we visited, we were told that the lack of alternate facilities was one of the most important reasons. (See ch. 3.)

As long as these conditions exist, some incarceration of some status offenders is likely to continue.

STATE LAWS ALLOW SECURE PLACEMENTS OF STATUS OFFENDERS

While LEAA has not developed information on exactly how many States have laws allowing status offenders to be placed in detention and correctional facilities, LEAA officials believe most States have such laws. An April 1977 study by Pennsylvania's Joint Council on the Criminal Justice System shows that 34 States had laws allowing status offenders to be placed in correctional institutions.

Four of the five States we reviewed had laws that allow status offenders to be placed in detention facilities, and, based on information we obtained, two of the four had laws that allow such placements in correctional facilities. Data was not available on the extent to which the laws were being implemented, but we were told that all four States were placing status offenders in detention facilities and that one was placing them in correctional facilities.

Although not specifically provided for in the act, as amended, both the House and Senate Committee Reports on the 1977 amendments recognize that brief custody of status offenders may be necessary in some instances. However, it is clear that such instances are intended to be limited exceptions and in no case should exceed 24 hours. Although this recent interpretation appears to allow more flexibility in dealing with status offenders, the following discussion shows that many of the laws and practices in the States reviewed would still not be consistent with the congressional intent.

Florida

Florida law allows for some repeat status offenders to be placed in both detention and correctional facilities. Juveniles adjudicated ungovernable by the court for a second time may be considered delinquent and may be placed in a secure facility. In commenting on our report, a State planning agency official told us that although available information indicated that the second-time ungovernable clause was not being used extensively, the State Juvenile Justice and Delinquency Prevention Task Force was in full support of proposed legislation which would eliminate the ungovernability clause because it recognized that as long as the provision exists, some status offenders would continue to receive inappropriate treatment.

State law also allows first-time ungovernables to be placed in "secure shelter," a term which is not clearly defined. A State official concurred that the definitions were unclear and noted that legislative changes were being sought which would clearly define secure shelter and disallow placement therein for more than 24 hours.

Some judges have defined secure shelter as a lockup facility for status offenders. In one community we visited there appeared to be little difference between a secure shelter facility for status offenders and a detention facility for delinquents. Exit doors of the secure shelter were locked 24 hours a day, and children were allowed to leave the building only under supervision. While the secure shelter facility did not have a fence around it, as did the detention facility, its windows were locked and reinforced with heavy metal screens.

According to juvenile judges we interviewed, some status offenders are also placed in detention facilities on the basis of contempt of court charges. In these cases,

status offenders appearing before the court are directed to commit no subsequent status offenses. Those who do may be placed in detention for violation of a court order. The following example, obtained from a social service caseworker, illustrates this practice.

> Jane, a 12-year-old, was a habitual truant, stayed out late at night, and ran away from home several times. She was referred to a social service counseling program with little success. After several counseling sessions, Jane appeared before the juvenile court and was adjudicated ungovernable. The judge issued a court order directing Jane to: attend school regularly, stop staying out late, obey her mother, and stop running away. Two months later Jane ran away again. This time she was charged with contempt of court and placed in a secure detention facility. She remained in the facility for 3 weeks pending placement in a private service program.

A court official in one Florida locality told us that because of shortages of alternate programs, status offenders are sometimes detained in a secure hallway referred to as a monitoring room. The monitoring room connects a detention facility with the offices of the "juvenile intake service." The room is locked at all times and is supervised by an attendant who is responsible for operating the electronic doors. In commenting on our report, a State planning agency official said that such use of this facility has been discontinued and that the agency plans to further investigate this situation and take the necessary steps to prohibit such practices.

Louisiana

Louisiana law permits the detention of runaways and incorrigibles/ungovernables for up to 12 hours without a court order and up to 7 days with one. More than one-third of the juvenile judges responding to a 1976 State planning agency questionnaire indicated that status offenders were being placed in detention facilities. A juvenile judge told us that he had exceeded the 7-day detention limit in order to return out-of-State runaways to their homes. He also stated that he believed the

practice to be common in other jurisdictions, and further said that return arrangements could not always be completed within the prescribed time limit.

In 1974 Louisiana passed legislation prohibiting the placement of status offenders in detention facilities. We were told that the effective date of the legislation, however, has been postponed twice. The postponements were enacted to allow additional time for development of shelter facilities. State planning agency officials informed us that the legislation is now scheduled to become effective in March 1978. About 27 percent of the juvenile judges responding to the 1976 State Planning Agency questionnaire indicated that they planned to continue placing some status offenders in detention facilities even after the legislation becomes effective.

A Louisiana law, effective January 1, 1976, prohibits placing status offenders in correctional facilities. Juvenile court judges told us that under the provisions of another Louisiana law, however, truants may be adjudicated delinquent and placed in correctional facilities. One of these judges told us that he had, in fact, adjudicated truants as delinquents and ordered them placed in correctional facilities in accordance with this law. A State planning agency official, in commenting on the report, told us that no reference could be found to such a current law.

During our visit, we were told that the State legislature was considering a bill that would define escape from a nonsecure facility as a delinquent act and allow status offenders who run away from nonsecure placements to be placed in detention and correctional facilities. In commenting on our report, a State planning agency official told us that the bill did not pass.

Massachusetts

Massachusetts law does not permit status offenders to be placed in correctional facilities, and in fact the State's juvenile correctional facilities have been closed. Status offenders can be placed in detention facilities, however, under a Massachusetts law which provides for the setting and posting of bail for children in need of services. Under this law a child who does not post bail may be placed in a detention facility to assure his appearance at a hearing. Under this law status offenders may be detained for up to 15 days with additional extensions of up to 30 days. Three of six

judges interviewed said they set high bail for those status offenders they believe should be incarcerated as a signal to the State Department of Youth Services to place them in detention facilities. Because of the lack of monitoring, little is known at the State level regarding incarceration practices of local law enforcement officials. (See ch. 4.)

Virginia

A Virginia law, effective July 1, 1977, prohibits the placement of status offenders in correctional facilities, but provides for placement in detention facilities for up to 72 hours. We were told that the 72-hour detention provision is included in the act to allow for holding juveniles taken into custody on weekends and to allow remote localities to hold status offenders until transportation to nonsecure placements can be arranged. A State planning agency official acknowledged that the 72-hour detention clause conflicts with the Federal deinstitutionalization requirement but said that opposition to total deinstitutionalization was too strong for the State legislature to remove or shorten the detention clause. The official hopes the detention clause will be removed from the law within the next few years, but said that in the meantime the practice of placing status offenders in detention facilities would probably continue.

California

A California law which became effective on January 1, 1977, provides for total deinstitutionalization of status offenders. In the opinion of many law enforcement officials in the State, the law is unworkable. Opponents to the law favor both pre- and post-adjudication confinements based on the belief that certain status offenders such as chronic runaways, those exhibiting suicidal tendencies, or those with drug or alcohol problems can only be treated effectively in a secure facility. State officials cited several cases to demonstrate how total deinstitutionalization can work to the detriment of status offenders:

--A 15-year-old female runaway was placed in a group home. She ran away from the home and later died of a drug overdose.

--When the State law became effective, police in one city removed a female runaway from secure detention and sent her to a nonsecure foster home. She promptly ran away from the home to another city where she was picked up for committing a criminal offense.

--Since the State law took effect, almost half of all status offenders in one county's treatment center have run away, some more than once. One individual ran away five times. A judge began placing the runaways in detention for violating court orders to remain at the center. There have been no runaways since the judge began making secure placements; however, the judge's actions were appealed and subsequently overruled.

Because of opposition to the California law, an amendment was before the State legislature at the time of our visit which would permit a status offender to be held in a secure facility for up to 48 judicial hours 1/ to (1) determine if any warrants or hold orders are outstanding against the juvenile, (2) determine if there is reasonable cause to believe the minor is a danger to himself because of drug or alcohol problems, suicidal tendencies, or medical problems, or (3) to find a suitable placement for the juvenile if the court determines the minor willfully failed to remain in a nonsecure facility as ordered by the court. A State planning agency official acknowledged to us that the amendment might jeopardize the State's participation in the act.

MANY ARE OPPOSED TO THE TOTAL DEINSTITUTIONALIZATION OF STATUS OFFENDERS

One reason why status offenders are still being incarcerated could be that officials feel it to be necessary; many whom we interviewed, such as juvenile court officials, law enforcement officials, and others associated with the juvenile justice system, held this view. Instances in which detention is believed appropriate include cases involving

--chronic and out-of-State runaways;

--dangerous, emotionally disturbed, or self-destructive youths;

--youths who refuse to participate in nonsecure programs;

1/A judicial hour has been interpreted by State officials as being any hour between 8 a.m. and 5 p.m. which occurs on a day other than a Saturday, Sunday, or legal holiday.

--youths who refuse to go home or who exhibit behavior which indicates a propensity to commit additional offenses; and

--youths whose physical or mental faculties are impaired due to addiction to drugs or alcohol.

Some juvenile court judges also believe that correctional facilities are appropriate places in which to put some status offenders. In their view, the possibility of such placements can be an effective means of persuading status offenders to participate in nonsecure service programs. Similar beliefs were also cited as reasons for not participating in the act in the four nonparticipating States visited.

The Associate Administrator for LEAA's Office of Juvenile Justice and Delinquency Prevention said that he was not surprised that we found considerable support among the States for incarceration of certain status offenders. He said that deinstitutionalization had never been emphasized from the national level and that if anything the previous administration downplayed its importance and to some extent discouraged States from carrying out the Federal requirement. According to the Associate Administrator, philosophical opposition to deinstitutionalization exists among such groups as juvenile court judges who often believe that status offenders are just as bad as delinquents and should be treated as such. In his opinion, some judges have been avoiding due process of law procedures for status offenders. He feels that the Federal deinstitutionalization mandate conflicts with the status quo in juvenile justice and results in opposition from the judges.

QUESTIONABLE AUTHORITY OF STATE PLANNING AGENCIES TO IMPLEMENT DEINSTITUTIONALIZATION

Section 223(a)(2) of the act requires that in order to receive formula grants, a State's comprehensive crime control plan must contain evidence that the State planning agency has or will have authority to implement the plan's provisions, including deinstitutionalization. State planning agency officials in each of the five States we visited, however, indicated that they did not have such authority. Officials in three States informed us that they saw their role as one of planning and advising, not implementing specific requirements such as deinstitutionalization.

In one State the governor has designated the State planning agency as the agency responsible for the preparation and administration of the required State criminal justice plan. The State planning agency has informed LEAA that it is in a position to encourage and assist in the coordination of services for youth but that no State agency can dictate functions, duties, or responsibilities to another. The State planning agency has also indicated that changes in State laws regarding juvenile offenders may be necessary to achieve deinstitutionalization for status offenders. A State planning agency official said that the agency needed authority to penalize other State agencies that were not cooperative in the deinstitutionalization effort.

In another State, neither the State planning agency nor its supervisory board has authority to implement the Federal deinstitutionalization requirement. An executive order established the supervisory board as a planning and advisory group. Its major responsibility is to develop criminal justice standards and goals for the State. The State planning agency is responsible for writing the criminal justice plans. Neither group was given implementing authority.

In addition, the administrative placement of the State planning agency within the State government limits its ability even to encourage deinstitutionalization. The State planning agency is located within the State planning division and headed by a bureau chief. The heads of the State's two child-serving agencies are division directors and are at least two management levels higher in the State organization than the head of the State planning agency. Although an official of the State planning agency noted that it had not encountered any major difficulties in trying to carry out the provisions of the Juvenile Justice and Delinquency Prevention Act, the head of the State planning agency told us that his ability to encourage and coordinate changes within the child-serving agencies was limited.

Also, officials in several nonparticipating States told us that one reason they elected not to participate in the act was because their State planning agencies were not in a position to implement the deinstitutionalization requirement. (See app. II.)

In response to a number of inquiries, including one from a State planning agency, LEAA's Office of General Counsel issued a legal opinion which addressed the impact section

223(a)(2) has on a State planning agency's authority to implement its State plans. The legal opinion states that the act does not give the planning agency direct authority to implement the plan, but requires an indication of the source of the planning agency supervisory board's implementation authority. The opinion also says that granting direct authority over operational agencies is likely to be the exception and that statewide compliance with the act's requirements will instead require careful planning, coordination, and execution. The means for accomplishing compliance are left to the State planning agencies to determine; however, they may include agreements with operating agencies, legislative reform efforts, public education and information, and other methods.

LEAA's Associate Administrator for the Office of Juvenile Justice and Delinquency Prevention said he disagreed with State planning agency officials' arguments that their role was one of planning and advising, but not implementing requirements such as deinstitutionalization. According to him, the act requires the agencies to implement the Federal mandate and the agencies have taken active roles in the past in such areas as providing police hardware. In his opinion, the State planning agencies can be active when they want to be. He said that LEAA had not strongly emphasized the requirement to the State planning agencies; therefore, these agencies had not pushed for implementation in the States. He said that LEAA planned to place more emphasis on deinstitutionalization. LEAA's efforts to assist in the implementation of deinstitutionalization are discussed later in this chapter.

LEAA EFFORTS TO IDENTIFY AND RESOLVE PROBLEMS REGARDING DEINSTITUTIONALIZATION HAVE BEEN LIMITED

LEAA has the role of providing national direction, control, and leadership in implementing the deinstitutionalization of status offenders. While LEAA has provided States with technical assistance, the assistance has not dealt with specific problems individual States are experiencing. For example, no effort has been made to identify and summarize the problems encountered by the States in achieving deinstitutionalization. LEAA officials are aware that many States have laws and practices which conflict with the Federal requirement, but have not identified the number of States.

LEAA's Associate Administrator for the Office of Juvenile Justice and Delinquency Prevention said that LEAA's role was to assist the States in achieving deinstitutionalization

through enumerating problems and providing expertise, assistance, guidance, and money to help alleviate the problems. In his opinion, LEAA should set goals, inform States about the Federal requirements, and encourage the States to enact legislation that would bring about deinstitutionalization. He said these types of things should have been done by LEAA immediately after passage of the act, but were not.

The Associate Administrator believes the State planning agencies have responsibility for implementing the deinstitutionalization mandate. If the planning agencies are not successful in doing so and if States fail to achieve deinstitutionalization, the Associate Administrator advocates eliminating future funding to those States and redistributing the funds to States that are committed to the Federal mandate.

CONCLUSIONS

Most States receiving funds under the act continue to have State laws allowing some status offenders to be placed in detention or correctional facilities. Juvenile justice officials in most States visited said that limited incarceration of status offenders was appropriate and necessary in some cases. Also, although the State planning agencies are responsible for committing participating States to achieve full deinstitutionalization of status offenders, they may lack the authority to carry out the commitment.

It appears that LEAA has done little to fully explore these problems or to help the States to overcome them. Since these problems have prevented some States from participating in the act, perhaps this resolution would result in some nonparticipating States' reconsidering their position.

RECOMMENDATIONS

The Attorney General should direct the Administrator of LEAA to take a leadership role in identifying specific problems which are preventing full deinstitutionalization in each participating State. These problems should then be evaluated to identify ways in which individual States could be given assistance in meeting the Federal requirement.

The problem of opposition to full deinstitutionalization also needs to be dealt with. The Administrator of LEAA should examine the reasons given for this opposition and determine whether they have merit. If the complaints are

not valid, LEAA needs to alleviate such concerns by showing that certain alternatives to incarceration are feasible. If the complaints do have merit, LEAA should seek limited legislative changes in the total deinstitutionalization mandate.

The LEAA Administrator should also assess whether or not the State planning agencies have enough authority to assure that a State will achieve deinstitutionalization. If State commitments to deinstitutionalization can be more effectively obtained from other State agencies or officials, the Administrator should seek legislative changes allowing greater flexibility in how the commitments are obtained.

CHAPTER 3

APPROPRIATE ALTERNATIVES NEED TO BE IDENTIFIED AND DEVELOPED

Most deinstitutionalization efforts appear to have concentrated on removing status offenders from detention and correctional facilities; less attention has been given to their needs for service and treatment. Generally, not enough alternate services for status offenders have been developed. In fact, State and Federal officials are uncertain about what dispositions for status offenders are appropriate. Consequently, status offenders who may need assistance are returned to society without receiving any services or are placed in programs that may not be structured to deal with their problems.

SERVICE REQUIREMENTS

In passing the act, the Congress declared a policy of developing and conducting effective programs to prevent delinquency, divert juveniles from the traditional juvenile justice system, and provide critically needed alternatives to institutionalization. This was to be done by increasing the capacity of State and local governments and public and private agencies to conduct effective delinquency prevention and rehabilitation programs.

A clear consensus emerged from hearings on the proposed act: traditional incarceration in jails and detention and correctional facilities was not an effective means of dealing with juvenile offenders, especially noncriminals such as status offenders and abused and neglected youths. Strong support was expressed for incentives for State and local governments to develop community-based programs and services as alternatives to traditional juvenile processing. It was believed that programs using resources outside of the criminal justice system could provide effective rehabilitation, allowing more attention to be devoted to serious offenders. In commenting on the proposed act, the Senate Committee on the Judiciary reported that the incidence of status offenses was high enough to warrant major innovations in coping with such behavior. The Committee reported that there was a strong need for providing services at times when they could be crucial in preventing a career of crime. Witnesses before the Committee testified that often the only choices available to judges or program administrators in dealing with juvenile offenders were incarceration or release.

Community-based alternate programs were seen as intermediate steps between ignoring a youth's problems or adopting techniques that could worsen the situation.

Often the juvenile justice system is not linked to social service and human resource agencies in the State which may be able to meet the needs of juvenile offenders. Senate hearings on the act made clear the necessity to establish such a link. During hearings on the 1977 amendments to the act, the House Committee on Education and Labor, recognizing that status offenders and dependent and neglected youths were often inappropriately placed in institutions or other facilities because of a lack of suitable alternatives, said that some States were unwilling to search out or develop less costly and more suitable alternatives.

Section 223(a)(12) of the act, as amended, provides that status offenders and such nonoffenders as dependent or neglected children,

> "if placed in facilities, are to be placed in facilities which (i) are the least restrictive alternatives appropriate to the needs of the child and the community; (ii) are in reasonable proximity to the family and home communities of such juveniles; and (iii) provide services described in section 103(1)."

Section 103(1) of the act provides that such services may include medical, educational, vocational, and social programs and other rehabilitative services such as counseling and alcoholism and drug treatment.

ALTERNATE SERVICES ARE OFTEN CONSIDERED INAPPROPRIATE OR ARE UNAVAILABLE

A major issue confronting the States is how best to deal with those status offenders who need some type of assistance. Officials are uncertain about what alternate services would most help such an offender. Little progress has been made at the national level in identifying such services and distributing the information to the States.

A recent national review indicates that while many State statutes categorize status offenders separately from delinquents and dependent and neglected children, dispositionally they are treated in much the same manner. Preliminary work on an LEAA study of the impact of deinstitutionalization on selected States indicates that relatively little attention has been devoted to the specific needs of

deinstitutionalized status offenders. Visits by an LEAA contractor to one State revealed that no one had thought much about alternate services for status offenders and no one seemed aware of what, if anything, had happened to status offenders. LEAA regional office work plans indicate a shortage of alternate programs in areas of some States. One LEAA grant program is based on the assumption that services for processing and treating status offenders are generally inadequate, inappropriate, and often destructive. (See p. 27.)

In each of the five States we visited, we found indications of limited availability of services for status offenders or services being used that officials did not consider appropriate for dealing with status offenders' problems. Reasons cited for States not having adequate numbers of services considered appropriate include (1) limited funding available for this purpose, (2) resistance from some localities to establishing programs in their community, and (3) the lack of emphasis placed on status offender service needs, especially at the Federal level. The following is a discussion of the types of problems some States are having in attempting to meet status offenders' needs for services.

Florida

In Florida programs designed for abused and neglected youths also serve deinstitutionalized status offenders. Many officials interviewed said that these services were frequently inappropriate. In fact, numerous problems have resulted when status offenders are placed in the programs.

A 1975 Florida law decriminalized status offenses and transferred responsibility for such offenders from a State correctional agency to a State social service agency. Under the new law, status offenders are classified as dependents and grouped with neglected and abused children. Foster care and protective service counseling programs previously used for the latter two groups are the principal resources for status offenders. According to State officials, these programs have generally not been successful. Officials at the social service agency cited as reasons large caseloads, inadequate resources, and caseworker inexperience in handling problem adolescents. 1/ Caseworkers indicated that neglected

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1/In commenting on our report, a State planning agency official stated that "intake" counselors have begun to receive training on family crisis intervention skills.

and abused children adjusted quickly to foster care because of their passive attitudes. When foster parents and caseworkers were suddenly forced to cope with teenage status offenders who tended to be more aggressive and rebellious against authority, disciplinary problems often arose in these programs. It is the opinion of the caseworkers interviewed that programs involving peer group pressure are more effective in dealing with status offenders.

According to State officials, not enough money, staff, or facilities were devoted to the transfer of status offenders to the State social service agency. Also, the agency's requests for State funds to develop new group-oriented programs for status offenders were denied. Among the types of problems caused by the status offender transfer are

--running away from foster homes, sometimes taking along abused and neglected children.

--stealing from foster parents,

--mistreating abused and neglected children who are placed with them, and

--frustrating foster parents to the point of their leaving the program.

The following case studies provided by social agency caseworkers illustrate the problems.

--Bob is a 17-year-old who has exhausted several social service placements. He was adopted at 18 months. At age 12, Bob was placed in a special school for disturbed and incorrigible children because he frequently ran away from home and threatened his mother with a knife on two occasions. After 2 years in the school, Bob went to Florida and lived with his natural parents. Bob's parents referred him to the State social service agency because they could not cope with his unmanageable and aggressive behavior. Bob's initial placement in a protective shelter lasted only 1 month because he assaulted younger children in the facility. Between November 1974 and November 1975, Bob was evicted from the following placements because of his disruptive behavior:

--A boys home.

--Another protective shelter (this placement lasted only 1 week).

--A psychiatric hospital.

--Placement with his parents.

--Group home (Bob threatened another boy in the facility with a butcher knife).

During the next year, Bob was placed in four different foster homes. During these placements he caused numerous problems by being truant, stealing, and disobeying the foster parents. In November 1976, Bob was adjudicated ungovernable because of truancy and placed on probation. He continued to be truant and was declared delinquent on January 4, 1977.

The second case involved a 14-year-old girl who was a habitual runaway and a chronic truant:

--Jane has exhausted several service placements. She comes from a broken home and has lived with several relatives; however, none will take permanent custody because of her unmanageable behavior. Jane was referred to the State social services agency in June 1976 and placed temporarily in a runaway shelter. She was evicted from the shelter after she was adjudicated delinquent for shoplifting and placed on probation. Jane refused to return home and was adjudicated dependent in November 1976. Between November 1976 and March 1977, Jane was placed in four foster homes, a volunteer crisis home, an emergency shelter, her own home, and a foster family group home.

Many truants in Florida are referred to protective service counseling. Caseworkers we talked with indicated that existing counseling programs are often inappropriate for such offenders, since they provide little motivation for the individuals to attend school. Some feel that truancy problems could be more effectively dealt with by the school system. The following example was provided to illustrate the problem of handling truants.

--Jim is a 12-year-old 7th grade student whose only status offense has been chronic truancy. Jim's school attendance has declined for the past 3 years. He attended school only 10 days during the past school year and was tardy on about half

of those days. The social service caseworker, the county truant officer, and the assistant principal have counseled Jim and his parents with little success. Both the caseworker and Jim's father have driven Jim to school, but he refused to stay. The caseworker planned to enroll Jim in counseling and recreational programs during the summer. The caseworker stated that if these fail, her only alternative is to take him to court.

Some Florida officials responsible for dealing with status offenders are of the opinion that certain juvenile offender programs sponsored by the State juvenile correctional agency and some privately operated programs may be more appropriate for status offenders than the programs currently used. These programs are generally not used for status offenders, however, because of State law restrictions, long waiting lists, and limited funding.

The State juvenile corrections agency operates several types of community-based, mostly group-oriented programs that serve as alternatives to training schools for delinquents. Among these programs are:

--6 group homes providing residential treatment in a home-like atmosphere.

--12 halfway houses providing short-term residential treatment.

--6 centers that provide intensive treatment in a more restrictive environment than the halfway houses.

--5 coed centers providing intensive day care programs for offenders who are capable of successfully adjusting to their own community and homes.

--A 21-day outdoor program including a 300-mile canoe trip from the Atlantic Ocean to the Gulf of Mexico.

Officials at the juvenile corrections and State social service agencies and others generally agree that the above programs are appropriate for many status offenders. However, according to State officials, Florida law prohibits placing status offenders in State-operated programs for delinquents.

Several privately operated programs were also identified by State officials as having potential for use in dealing

with status offenders. We were informed that most of these programs use peer group pressure and behavior modification techniques and emphasize ties with a youth's home community. Parents are also required to participate in counseling and other activities. According to State officials, these programs are not extensively used for status offenders because of long waiting lists and because of their relatively high cost. Florida's social service agency can pay up to $169 per month (the same amount allowed for foster care placements) for private placements, but the cost of such placements ranges as high as $600 per month. Therefore, limited numbers of private placements are made available to State-supported status offenders.

The Eckerd Wilderness Camps illustrate the types of private progams Florida officials believe are appropriate for some status offenders. The camps provide long-term residential treatment for problem youths between the ages of 8 and 15. Residents live together in the woods in groups of 10 under the constant supervision of two professional counselors. Each group designs, builds, and maintains its own campsite. The groups also plan and carry out various activities and evaluate each activity in terms of the positive behavior produced and its relationship to home, school, and the community. Residents maintain family ties through 4-day home visits every 6 weeks. Parents are required to participate in periodic group and individual counseling sessions.

Florida officials with whom we talked also said that the Pinellas Youth Homes (funded by the Pinellas County Juvenile Welfare Board and LEAA) are the types of programs that offer potential for dealing with status offenders' problems. The programs consist of seven community-based group homes, two of which accommodate status offenders. Residents attend either public school or an alternative school if they have low reading, writing, and arithmetical skills. Daily individual and group counseling sessions are held which emphasize problem solving, communication, and trust. Behavior modification is attempted through a system that provides rewards for positive attitude changes and leads to graduation from the program.

In commenting on our report, a State planning agency official told us that uncertainty about appropriate alternatives was not unique to Florida and that a study will begin on July 1, 1978, to develop guidelines for dealing with status offenders and a programmatic plan for alternatives.

Louisiana

Louisiana officials generally acknowledge a shortage of alternatives to detention and correctional facilities for juvenile offenders. Nearly one-half of the 49 juvenile judges responding to a 1976 State-planning-agency-administered questionnaire said they had experienced problems handling status offenders because of a shortage of alternate programs. The Director of the State Office of Youth Services told us that during 1976, over 500 additional spaces were needed in nonsecure facilities. State officials said that in some cases communities have objected to having programs in their neighborhood. A State official said there is a shortage of foster homes in the State. Also, he believes that many potential foster parents are reluctant to accept status offenders whom they view as difficult to handle.

Community-based programs in Louisiana are locally or privately owned. According to officials contacted, the programs set their own admission criteria. A State planning agency study noted wide variations in acceptance policies. For example, some programs refused offenders with drug abuse histories, while others refused admission to any juvenile with known emotional problems. While many programs accepted both delinquents and status offenders, most would not accept so-called "disruptive" youths.

A juvenile judge expressed the belief that community-based programs in his area are more concerned with building success stories than treating juvenile offenders. He believes that problem status offenders and other juvenile offenders are often barred from the programs and returned to unsuitable home environments which are the original source of their problems. The judge believes that it is essential that courts have the authority to prescribe specific types of services for some status offenders. Officials from the Office of Youth Services and a court service unit confirmed that status offenders are sometimes returned to unsuitable home environments or placed in secure facilities because of a lack of appropriate shelter facilities.

An official at the State planning agency told us that no agency or individual has assumed responsibility for providing alternate services for status offenders. There is no comprehensive listing of community-based programs for such offenders. The State planning agency contracted for this information over 2 years ago; however, the results were

unacceptable. We were told that the State planning agency now plans to gather the information itself.

Virginia

Virginia recently passed a law providing for deinstitutionalization of status offenders, except for secure detention up to 72 hours. At the time of our visit, a final decision had not been reached on which nonsecure programs would be used instead. State officials expect to use existing programs administered by the State juvenile corrections agency or the State social service agency. An official at the juvenile corrections agency said that while some localities had sufficient numbers of nonsecure services, others did not. Plans call for establishing additional group home beds that may be used by status offenders. An official at the State social service agency expressed concern that status offender placements would overburden caseworkers who already had full caseloads. He added that agency personnel were not trained or experienced in dealing with problem teenagers.

California

We were told that while California has a full range of services for juveniles, including status offenders, significant inequities exist among the various counties. Some counties have a wide range of juvenile programs, and others do not. The programs available in the eight counties 1/ we visited include foster homes, group homes, counseling services, and psychiatric care. Information on the programs most frequently used for status offenders and their success had not been developed.

While county officials generally agreed that existing community-based programs are appropriate for status offenders, they then said that additional programs were needed. Limited funding was cited as the prime reason for program shortages. California officials estimate that approximately $12 million would be required annually to fully comply with the act.

Massachusetts

Massachusetts officials said that there were shortages of service "dispositions" in some areas of the State and

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1/These eight counties contain approximately 60 percent of the State's population.

generally agreed that existing services were not effective for many status offenders. A study conducted by the State Office for Children in 1976 disclosed concern about improving the services for status offenders handled by the Department of Public Welfare. The study disclosed that of the seven welfare regions six required development of specialized or more appropriate foster care, four needed additional emergency care facilities, two needed more group homes, and one had a serious need for psychiatric emergency backup service. In 1975 the Department of Public Welfare, stating that methods for serving status offenders were inadequate, requested an LEAA grant to develop pilot projects of appropriate service alternatives. According to an LEAA regional office official, Massachusetts' proposal was rejected primarily because the national priority was concerned more with removing status offenders from detention and correctional facilities than providing alternate services. In commenting on our report, an official of the Department of Public Welfare told us that subsequent to our study a contract was awarded for $1.3 million for emergency shelter and counseling services for children in need of services. The official added that she thought there was no longer a shortage of emergency shelter.

Massachusetts legislation classifies status offenders as children who need services or treatment for individual problems, rather than punishment. Therefore, such offenders have been integrated into an existing welfare service system designed primarily for children in need of care and protection. According to officials, problems have resulted from placing the more emotionally disturbed status offenders in these programs.

Most frequently status offenders are placed in foster care. According to probation and court personnel, many such offenders reaching the adjudication stage have unique needs such as the need for professional rehabilitative services that cannot be administered effectively through foster care. They feel that foster parents generally lack the training and knowledge to cope effectively with these problems. Additionally, support services such as psychiatric and medical treatment are not always available to foster parents, especially in crises.

According to State officials, many foster home placements end abruptly because the status offenders either run away or disrupt the foster home to the extent that immediate removal is required. State welfare officials said that inappropriately placing emotionally disturbed status offenders had made potential foster parents reluctant to accept

any youths, especially status offenders. Caseworkers, judges, and probation officers expressed concern over the State's increasing reliance on foster care placements for severely disturbed and hardened status offenders. Some welfare officials believe that such placements have negatively affected the State's foster care program.

Some Massachusetts officials were of the opinion that status offenders were more effectively served through group programs. According to State officials, however, group care services were often not available when needed and many status offenders waited from 6 to 12 months for placement. They indicated that limited numbers of programs were available because so few vendors were capable of dealing with the varied treatment needs of status offenders, especially those with emotional or violent characteristics. Additionally, some group-care vendors refused admission to status offenders with more severe problems, forcing officials to use foster homes as alternatives to what they considered more appropriate services.

Several juvenile judges, probation officers, and officials at the Office for Children expressed the opinion that not providing appropriate services to status offenders was a contributing factor to future criminal behavior. Office for Children officials stated that status offenders cycling through multiple inappropriate placements tended to become "hardened and street wise." In their opinion, the lack of immediate diagnosis and appropriate treatment can invite delinquent behavior. A juvenile judge expressed similar opinions, stating that many status offenders who did not receive adequate services later became involved in criminal behavior.

The following case study provided by welfare officials illustrates the problems Massachusetts has experienced in dealing with status offenders in foster care placements.

--Joy is a 15-year-old girl whose mother filed an application with the juvenile court to have her adjudicated as a child in need of services. Her mother charged Joy with truancy and incorrigibility. Pending her hearing, Joy was removed from her home and placed in three different foster homes and a secure overnight detention facility over a period of about 6 weeks. Her stays in the foster homes were terminated because of her disruptiveness. At her hearing, Joy was adjudicated as a child in need of services and committed to the Department of Public Welfare. Welfare placed Joy in three

foster homes during the next 2 months. Joy ran away from the first placement and attempted suicide while in another. Welfare officials concluded that foster care was not appropriate and had Joy committed to the Department of Mental Health. Mental health officials stated that their facilities were inappropriate for Joy and recommended residential placement other than foster care. Since no such placement alternatives were available, Joy was returned to her home. About 4 months later, following an evaluation of her special education needs, Joy was again removed from her home by the Department of Public Welfare and placed in a foster home. Due to her disruptiveness she had to be removed and was placed in a second foster home from which she ran away. Finally, about 9 months after Joy was referred to the court by her mother, she was still awaiting appropriate placement.

LEAA EFFORTS TO ASSIST STATES IN IDENTIFYING AND ESTABLISHING ALTERNATE SERVICES

Little information has been developed at the national level and distributed to the States concerning the types of service alternatives that appear most effective for status offenders under various situations. LEAA has recognized a need for such information, and a number of research efforts are underway in this area. Delays in initiating and completing most projects, however, have generally left the States on their own to deal with the problem.

LEAA efforts at identifying appropriate alternate services for status offenders include two discretionary grant programs. The initial program, announced in March 1975, made approximately $12 million available to 13 selected public and private agencies to design and implement model programs to (1) prevent status offenders from entering detention and correctional facilities, (2) remove those status offenders already in detention and correctional facilities, and (3) provide nonsecure, community-based alternate services. A major goal of the program is to develop information on the effectiveness of a variety of programs serving deinstitutionalized status offenders and to provide information to the States and localities about which services appear to be most effective in given situations. According to LEAA officials, most grantees experienced delays in starting, however, and will not have reportable results at the end of the planned 2-year period. At the time of our review, 10 of the 13 grantees had been given extensions of up to 10 months.

The second discretionary grant program was announced in May 1977 to supplement State efforts to fully implement the deinstitutionalization requirement of the act. The program will make $4.3 million available to States, local governments, and public and private nonprofit organizations to address the recognized problem that the juvenile justice system generally lacks sufficient viable alternatives to secure confinement of juvenile offenders. Justification for the program includes the assumption that services for processing and treating status offenders are generally inadequate, inappropriate, and often destructive.

Other LEAA efforts underway to identify appropriate service alternatives for status offenders included

--a contract awarded to the National Office for Social Responsiblity to provide technical assistance to diversion and deinstitutionalization of status offender projects being funded under LEAA's special emphasis program and

--a contract awarded to Arthur D. Little, Inc., to study the effect on services and costs of deinstitutionalization in 10 States; the study is designed to clarify the service needs associated with deinstitutionalization and to determine whether any changes in the Federal role are appropriate.

An LEAA official said that LEAA efforts to assist States in establishing alternate services for deinstitutionalized status offenders primarily consisted of (1) formula grants provided under the act and block grants under the Crime Control Act and (2) a variety of technical assistance efforts. Funds provided under the above acts may be used for, but are not restricted to, status offender service programs.

LEAA officials said that while they believed it important that status offenders' needs for services be effectively met outside institutions, LEAA was not in a position to require this approach in the States. They view their role as one of encouraging States to establish viable alternatives through financial and technical assistance.

CONCLUSIONS

Deinstitutionalization efforts to date appear to have concentrated on removing status offenders from detention and correctional facilities.

While several research efforts are underway, little has been achieved at the national level to identify the type of services that appears most successful in dealing with status offenders' problems and distributing this information to the States. Uncertainty exists regarding appropriate services for status offenders. In addition, not enough alternate services are available in some States. Therefore, status offenders who may need assistance are sometimes returned to society without any meaningful assistance or placed in programs that cannot properly deal with their problems.

RECOMMENDATIONS

We recommend that the Attorney General direct the Administrator, LEAA, to place increased emphasis on the needs of status offenders for services. Specifically, we recommend that LEAA, through ongoing research or by other efforts, identify those types of services that appear to be most successful in dealing with status offenders in various situations and distribute the information to the States as quickly as possible. Further, we recommend that, to the extent feasible, LEAA encourage the States to establish adequate numbers of services that are considered appropriate for status offenders.

CHAPTER 4

SYSTEMS TO MONITOR DEINSTITUTIONALIZATION

NEED IMPROVEMENT

Few States have established comprehensive systems to monitor jails, detention facilities, and correctional facilities to see that the deinstitutionalization of status offenders is achieved in accordance with the Juvenile Justice and Delinquency Prevention Act. Without such systems it is difficult, if not impossible, to evaluate deinstitutionalization progress and to demonstrate when States achieve full deinstitutionalization. Status offenders may continue to be placed in detention and correctional facilities without this being reported to State or Federal programs officials. Additionally, it is difficult for States to properly plan for deinstitutionalization--mainly development of alternate programs--without complete and accurate statistics on the number of status offenders to be dealt with. LEAA and officials in States we visited cited the lack of understanding as to what was required, lack of authority to monitor certain facilities, and lack of necessary resources as problems in establishing the required monitoring systems.

MONITORING REQUIREMENTS

Section 223(a)(14) of the act 1/ requires all States receiving formula grant allocations to establish adequate systems to monitor jails, detention facilities, and correctional facilities to help insure that the deinstitutionalization requirement is met and also requires them to report annually the results to the LEAA Administrator. Each State plan must indicate how the State intends to provide for accurate and complete monitoring of these facilities and any other secure facilities and relate the monitoring results to stated goals, objectives, and timetables for achieving deinstitutionalization. Each State's monitoring efforts must include a survey of all jails, lockups, and detention and correctional facilities, noting the number of juveniles placed therein during the reporting period, the specific offense charged or committed, and the disposition, if any, made for each category of offense. Provisions must also exist for annual onsite inspections of jails, and detention and correctional facilities.

1/Section 223(a)(14) was amended by Public Law 95-115 (Oct. 3, 1977) to require States to monitor nonsecure facilities as well.

Each State planning agency must submit an annual report to the LEAA Administrator on the results of the State's monitoring efforts. The reports must relate monitoring results to the deinstitutionalization provision of the act, including:

--Violations of the provision and steps taken to ensure compliance.

--Procedures established for investigation of complaints of violations.

--The manner in which data was obtained.

--The plan implemented to ensure compliance with the deinstitutionalization requirement and its results.

STATE EFFORTS TO MONITOR DEINSTITUTIONALIZATION

Although 42 States were required to submit initial monitoring reports to the LEAA Administrator by December 31, 1976, only 25 States had forwarded such reports as of March 15, 1977. As of June 30, 1977, however, reports had been received from all 42 States. According to LEAA, most States had not established the comprehensive monitoring systems required by the act and LEAA implementing guidelines and were therefore unable to provide complete information on deinstitutionalization results.

LEAA's analysis of State monitoring reports

LEAA's analysis of the initial 25 State monitoring reports concluded that data collection was one of the overriding problems. According to LEAA, these reports represent the first overall attempt by many States to monitor the juvenile justice system. Thus, gaps in data collection were just becoming evident. LEAA added that most State service agencies have large amounts of data that is not being provided to State planning agencies.

The initial monitoring reports disclosed that some States were only monitoring State juvenile facilities and apparently intended to base compliance with the act's deinstitutionalization mandate only on statistics from these facilities. LEAA said that this narrow interpretation of the act's requirements ignored an undeterminable number of juveniles being detained or institutionalized in local facilities.

LEAA's overall analysis of all 42 State monitoring reports disclosed that

--only 9 States provided what could be considered complete data,

--8 States could provide no monitoring data at all either because the State started too late in collecting data or simply did no monitoring,

--data was missing from 17 States--the major problem was in not fully monitoring jails or not monitoring them at all,

--33 States had not established baseline data against which to measure deinstitutionalization achievements,

--only 4 States monitored private facilities containing juvenile offenders, and

--only 2 States appeared to demonstrate at least a 75-percent reduction in the number of status offenders placed in detention and correctional facilities.

After analyzing monitoring reports from the 42 States, LEAA said that two general problems existed. The first and most significant was that most States waited too long to start collecting data. Thus, there was not enough leadtime for facilities to collect proper data, for jurisdictional problems to be solved, or for the general methodology to be revised in light of problems identified. Secondly, many States did not appear to fully understand the guideline requirements for monitoring. This was indicated by the limited monitoring of local jails and private facilities.

LEAA concl ed that most States failed to thoroughly address published guideline requirements in their monitoring reports and that their omissions were major in most cases. LEAA has also recognized that because of the lack of essential statistical information, present analysis of progress the States are making in deinstitutionalizing status offenders must be qualified.

Senate Committee's reaction to State monitoring efforts

The Committee on the Judiciary, United States Senate, in its May 14, 1977, report, mentioned difficulties experienced in assuring that States meet the Federal monitoring requirements. The Committee's report stated that the contents of the initial

monitoring reports were disappointing. Most States did not present adequate "hard" data to indicate the extent of their progress with the deinstitutionalization requirement. The report showed that the States' initial monitoring reports contained problems with the clarity of data, progress achieved, and facilities monitored. The report also noted States' confusion over the definitions of what constitute juvenile detention and correctional facilities.

Monitoring in States we visited

We found many of the same monitoring problems that LEAA identified and the Committee report enumerated in the five States we visited. None of the five States monitored all types of facilities required by the act and LEAA guidelines. Officials in four States expressed reservations about whether their States had authority to monitor some local and private facilities. Officials in two States indicated that their States did not have adequate resources to carry out the monitoring requirements.

Specific problems with monitoring in each of the States we visited and some of the efforts underway to improve monitoring systems are discussed below.

Louisiana

Louisiana's monitoring efforts consist of obtaining and reporting data on the number of status offenders held in State correctional facilities and parish jails on 1 or 2 days of the year. While this procedure may provide some indication of the State's progress towards deinstitutionalization, State planning agency officials agreed that it is not adequate to insure that status offenders are not being incarcerated at other times during the year. For instance, not all jails and detention and correctional facilities are monitored--no local jails are included--and comprehensive information is not obtained on the number of status offender incarcerations during the required 12-month reporting period.

The Director of the State planning agency commented that our report indicated that the procedures used by Louisiana fell short of an adequate system of monitoring but failed to mention that Louisiana was following precisely the guidelines issued by LEAA on June 16, 1976, outlining monitoring procedures. The LEAA guidelines referred to by Louisiana did not apply to monitoring requirements of the act but suggested methods that the States could use to demonstrate that it had reduced the number of status offenders in detention and correctional facilities by at least 75 percent.

Louisiana's monitoring system essentially consists of one full-time monitor who makes announced visits to parish jails and adult correctional facilities about twice a year. According to State officials, State law restricts access to juvenile records to law enforcement and court officials; therefore, information on the number of status offenders held, the longest incarceration period, the offenses committed, and any dispositions is obtained through interviews with facility officials. A State planning agency official said that it was questionable whether the agency had authority to make inspection visits to parish jails and correctional facilities for monitoring purposes. State planning officials stated that even without State legal restrictions, a lack of resources would make it virtually impossible to monitor all facilities where status offenders might be incarcerated. A statewide tracking system is being developed that will follow juvenile offenders from court "intake" through disposition. According to State officials, the system is not expected to be operational until around 1980.

Florida

Florida's monitoring system consists of identifying the number of status offenders placed in programs of the Department of Youth Services. No effort is made to identify and report the number of status offenders held in local jails or secure shelter facilities. State planning agency officials recognize that the State is not in full compliance with established LEAA monitoring requirements and are attempting to improve monitoring efforts. Additional coverage will be obtained through a statewide information system that is being developed as part of an existing system to inspect local jails for security and sanitary conditions, and through implementing additional data collection at the "intake" level. One official estimated, however, that 5 years will be required for the expanded monitoring system to be fully operational. A State planning agency official cited the high turnover rate among agency personnel as a reason that more emphasis has not been placed on establishing the type of monitoring system required for participation in the act. Although LEAA officials have cited Florida as one of two States that have achieved a 75-percent reduction in the number of incarcerated status offenders during its initial 2 years in the program, we believe that any such analysis would have to be qualified in view of the State's limited data collection.

Massachusetts

Massachusetts has made essentially no effort to monitor jails and detention and correctional facilities to assure the State's compliance with the deinstitutionalization requirement of the act. According to State officials, no monitoring system has been established because of the belief that Massachusetts was already in compliance with the Federal deinstitutionalization requirement and because LEAA had not requested it.

Massachusetts' 1976 monitoring report essentially attempted to demonstrate deinstitutionalization compliance by describing the State's deinstitutionalization law. No survey of jails and detention and correctional facilities was made to determine if status offenders were incarcerated. LEAA headquarters' initial review and analysis of Massachusetts' monitoring report provided no indication of whether the State (1) met the monitoring requirements of the act and LEAA guidelines, (2) adequately assessed deinstitutionalization progress, or (3) provided adequate baseline data for determining compliance with the act. LEAA acknowledged, however, that the report did not contain complete data and did not indicate the extent of missing data or how the State planned to obtain it. LEAA's analysis stated that removal of status offenders from correctional facilities was required by State legislation and that no status offenders were being placed in such facilities.

In contrast to LEAA headquarters, the LEAA regional office concluded that the information in the monitoring report was insufficient to determine whether section 223(a)(12) of the act was being enforced. Several deficiencies were noted, such as the failure to monitor lockups, even when the basis and authority to do so already existed for State purposes. The regional office also noted that access to records and physical facilities was restricted for some localities visited.

According to a State planning agency official, there are a number of obstacles that Massachusetts must overcome to establish a monitoring system. First, the State planning agency does not have the resources to independently monitor all jails and detention and correctional facilities. The agency would probably have to rely on State and local agencies operating such facilities to monitor themselves and report their own violations of the act. Furthermore, uncertainty

exists about whether the State planning agency has the authority to monitor detention and correctional facilities and to correct any violations.

Virginia

Virginia's monitoring system consists of periodic reports from State-operated jails and detention and correctional facilities, and court intake services showing the numbers of status offenders incarcerated. The system does not include information on status offenders held in approximately 50 locally operated police lockups, but we were advised that the State planning agency would have reports on them by the spring of 1978. Also, past verifications of statistics reported on juveniles in local jails revealed error factors as high as 33 percent. According to a State planning agency official, the detection data on status offenders has been very unreliable, but is improving. A Division of Youth Services official said that improvements in the information system are being developed which will include monthly reporting of status offender placements in both secure and nonsecure placements operated by the localities and reimbursed by the State. The official said that manual reporting of some data was expected by August 1977, with computerized reporting anticipated by October 1977. However, data from local lockups will not be included. We were told that the State planning agency expects to obtain data on the lockups from Virginia's planning district commissions. The Division of Youth Services official added that Virginia could have problems demonstrating compliance with the act because the State was not authorized to monitor private placements. In commenting on our report, the director of the State planning agency stated that State officials can monitor private facilities which receive youth from juvenile courts, Division of Youth Services, and State Department of Welfare.

California

The California Youth Authority receives daily population data on the number of status offenders confined in each of California's 45 juvenile detention facilities. Each year, inquiries are sent to each of the over 400 law enforcement agencies in the State asking whether or not they have confined any minor in a jail or lockup for more than 24 hours. Agencies confining any minor are subsequently required to specifically report the number of status offenders' incarcerations. In addition, we were told that State law requires each such facility to be physically inspected and the reported statistical information verified.

California's monitoring system does not identify the number of status offenders, if any, confined in private facilities and correctional institutions. According to State planning agency officials, the State does not have authority to monitor private facilities. In an attempt to overcome the problem, the State planning agency will require all counties receiving funds under the act to provide written assurance that no status offenders will be committed to any secure facility that is not monitored by the State.

According to California's December 1976 monitoring report, plans to begin monitoring correctional programs (camps, schools, ranches) were not enacted due to passage of a State law effective January 1, 1977, that prohibits placement of status offenders in these types of programs. The monitoring report states that California plans to insure that status offenders are not placed in correctional programs through control of State subsidies for juvenile offenders. All correctional agencies requesting State funds are required to certify that their programs are operating in accordance with State law and specifically that only criminal offenders are placed in the program.

LEAA EFFORTS TO ASSIST STATES TO MONITOR DEINSTITUTIONALIZATION

At the time of our review, LEAA's effort to assist States in establishing systems to monitor deinstitutionalization was limited to review and analysis of annual State monitoring reports and modification of LEAA guidelines to define key terms associated with the monitoring requirement. Efforts were underway to (1) provide technical assistance to State and local governments regarding strategies and techniques for monitoring jails and detention and correctional facilities and (2) develop a model report format for States to use in preparing their second monitoring report due December 31, 1977.

According to LEAA officials, the extent of problems with State monitoring efforts and their significance were not fully recognized until the initial monitoring reports were due in December 1976. Generally, the States had not complained to LEAA about the monitoring requirements prior to that time. LEAA officials said that (1) many States believed they lacked the authority to monitor some facilities required by the LEAA guidelines, (2) some confusion existed over the monitoring requirements, (3) many State and local agencies did not maintain statistics on the number and locations of status offenders, and (4) States were generally devoting limited resources to monitoring efforts.

LEAA officials consider the lack of adequate monitoring systems to collect information on status offenders to be one of the biggest problems facing States participating in the act. According to one LEAA official, it is difficult to manage the deinstitutionalization effort, or any other program, without basic statistical information. An LEAA official expressed particular concern over the question of State planning agencies' authority to monitor juvenile placements in jails, lockups, and private facilities. He said that officials from many of these types of facilities had been extremely uncooperative. Some officials had refused to allow State representatives to come in and develop needed information themselves, apparently because they saw little benefit from participating in State monitoring efforts. At the time of our review, LEAA was in the process of requesting a decision from its general counsel regarding LEAA and State authority to require State, local, and private agencies to report monitoring information.

CONCLUSIONS

Little progress has been made by the States in establishing the monitoring systems required by the act. While some States appear to have no monitoring systems, most monitor selected facilities and apparently intend to use the results to justify continued participation and Federal funding under the act. Data collection appears to be one of the biggest problems experienced by States participating in the act. The majority of States have not developed baseline data against which to measure deinstitutionalization progress and compliance.

Unless improvements are made in State monitoring efforts, it will be difficult to determine the progress States are making towards deinstitutionalization. This information is extremely important since funding is contingent upon a State's ability to demonstrate compliance with the Federal deinstitutionalization requirement. The lack of reliable statistics on the number of incarcerated status offenders would also seem to make it difficult for States to properly plan for alternate services to deal with status offenders' needs and problems in the community.

It appears that most States have not established the required monitoring systems for a variety of reasons. Among those most frequently cited are (1) lack of understanding of the Federal monitoring requirements, (2) lack of authority to monitor some facilities, especially at the local level, and

(3) lack of resources to fully carry out the monitoring requirements. LEAA efforts to assist the States in establishing required monitoring systems were underway at the time of our review, but limited assistance had actually been provided to the States.

RECOMMENDATIONS

We recommend that the Attorney General direct the Administrator, LEAA, to make certain that the States (1) understand the monitoring requirements of the act as defined by LEAA guidelines and (2) develop monitoring systems--or improve existing ones--to realistically measure deinstitutionalization accomplishments. LEAA should provide technical assistance to those States experiencing problems in establishing and operating required monitoring systems. We also recommend that after the above procedures are completed, LEAA take actions against States that fail to comply with the monitoring requirements.

CHAPTER 5

OBJECTIVES AND SCOPE OF REVIEW

We reviewed State efforts at removing status offenders from detention and correctional facilities and identified problems being encountered. Specifically, our purpose was to

--ascertain State laws and practices regarding deinstitutionalization of status offenders,

--identify the services being used for status offenders as alternatives to incarceration, and

--identify and assess State monitoring systems for measuring deinstitutionalization results.

We also wanted to determine the reasons why certain States have elected not to participate in the act.

Our review was conducted during the period January through September 1977 at LEAA headquarters and at LEAA regional offices in Atlanta, Boston, Dallas, and San Francisco. We also performed work in five States that were participating in the Juvenile Justice and Delinquency Prevention Act--California, Florida, Louisiana, Massachusetts, and Virginia--and in four States that were not participating in the act--Nevada, North Carolina, Utah, and West Virginia. In the participating States we did work at (1) the State planning agencies, (2) the State, regional, district, and county offices of the agencies responsible for status offenders, (3) court intake and probation offices, and (4) places where services were provided. In addition, we interviewed juvenile court judges in various areas of the States. Our work in nonparticipating States was conducted mainly at the State planning agencies, the State agencies responsible for status offenders, and at juvenile courts.

Our work consisted of interviewing officials and examining State criminal justice plans, annual deinstitutionalization program and monitoring reports, grant applications, and financial records.

The States we visited during our review were not selected to be statistically representative of all States. We attempted to pick States with considerable experience in deinstitutionalization. Some States were selected on the

basis that they began deinstitutionalization prior to passage of the Juvenile Justice and Delinquency Prevention Act. Other States were selected because they participated in the act from its inception.

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

FORMULA GRANTS AWARDED BY LEAA TO STATES

AND TERRITORIES AS OF DECEMBER 31, 1976

States and territories	Fiscal year 1975	Fiscal year 1976 (note a)	Fiscal year 1977	Total
	(000 omitted)			
Alabama	$ (b)	$ (b)	$ 813	$ 813
Alaska	200	250	200	650
Arizona	200	250	425	875
Arkansas	200	250	432	882
California	680	2,450	4,373	7,503
Colorado	(b)	286	510	796
Connecticut	200	378	673	1,251
Delaware	200	250	200	650
Florida	216	779	1,390	2,385
Georgia	200	607	1,083	1,890
Hawaii	(b)	(b)	200	200
Idaho	200	250	200	650
Illinois	389	1,402	2,501	4,292
Indiana	200	679	1,213	2,092
Iowa	200	360	643	1,203
Kansas	(c)	(b)	(b)	-
Kentucky	(c)	(b)	734	734
Louisiana	200	512	915	1,627
Maine	200	250	227	677
Maryland	200	510	910	1,620
Massachusetts	200	693	1,236	2,129
Michigan	333	1,200	2,142	3,675
Minnesota	200	510	910	1,620
Mississippi	(c)	(b)	(b)	-
Missouri	200	573	1,024	1,797
Montana	200	250	200	650
Nebraska	(c)	(b)	(b)	-
Nevada	(c)	(b)	(b)	-
New Hampshire	200	250	200	650
New Jersey	245	881	1,571	2,697
New Mexico	200	250	268	718
New York	599	2,157	3,850	6,606
North Carolina	(c)	(b)	(b)	-
North Dakota	200	250	(b)	450
Ohio	383	1,380	2,463	4,226
Oklahoma	(b)	(b)	(b)	-
Oregon	200	258	460	918
Pennsylvania	395	1,420	2,536	4,351

States and territories	Fiscal year 1975	1976 (note a)	1977	Total
	(000 omitted)			
Rhode Island	(b)	250	200	450
South Carolina	200	353	629	1,182
South Dakota	200	250	200	650
Tennessee	c/97	(b)	874	971
Texas	410	1,476	2,635	4,521
Utah	(b)	(b)	(b)	-
Vermont	200	250	200	650
Virginia	(c)	587	1,047	1,634
Washington	200	429	764	1,393
West Virginia	(b)	(b)	(b)	-
Wisconsin	200	584	1,044	1,828
Wyoming	(b)	(b)	(b)	-
Washington, D.C.	200	250	200	650
Puerto Rico	200	435	776	1,411
Trust Territory	50	62	50	162
American Samoa	(b)	62	50	112
Guam	50	62	50	162
Virgin Islands	50	62	50	162
Total formula grants awarded	9,297	24,647	43,271	77,215
Formula grants returned to U.S. Treasury	1,303	-	-	1,303
Formula grants returned to special emphasis program (note d)	-	4,403	4,354	8,757
Total formula grant appropriations	$10,600	$29,050	$47,625	$87,275

a/Includes transition quarter awards (July 1, 1976, through Sept. 30, 1976).

b/Did not participate.

c/These States initially received a grant award but withdrew from the formula grant program, returning the balance of formula grant awards to the U.S. Treasury.

d/Pursuant to the Juvenile Justice and Delinquency Prevention Act, formula grant funds allocated to States which elect not to participate (do not submit a plan) are returned to LEAA's special emphasis prevention and treatment program. However, in fiscal year 1975 the formula grant funds allocated to the nonparticipating States were reallocated to those States that elected to participate in the program. This decision was made by the Administrator since the fiscal year 1975 appropriation to implement the Juvenile Justice and Delinquency Prevention Act had to be obligated before August 31, 1975. This would not have allowed sufficient time to award grants if the funds had been returned to the special emphasis program.

NONPARTICIPATING STATES

The number of States and territories 1/ not participating in the formula-grant provisions of the act has changed since the program's inception. At the time of our review, 10 States had not requested fiscal 1977 funds. Ten States did not request fiscal 1975 funds and an additional seven States subsequently withdrew from the program and returned their unexpended funds. Thirteen States did not request fiscal 1976 funds. The major objections to participating relate to section 223(a)(12) which requires that status offenders be removed from detention and correctional facilities. Specific objections to the deinstitutionalization requirement include these:

--Alternate services cannot be developed within the allowed time frame.

--Funds provided by the act do not cover a sufficient portion of costs for alternative programs.

--Incarceration is believed appropriate for certain status offenders (for example, runaways, repeat offenders).

--State planning agencies generally do not have authority to implement the deinstitutionalization requirement.

--State legislation often conflicts with the deinstitutionalization objective.

--States are unable to establish monitoring systems to adequately measure deinstitutionalization results.

We visited four States that were not currently participating in the act to discuss each State's (1) position regarding deinstitutionalization, (2) laws and practices regarding incarceration of status offenders, and (3) specific reasons for not participating in the act. The results of these visits are summarized below.

NORTH CAROLINA

State planning agency officials informed us that North Carolina was in general agreement with the concept of deinstitutionalization for status offenders. These officials

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1/Hereafter referred to as States.

added, however, that many in North Carolina disagreed with the act's 100-percent deinstitutionalization requirement. State legislation was passed in 1975 that would eliminate placing status offenders in correctional facilities. The legislation was to become effective July 1, 1977, but was expected to be delayed at least 1 year. According to a State planning agency official, current State law allows status offenders to be placed in both detention and correctional facilities.

North Carolina submitted a fiscal 1975 State deinstitutionalization plan to LEAA and received a $200,000 formula grant. A fiscal 1976 State plan was also submitted but was not approved by LEAA. The LEAA Regional Administrator in a letter to the State planning agency stated that North Carolina's plan did not

--specify needed changes in State legislation;

--state the number of status offenders institutionalized in State and local jails, lockups, and other facilities;

--specify financial and program resources required to deinstitutionalize status offenders within the mandated time frame; or

--include a description of the State's detailed time-phased strategy for complete deinstitutionalization.

A reassessment of the State's position resulted in the conclusion that North Carolina could not comply with the deinstitutionalization provision of the act within the time and money allocations. A statewide needs assessment by the State planning agency disclosed that approximately $7.5 million would be required to remove all status offenders from detention and correctional facilities and provide suitable alternate services during the State's compliance period. The agency concluded that funds made available by the act, the Crime Control Act, and State and local sources were inadequate to achieve even 75-percent deinstitutionalization.

Other factors making participation in the act difficult include these:

--Current State legislation allows placement of status offenders in detention and correctional facilities.

--The State planning agency lacks the necessary authority to coordinate juvenile services.

--The State does not have a system to monitor jails or detention and correctional facilities as required by the act.

--Juvenile court judges and others believe that short-term detention is in the best interest of some status offenders.

In June 1976, the Administrator of the State planning agency notified the LEAA regional office that it would no longer participate in the act and returned its fiscal year 1975 formula grant.

NEVADA

The decision that Nevada would not participate in the act was formally made by the Nevada Crime Commission in April 1976. Major reasons cited by the commission for not participating included opposition to total deinstitutionalization of status offenders, insufficient Federal funds for development of alternatives to incarceration, disagreement with monitoring requirements of the act, and the belief that deinstitutionalization could not be accomplished in 2 years as originally required by the act.

The Crime Commission expressed philosophical disagreements with the total deinstitutionalization requirement of the act. It expressed concern that total deinstitutionalization would result in the courts not being able to control and assist certain status offenders such as individuals who were a threat to their own safety or the safety of others, and those who violated court orders to participate in counseling or rehabilitation programs. We were told that some Nevada officials believed that some status offenders might be as much involved in criminal activities as delinquents. According to officials we interviewed, police crackdowns on truants in Las Vegas and Reno reportedly resulted in substantial reductions in daytime burglaries in those cities.

According to State officials, funds available to Nevada under the act were inadequate for establishing alternate programs. Officials told us that with the exception of the Las Vegas area, few alternate programs existed in the State. Officials added that alternatives to incarceration could not be developed within the time frame mandated for deinstitutionalization by the act.

Nevada's Crime Commission also expressed problems with the act's requirement that all detention and correctional facilities be monitored to ensure deinstitutionalization compliance. Presently there are no State efforts to monitor local jails. The Commission expressed the belief that many localities would resent State officials inspecting jail facilities. Finally, participation in the act would probably require changes in Nevada's State law. State planning agency officials told us that they do not foresee any possibility of the State participating in the act at present.

WEST VIRGINIA 1/

West Virginia decided not to participate in the act despite basic agreement with the concept of deinstitutionalization for status offenders. Although the State has made no formal effort to deinstitutionalize status offenders, there is proposed State legislation that would limit the placement of status offenders in detention facilities and prohibit their placement in correctional institutions. According to State officials, at the time of our review, status offenders were in both detention and correctional facilities.

West Virginia's decision not to participate in the act was primarily based on (1) objections to the act's deinstitutionalization requirement for status offenders, (2) insufficient funding to establish alternatives to detention and correctional facilities, and (3) conflicts between the Federal act and State legislation and practices regarding status offenders. West Virginia officials told us that the time allowed by the act for deinstitutionalization was unrealistic. Officials estimated that 11 additional group homes would have to be developed as alternatives to detention and correctional facilities and stated that formula grant funds would not cover the cost.

According to a State planning agency official, there is some disagreement within the State with the total deinstitutionalization requirement of the act. There is agreement

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1/Subsequent to the completion of our fieldwork, the Director of the State planning agency informed us that a commitment was made to deinstitutionalization. He also stated that West Virginia enacted a law providing that status offenders cannot be housed in a "prison-like facility," and applied for fiscal year 1978 funds under the Juvenile Justice and Delinquency Prevention Act.

that deinstitutionalization is appropriate for some status offenders, but there is general belief that the State should have the option of incarceration when it is considered in the best interest of the individual and society. State planning agency correspondence states that to assure West Virginia's compliance with the act's deinstitutionalization requirement, new State legislation specifically prohibiting the incarceration of status offenders would be needed. Even the proposed changes to the State's juvenile code allow some detention of status offenders.

West Virginia county jails and local detention facilities are operated under the jurisdiction of elected sheriffs. State officials do not feel that they have the authority to monitor these facilities to identify any placements of status offenders as required by the act. It is felt that any attempt to monitor these facilities would be viewed as an infringement on local rights. Also, the act requires the State planning agencies to have authority to implement the State deinstitutionalization plan. According to State officials, West Virginia's State planning agency does not have such authority, and they believe that such authority would conflict with the planning mission of the agency and would violate the separation of power between the State and local jurisdictions.

In summary, West Virginia officials said the State was not participating in the act because it could not fulfill the requirements of the act within the time limit and with the Federal resources provided. Officials informed us that if progress was made in the above areas, West Virginia could possibly begin participation during the next fiscal year.

UTAH

Utah officials generally agree with the philosophy of the act and feel that the State is moving toward deinstitutionalization at its own pace. Recently passed State legislation decriminalized most status offenses, including running away and ungovernability, and according to State officials should result in few status offenders being placed in correctional facilities. Secure detention, however, will continue to be used for status offenders.

The decision that Utah would not participate in the act was largely that of the Governor, with concurrences from the State planning agency and the State Board of Juvenile Court Judges. The State legislature's refusal to provide matching

funds for administrative costs also influenced the decision. Officials informed us that the reasons for Utah not participating in the act include these:

--The act and LEAA's implementing guidelines are so detailed and inflexible that they would interfere with the State's ability to do its own planning in juvenile delinquency programs.

--The deinstitutionalization requirement does not allow enough time to develop alternatives to detention and correctional facilities.

--The small amount of funds provided by the act does not provide sufficient incentives for participation. The annual cost of operating alternate programs alone is estimated at approximately twice the amount of Federal funds available.

--The responsibility and authority required of the State planning agency, such as coordination of State juvenile programs and monitoring of all detention and correctional facilities, is not appropriate for a planning agency.

Additionally, some Utah officials are not convinced that total deinstitutionalization is a desirable goal. They feel that conclusive evidence does not exist to demonstrate that short-term detention has a detrimental effect on status offenders. Also, alternatives to detention and correctional facilities are not available in many parts of Utah, and officials feel that development of these programs in rural areas is not practical.

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UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the
Division Indicated
and Refer to Initials and Number

APR 1978

Mr. Victor L. Lowe
Director
General Government Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Lowe:

This letter is in response to your request for comments on the draft report titled "Deinstitutionalization of Status Offenders: Federal Leadership and Guidance Needed if it is to Occur."

Although the report strongly implies that little has been accomplished toward the goal of deinstitutionalizing status offenders, the facts do not support such a negative interpretation. LEAA believes that significant progress has been made. Moreover, a careful reading of the legislative history of the Juvenile Justice and Delinquency Prevention Act of 1974 (JD ACT) would clearly demonstrate that prior to this Act's passage there was --and still is-- "opposition" to deinstitutionalization. Federal legislation was passed, in part, in recognition of this opposition.

The report stresses that some States visited by GAO have laws permitting the incarceration of status offenders under certain circumstances. While this is true, the report does not fully recognize the extent of State legislation inspired in part by the Juvenile Justice Act and does not appropriately emphasize the degree to which some of this legislation embodies substantial compliance. Given the controversy and incredible complexity of the status offender issue, the enactment of such legislation should be seen as a remarkable achievement, even in those instances where the law continues to allow confinement under certain circumstances. Of the five States reviewed by GAO, two had laws

providing for total deinstitutionalization and the other three (Florida, Virginia, and Louisiana--all States with fairly conservative political traditions) had enacted legislation that at a minimum prohibits the placement of status offenders in correctional facilities and limits the use of detention. We feel these facts warrant a more positive interpretation of progress under the JD Act than the report offers.

The report asserts that LEAA leadership has been deficient in helping States to overcome obstacles to deinstitutionalization, assuring the provision of services, and enforcing monitoring requirements. This conclusion does not reflect the significant number of LEAA activities aimed at encouraging deinstitutionalization. Although reference is made to some of these efforts, their magnitude and importance are left virtually unrecognized. A few of the more important ones include (1) LEAA "Special Emphasis" initiatives; (2) both the National Office for Social Responsibility and Arthur D. Little technical assistance contracts; (3) the evaluative research program at the University of Southern California; (4) the various standards development and implementation projects; (5) various studies, such as "Responses to Angry Youth: Cost and Services Impacts of Deinstitutionalization of Status Offenders in Ten States"; the Council of State Government's Study, etc.; and (6) the development and improvement of guidelines for implementation under the formula grant program.

Although our response is not keyed to the recommendations contained in the report, we believe the comments adequately address each of the major recommendations. In this context, the following specific comments are provided:

STUDY DESIGN

Although the report does not explicitly present the structure or the study design used by GAO in conducting their review, there are apparent weaknesses. For example, the study covers a very narrow historical period--apparently only since passage of the JD Act. Failure to take into account any period prior to 1974 has resulted in the absence of a clear definition of the deinstitutionalization of status offenders problem--particularly with regard to its magnitude, scope, and dimensions. The President's Commission on Law Enforcement and Administration of Justice (1967) addressed

the perplexing status offender problem and noted that: "It is of the greatest importance that all alternative measures be employed before recourse is had to court." 1/

The National Advisory Commission on Criminal Justice Standards and Goals (1973) also called attention to the importance of developing alternatives to juvenile justice system processing for status offenders. After noting that incarceration is not an effective tool of correction for many youths, the Commission went on to recommend that all status and other first offenders be diverted. The Commission recognized that chronic and dangerous delinquents should be incarcerated in order to protect society until more effective treatment methods are found. However, it encouraged the juvenile justice system to search for "the optimum program outside institutions for juveniles who do not need confinement." 2/

Several research studies have documented the following facts:

1. Juvenile status offenders are incarcerated as long or longer than children who are committed for rape, aggravated assault and other felonies classified as "FBI index crimes."

2. The younger the offender, the longer is the period of institutionalization.

3. Classification for rehabilitation lengthens the period of institutionalization and does not reduce the rate of recidivism.

4. Children with the longest institutional sentences have the highest rate of parole revocation. 3/

1/Task Force Report: Juvenile Delinquency and Youth Crime. Washington, D.C., U.S. GPO, 1967, p. 26.

2/National Advisory Commission on Criminal Justice Standards and Goals, A National Strategy to Reduce Crime, Wash., D.C., U.S. GPO, 1973, pp.34-35.

3/National Council on Crime and Delinquency "Jurisdiction Over Status Offenses Should be removed from the Juvenile Court," Crime & Delinquency, Vol. 21, Apr. 1975, p. 98.

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Research findings such as these led some groups to argue in favor of removal of juvenile court jurisdiction over status offenders in hopes of ensuring that they would not be incarcerated. 4/

By 1974, the consensus was that status offenders should not be incarcerated under any circumstances. The Congress built on this consensus in its passage of the JD Act of 1974, which required participating States to remove all status offenders from incarcerative settings within 2 years.

A major result of this legislation was the beginning of an accelerated search for appropriate alternatives to incarceration for status offenders.

In conjunction with its announcement of the first major action program thrust aimed at the deinstitutionalization of status offenders (DSO), the Office of Juvenile Justice and Delinquency Prevention (OJJDP) published a "background paper" which addressed a number of issues and problems pertaining to the deinstitutionalization issue. 5/

It was noted at the outset that "we simply do not have comprehensive and reliable data on the numbers and characteristics of status offenders in detention centers, jails and correctional institutions (training schools)." 6/

It was also noted therein "that some of the crucial problems in deinstitutionalizing status offenders are:

-Determining who, in fact, are status offenders rather than criminal violators being processed as status offenders.

4/For a full discussion of the various policy positions regarding this issue, see Working Papers of the National Task Force to Develop Standards and Goals for Juvenile Justice and Delinquency Prevention, A Comparative Analysis of Standards and State Practices: Jurisdiction--Status Offenses (Vol. V), OJJDP, 1977.

5/"LEAA's Discretionary Program to Reduce Detention and Institutionalization of Juvenile Status Offenders," in Program Announcement: Deinstitutionalization of Status Offenders, OJJDP, March, 1975.

6/Ibid., p. 17.

-Creating mechanisms for assessing the needs of status offenders and matching them with the range of community services.

-Identifying existing resources for status offenders.

-Assuring access of status offenders to existing community resources.

-Providing alternatives to short-term detention of status offenders.

-Providing means for dealing with the needs of female status offenders." 7/

This background paper also set forth the program rationale supporting the DSO program. 8/ The last of these points was that "the programs developed (under the announced DSO effort) will vary from community to community, providing various program models which can be compared through evaluation to determine the relative utility of alternative approaches." 9/

In acknowledging the lack of explicit knowledge regarding the effectiveness of treatment programs for status offenders, the same paper noted that, from the evaluation of this DSO program, "we hope to be able to provide communities with information on what type of efforts are likely to work best in which situations." 9/

Studies such as Juvenile Corrections in the States: Residential Programs and Deinstitutionalization; Time Out: A National Study of Juvenile Correctional Programs, suggest that it is not because of the nature of alternative programs themselves that deinstitutionalization has not been accomplished; rather, the key to the lack of success in this area would seem to be the manner in which such programs are implemented (procedures, criteria for selection of program participants, due process considerations, etc). This observation applies to the status offender area more explicitly than to the larger juvenile offender population because of particular difficulties in defining the status offender population.

7/Ibid., pp. 8-9.

8/Ibid., pp. 10-13.

9/Ibid., p.13.

It is apparent that the GAO team did not fully grasp the nature of the status offender problem. The result of this weakness is that the GAO team's ability to set criteria for determining what would constitute satisfactory progress toward deinstitutionalization was hampered. In fact, the report does not indicate what criteria were used to assess the success of DSO. These criteria should be explicitly stated and should reflect obstacles to deinstitutionalization, as well as degrees of difficulty associated with its accomplishment.

SAMPLE SELECTION

The report does not indicate how the nine States were chosen for study. While it seems that the conclusions of the report are generalized to all States, it is not clear how representative the nine States are with respect to all of the States to which the JD Act applies. The critical question is: Along what dimensions are the nine States similar to others to which the conclusions are apparently generalized?

On this same issue, it appears that the sample of persons interviewed within the nine States was a biased one. Although it is not made clear how the respondents were selected, their organizational affiliations (pp. 51-52) would suggest that, for the most part, they would be opposed to DSO at the outset. The result of this apparent "sample bias" would be to make it easier to draw the conclusion that the DSO effort is not succeeding.

METHODOLOGY

The report does not indicate the procedures by which data were gathered. This is especially important in the area of individual interviews. There is no indication as to whether they were opened, structured, etc. The interview instrument is not included in the report.

A related weakness in the report is the absence of data analysis procedures. In fact, very few are presented. Their interpretation is hampered by the absence of explicit success criteria.

ALTERNATIVE/SUCCESSFUL SERVICES

The report concludes that (1) limited attention has been given to the service needs of status offenders; (2) LEAA has largely left the States on their own to deal with the problem of the most effective types of service alternatives; and (3) that while several research efforts are underway, little has been achieved to date at the national level in terms of identifying the types of services that appear more successful in dealing with status offender problems and disseminating this information to the States. We disagree with these generalizations on serveral grounds: (a) they are based on an unsupported assumption that status offenders have a unique set of service needs; (b) they fail to recognize that for some status offenders, no intervention is preferable; (c) they appear to imply that LEAA should dictate the kinds of services States should provide; (d) they ignore the considerable amount of resources invested by LEAA in a massive evaluation intended to find out just what services work best for what types of youth; and (e) they are not supported by any empirical evidence. While we would agree that there is a need for additional services for youth, we would not agree that this is because of a lack of proper emphasis at the Federal level. A study jointly sponsored by the Law Enforcement Assistance Administration (LEAA) and the Department of Health, Education and Welfare (DHEW) relating to deinstitutionalization efforts in 10 States concluded that: "The States examined are at different stages in the process of deinstitutionalization, but all have made clear progress." Once again, the findings of this study run directly counter to GAO. It recommends: "Neither OJJDP nor HEW need consider any major new programs directed specifically toward status offenders. Services are presently available or are being developed adequate to the demands created for them by deinstitutionalization."

Some of LEAA's noteworthy efforts in this regard are:

Research. Two major research efforts were underway at the time of the passage of the JD Act: A National Assessment of Juvenile Corrections (NAJC), and an evaluation of the Massachusetts' deinstitutionalization experience.

The NAJC project assessed the nature and quality of correctional programs for juveniles. A major conclusion of the study was that foster

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home services constitute a promising direction for extending community corrections at significantly lower cost levels than institutionalization.

The 7-year evaluation of the Massachusetts' deinstitutionalization experience consisted of five major components: (1) a study of youth in community-based programs; (2) an evaluation of program organization and function; (3) a study of youth subcultures in group homes and non-residential programs, in comparison with a subculture of youths in the earlier institutions; (4) an analysis of the operations of the regional offices that have replaced the administrative offices of the institutions; and (5) observations and interviews concerning operations in the central office of the Massachusetts Department of Youth Services. 10/ An early product of their research, "Neutralization of Community Resistance to Group Homes" gives very helpful strategic direction to those involved in the establishment of group homes for juveniles. Other preliminary findings in the area outlined above have been shared through various forums with officials and practitioners at the State and local level.

Exemplary Projects. Several projects that hold promise for meeting the needs of status offenders in alternative settings to juvenile justice system processing have been designated "exemplary" by LEAA. The ones most applicable to the status offender area are: "Project New Pride", "Neighborhood Youth Resource Center" and "Family Crisis Counseling." The latter project was referenced in the OJJDP Program Announcement for the DSO action program. In that same announcement other programmatic approaches were suggested: in-house placement, shelter homes, small group homes, foster homes, special crisis services, runaway facilities, counseling, healthcare, job placement, recreation, remedial education, and youth advocacy approaches.

10/Lloyd Ohlin, Alden Miller, and Robert Coats, Juvenile Correctional Reform in Massachusetts, OJJDP, 1977.

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Assessment. Three nationwide assessments of alternative programs for youthful offenders were undertaken relating to: diversion 11/, alternatives to incareration 12/, and alternatives to detention. 13/

While the Phase I Assessments of juvenile diversion and community-based alternatives to juvenile incarceration did not recommend specific promising approaches to practitioners, they clarified definitional problems, built program typologies and explained existing processes for referral to alternative programs.

The diversion study stressed the dynamics of diversion programming, particularly the importance of the legal status of programs and the potential labeling of juveniles. Additional insights were given regarding several aspects of programs, such as whether participation is voluntary and which staff capabilities seemed to relate to better functioning programs.

The national assessment of detention and alternatives to its use resulted in the identification of four types of community-based alternatives to detention for status offenders and other juveniles: (1) home detention, (2) "attention" homes, (3) specialized

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11/Robert McDermott and Andrew Rutherford, Juvenile Diversion (Summary), LEAA, 1976.

12/Osman Benger and Andrew Rutherford, Community-based Alternatives to Juvenile Incarceration (Summary), LEAA, 1976 and Alternatives to Its Use (Summary), LEAA, 1977.

13/Thomas Young and Donnell Pappenfort, Secure Detention and Alternatives to Its Use (Summary), LEAA, 1977.

programs for runaways, and (4) private residential foster homes. Each of these program approaches was described in some detail in the published report and subsequently shared with the U.S. Senate Subcommittee to Investigate Juvenile Delinquency on September 28, 1977, on the basis of a statement by Thomas Young and Donnell Pappenfort.

Standards. LEAA has provided support for three national standards development efforts covering the entire juvenile system: (1) the Institute of Judicial Administration/American Bar Association Juvenile Justice Standards Project, (2) the Juvenile Justice and Delinquency Prevention Task Force of the National Advisory Committee on Criminal Justice Standards and Goals, and (3) pursuant to Sec. 247 of the JD Act, the National Advisory Committee on Juvenile Justice and Delinquency Prevention.

These standards and the comparative analysis of standards and State practices suggest alternative ways of handling the problems posed by status offender behavior. 14/

State Planning Agency (SPA) AUTHORITY

Statements are made that State and local juvenile justice officials believe incarceration of status offenders is justified, and the SPAs do not have authority to make deinstitutionalization a reality. Nowhere is it made explicit why officials feel some placements of status offenders are necessary. Assertions that such placements are justified are neither

14/Institute of Judicial Administration/American Bar Association (IJA/ABA) Joint Commission, Standards Relating to Non-Criminal Misbehavior, (Tentative Draft) (1977); National Advisory Committee on Criminal Justice Standards and Goals, Report of the Task Force on Juvenile Justice and Delinquency Prevention (1976); National Advisory Committee on Juvenile Justice and Delinquency Prevention, Report of the Advisory Committee to the Administrator on Standards for Juvenile Justice, (sic) (September 30, 1976) and Report of the Advisory Committee to the Administrator on Standards for the Administration of Juvenile Justice (sic) (Advanced Draft, March 1977).

helpful nor constructive given the prior congressional documentation of abuses in this area. Further, it is not apparent whether such beliefs relate to all status offenders, most, or only a few. Because interviews are the source of the data, it would have been helpful to indicate numbers of interviews, generally held beliefs, and their rationale.

Further, the question of authority may not be so much that SPAs have no direct implementation authority, as that they need to have authority to plan and coordinate the implementation of the JD Act's mandates in the State.

While it may be a matter of semantics, it is important to distinguish between an SPA's authority to implement a plan and its authority to "direct" other State agencies' activities. Section 223(a)(2) of the JD Act requires only the former. What SPA officials have said is that they lack the latter authority. While having "direct" or "operational" authority would facilitate deinstitutionalization, the Juvenile Justice Act neither vests nor requires that such authority be vested in the SPAs. As LEAA Office of General Counsel Legal Opinion 76-7 of October 7, 1975, points out, there are a variety of other mechanisms available to SPAs to achieve the deinstitutionalization mandate. Because the OJJDP program is under the Governor's direct authority, the cooperation of other State agencies should be possible through the Governor's office. Thus, SPAs must make clear to the Governor, the legislature, and relevant State and local agencies the nature of the State's commitment to the mandates of the Juvenile Justice Act and the consequences of failing to meet it.

UNQUESTIONED ASSUMPTIONS AND UNSUPPORTED BELIEFS

The report implicitly assumes that there are alternative services which should be provided to status offenders in lieu of institutionalization. It allows no possibility that some should simply be sent home, an option increasingly utilized by States and localities with no apparent ill effect.

Further, the report assumes that the category of "status offender" is discrete and definable, ignoring the considerable overlap of the delinquent, status offender, and dependent/neglected categories of youth who come before the court.

Finally, it ignores the haphazardness of the ways in which a youth may come to bear a particular label that will in turn be used to determine or limit the dispositional outcome.

The problems cited about service availability are so general (e.g., limited funding, community resistance, large caseloads) as to be applicable to most social service programs. The specific anecdotes add little information or insight. The facts of these vignettes are undoubtedly true, but most States and localities find ways to deal with them. It is not a case of Federal officials hiding answers, or acting to limit services. Dealing with troubled youth is often frustrating and sometimes unrewarding. However, the primary responsibility is a State and local one, met with varying degrees of commitment and success, as the report shows.

Some assertions are made in the report without any apparent basis, e.g., "many status offenders who do not receive adequate services later become involved in criminal behavior," and "status offender placement will overburden case workers," and "community-based programs . . . are more concerned with building success stories than treating juvenile offenders," and "status offender placement (problems include) frustrating foster parents to the point of having them leave the program." Single opinions are cited; no examination of cause and effect is offered.

INADEQUATE OR OUTDATED INFORMATION

The report suffers, as could not be helped to some degree, from not reporting relevant information. Reading the Arthur D. Little cost and service impacts study of DSO could have added significantly to the alternative services discussion. The inadequacies of the monitoring systems and reports are set out, but little attention paid to the additional guidance and the workshops provided by OJJDP in an effort to respond to the problems. The discussion of data problems depends heavily on OJJDP's own analysis of the monitoring reports and adds little of any value based on GAO's site visits. State data collection problems and their potential solutions receive little constructive attention.

Several recommendations that are made, such as that on page 50, were already underway by OJJDP before the GAO study was undertaken.

APPENDIX III

MONITORING

The report concludes that "while LEAA efforts to assist the States in establishing required monitoring systems were underway at the time of our review, limited assistance had actually been provided to the States."

LEAA Office of General Counsel Legal Opinion 76-7, dated October 7, 1975, states the following with regard to the State's monitoring responsibility:

> 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 State Legislature, may contract with a public or private agency to carry out the monitoring under its authority, or may contract with a state agency that 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.

In addition to suggesting several monitoring options, the opinion clearly states that formula funds may be used to defray monitoring expenses. However, we think it clear that LEAA has neither the authority nor the responsibility to compel State, local, or private agencies to report monitoring information. Rather, it is the SPA's responsibility under Section 223(a)(14) to obtain such information. If such information cannot be obtained through voluntary means, it is up to the SPA to obtain the necessary authority to compel agencies to report the information.

OJJDP prepared and issued Change 1 to Guideline Manual M 4100.1D on July 10, 1975. These guidelines outlined the information States must report to indicate progress in compliance with Sections 223(a)(12) and (13). These guidelines required the States to provide in their fiscal year 1976 comprehensive plan an indication of how they planned to provide for accurate and complete monitoring of jails, detention facilities, correctional facilities, and other secure facilities to insure that the requirements of Sections

APPENDIX III

223(a)(12) and (13) were met. The guidelines further required that the annual report to the Administrator on the results of monitoring compliance with Sections 223(a)(12) and (13) be made no later than December 31. This report was to indicate the results of monitoring, including:

a. Violations of the provisions and steps taken to ensure compliance, if any.

b. Procedures established for investigation of complaints of violations of the provisions of deinstitutionalization and separation requirements.

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.

The initial issuance of guidelines addressed Section 223(a)(14) as noted above and also provided guidance in the implementation of Sections 223(a)(12) and (13). The guidelines required that the 1976 Plan describe in detail the State's specific plan, procedure, and timetable for assuring that within 2 years of submission of its plan, status offenders, if placed outside the home, would be placed in shelter facilities, group homes, or other community-based alternatives rather than juvenile detention or correctional facilities.

The plan was required to describe existing or proposed shelter and correctional facilities. Further, the plan had to describe the constraints faced in meeting the objectives of deinstitutionalization. It should be noted that the guidelines were revised and updated yearly with each revision providing additional guidance and clarity on compliance monitoring issues.

In September 1975, through an OJJDP discretionary award, the Council of State Governments published a report entitled "Status Offenders: A Working Definition." The purpose of this report was to provide a common, workable definition for status offenders. This report developed criteria for classifying confined youth as status, criminal-type, or non-offenders. The report identified specific circumstances,

then provided the classification a child should be considered under each circumstance. The criteria outlined within this report were included in the guidelines as a standard for the determination of status offenders as it applies to monitoring.

On June 16, 1976, OJJDP issued information to clarify minimum standards of State compliance in the deinstitutionalization of status offenders and provided options States could select in obtaining baseline data.

To further assist States in their present and future monitoring efforts and to improve many of the deficiencies noted in the 1976 monitoring reports, OJJDP has done the following:

a. Prepared definitions of detention and correctional facilities for monitoring purposes. On May 20, 1977, Change 1 of Guideline Manual M 4100.1F was issued. OJJDP provided the States four criteria for determining whether a facility is, for the purpose of monitoring, a juvenile detention or correctional facility.

   To further assist States in their monitoring efforts, a format was designed to survey, identify, and provide information on each facility to determine whether it is classified as a juvenile detention or correctional facility and to determine compliance with Sections 223(a)(12), (13), and (14) of the Act.

b. OJJDP developed and presented four regional monitoring workshops.

   These workshops where held to clarify the OJJDP guidelines regarding 1977 monitoring reports. The workshops were 2 days in length, with the first day devoted to providing information relative to the definitions and guidelines contained in M 4100.1F, Change 1, issued May 20, 1977, and addressing monitoring questions and issues which arose since that time. Also, the new legislation was discussed. The second day's activities centered on the monitoring formats, deficiencies identified in the 1976 reports, and technical assistance in developing reports. During the second day the session was primarily devoted to individual meetings between State representatives and OJJDP resource persons.

c. OJJDP has planned follow-up workshops to be held after the 1977 monitoring reports have been received and analyzed by OJJDP.

d. As cited earlier in this response, OJJDP jointly funded an effort with HEW to assess the impact of the deinstitutionalization of status offenders on 10 States and identify the types of community programs used for deinstitutionalized youth. (This draft report was made available to GAO during their study.)

e. OJJDP also developed a special emphasis program that provides additional resources to the States to fund service programs for deinstitutionalized youth. This was made possible through the use of reverted formula funds from those States who chose not to participate in the JD Act.

f. OJJDP has recognized the importance of legislative changes in the States that would be beneficial to DSO progress since the passage of the JD Act.

g. LEAA's Office of General Counsel has ruled in Legal Opinion 77-25, dated March 15, 1977, that a status offender who violates a court order remains a status offender even where found in contempt of court for such violation or where State law would permit such an offender to be adjudicated as a delinquent offender. Only where the act in violation of a court order constitutes an act that would be criminal if committed by an adult under State law would there be a basis for a delinquency adjudication.

All monitoring reports were reviewed to analyze present and contemplated changes that would prohibit placement of status offenders in detention and correctional facilities, and further the separation of juveniles from adults. This progress was reported in the monitoring report overview. OJJDP also supported the National Center for Juvenile Justice in completing a survey of the States in which juvenile justice codes were analyzed pertaining to deinstitutionalization of status offenders.

In addition to the above activities, OJJDP, through three Technical Assistance Contractors, has provided over

200 instances of technical assistance to the SPAs, county and city agencies, private agencies, and local communities covering all of the following topics:

a. Developing residential placement networks.

b. Purchases of service techniques for alternative resources.

c. Group home improvement.

d. Foster care development.

e. Changing juvenile codes.

f. Development of diversion projects.

g. Employment programs for youth.

h. Crisis intervention methods.

i. Statewide DSO strategies.

j. Methods of gaining support for deinstitutionalization of status offenders.

These actions represent a logical, well-conceived, approach to resolving the many problems surrounding the monitoring issue. Contrary to the assertion that LEAA's assistance has not been targeted to specific problems the States are experiencing, LEAA's technical assistance efforts are explicitly geared to responding to specific, individual needs as identified by the States.

GENERAL COMMENTS

The tone of the GAO report reflects a belief that because Congress has acted, the States could or should have immediately set about achieving compliance. While there is regular commentary about what the Attorney General, LEAA, and OJJDP can (or should) do to provide information and leadership, the contents of this report do not convey a significant understanding of the range of political, legal, legislative, institutional, and attitudinal difficulties at the State and local levels.

APPENDIX III

Deinstitutionalization is an important but incredibly complex issue. It cannot and should not be reduced to simplistic generalizations, particularly when there is no empirical evidence presented to validate these assertions. Additionally, while anecdotal, case study information may be useful in highlighting a particular issue, without some analysis or balance it can be misleading. The report frequently points out that LEAA has done little to define problems which hinder the goal of deinstitutionalization or provide help to States in overcoming these obstacles. This observation fails, however, to reflect not only the significant number of LEAA activities geared toward encouraging deinstitutionalization but also fails to provide any analysis as to the impact these initiatives are having on legislation, attitudes, and perceptions of State and local governments. Dealing with troubled youth is often frustrating and sometimes unrewarding. However, the primary responsibility is a State and local one and has met with varying degrees of commitment and success, as the report shows.

We appreciate the opportunity to comment on the draft report. Should you have any questions or desire any additional information, please feel free to contact us.

Sincerely,

Kevin D. Rooney
Assistant Attorney General
for Administration

ANALYSIS OF COMMENTS RECEIVED FROM THE DEPARTMENT OF JUSTICE

DEPARTMENT'S OPENING REMARKS

The Department of Justice says our report strongly implies that little has been accomplished toward the goal of deinstitutionalizing status offenders. It says the facts do not support such a negative interpretation, and LEAA believes that significant progress has been made.

We are not asserting that little has been accomplished. It is apparent that progress has been made, but the question of how much is not only subjective but difficult to answer because of the absence of reliable data. In that regard, we think it is significant to note the results of a study on deinstitutionalization of status offenders in 10 States that was jointly funded by LEAA and the Department of Health, Education, and Welfare (HEW). According to that study, "The States examined are at different stages in the process of deinstitutionalization, but all have made clear progress." However, that study also states:

> "The frequency of status offender confinements has changed markedly in a short 2-year period according to figures made available to us by the States.
>
> "These figures must be understood in the context in which they are presented. They are numbers gleaned from State and local reports and in a few instances, from the educated guesses of officials. No attempt has been made to determine the reliability of the numbers or the counting systems. In addition, many States believe they are in compliance with the Act by placing status offenders in certain facilities which they interpret not to be within the Act's proscriptive intent. While they may be correct, there are discrepancies between the observed condition of these facilities, particularly with respect to size and commingling; that would make their exclusion from LEAA's definition questionable. Nevertheless, we accepted each State's categorization of its facilities for purposes of statistical comparison, noting in each case study the definitional problems encountered in that State.

"It should also be noted that detention and confinement of status offenders appears to be declining in 1977, as compared with 1976, from what fragmentary data we were able to locate."

We understand why the Department would wish to defend LEAA's deinstitutionalization accomplishments. However, determining how much has been accomplished was not the focus of this report. Rather, we are identifying problems experienced by the States we visited after nearly 2 years of participation in the program.

The Department also comments that our report does not fully recognize the extent of State legislation inspired in part by the Juvenile Justice Act, and considers such legislation to be a remarkable achievement. The LEAA-HEW funded study referred to above also makes reference to such legislation, but it contains the observation that although most States agree with the general premise of deinstitutionalization, many do not favor complete deinstitutionalization of status offenders. It also states that if certain exemption provisions such as the 75-percent compliance standard were removed from LEAA's guidelines, many States would be forced to consider seriously the wisdom of their continued participation.

These are the types of problems that LEAA needs to address. The absence of a total commitment to deinstitutionalization is a particularly serious problem, in view of the fact that a total commitment was exactly what was required of participating States.

STUDY DESIGN

The Department comments that there are apparent weaknesses in our study design. Only one is mentioned--that we did not fully grasp the nature of the status offender problem. According to the Department, our lack of understanding resulted in an inability to establish criteria by which the success of deinstitutionalization could be measured.

The objective of our study was to examine the problems which selected States had encountered in implementing the Juvenile Justice and Delinquency Prevention Act. At the time we undertook the study we did not establish our own criteria for judging success because criteria were already spelled out by the Federal mandate--full deinstitutionalization within 2 years after a State began participating in the Juvenile Justice and Delinquency Prevention Act.

SAMPLE SELECTION

The Department asked certain questions about how we selected the States we visited during our study. Additional information on this matter has been included in chapter 5 of our report. The Department also noted that our sample of persons interviewed appeared to be biased.

Our approach was to select persons who were responsible for implementing deinstitutionalization. In those States where significant responsibilities for dealing with status offenders had been transferred to agencies outside the juvenile justice system, we contacted officials of those agencies and included their comments in the report.

METHODOLOGY

In response to the questions raised on our methodology, chapter 5, page 39, describes how our study was conducted. The specific reservations of the Department are not clear to us. There were no interview instruments--only face-to-face discussions with representatives from all levels of the juvenile justice system and other agencies with significant roles in dealing with status offenders. The Department's comments would seem more applicable to a research study, which was not our objective.

ALTERNATIVE/SUCCESSFUL SERVICES

The Department took exception to most of our statements about alternate services.

We have modified our introduction to chapter 3 in an attempt to clarify our position on alternate services. The message we are conveying is that the States have concentrated on removing status offenders from detention and correctional facilities rather than on providing alternate services, and that adequate numbers of alternatives have not been developed. This was a recurring theme in the States we visited and was acknowledged by LEAA during our study.

The bases cited by the Department for disagreeing with us appear questionable. We do not conclude in the report that status offenders have a unique set of service needs or that intervention is preferable in all cases. Nor do we imply that LEAA should dictate the kinds of services States should provide. The wording of the report (p. 28) is that LEAA should "encourage the States to establish adequate numbers of services that are considered appropriate for status offenders."

Perhaps the Department dismisses too easily the significance of our observation that uncertainty exists with respect to the appropriateness of alternate services for status offenders. The Department's comments state that our findings run directly counter to the LEAA/HEW-funded study which states that "Neither OJJDP [Office of Juvenile Justice and Delinquency Prevention] nor HEW need consider any major new programs directed specifically toward status offenders." The thrust of our message is not that major new programs are needed but that LEAA should identify those types of services that appear to be the most appropriate for dealing with status offenders under various situations.

This issue has not been resolved at the State level. In commenting on our draft report, for example, the Florida State planning agency informed us that uncertainty over what types of alternatives are appropriate is not unique to Florida but is being argued nationwide. The agency stated that a study, to be paid for with Juvenile Justice and Delinquency Prevention Act funds and scheduled to begin on July 1, 1978, will develop guidelines for dealing with status offenders and a programmatic plan for alternatives. In addition, the LEAA/HEW study referred to earlier by the Department concluded that

> "in California, New York, Maryland, and Wisconsin, the States with the greatest diversity and best developed of services, youth service workers tended to list more gaps in their non-residential services than did the other States. They also raised more fundamental issues about the overall social policies expressed by the structure of their services and felt they needed much more information about what works for whom, particularly for runaway and incorrigible youth."

STATE PLANNING AGENCY AUTHORITY

The Department stated that State planning agencies must make clear to the Governor, the legislature, and relevant State and local agencies the nature of the State's commitment to the mandates of the Juvenile Justice Act and the consequences of failing to meet it. We agree and believe that LEAA should see that this is done. Further, we believe that such action could be the first step in implementing our recommendation. (See p. 14.)

UNQUESTIONED ASSUMPTIONS AND UNSUPPORTED BELIEFS

The Department's comments under this section have been considered. Changes and/or explanations for those comments we considered appropriate have been included elsewhere in this report.

INADEQUATE OR OUTDATED INFORMATION

The Department stated that we did not report relevant information and cited the Arthur D. Little study as an example. The Arthur D. Little study, which was in process during our study, was examined and considered. References to the study are contained in the report.

The recommendations the Department made reference to in this section pertained to monitoring. We were aware of LEAA's efforts, but our work indicates that States do not understand the requirements. We believe that serious consideration should be given to alternate approaches for accomplishing such basic responsibilities on a more timely basis.

MONITORING

In its comments on monitoring the Department states that LEAA has no authority to compel agencies to report monitoring information. The Department also enumerated actions and activities LEAA has taken to clarify for the States the act's requirements and stated that these actions represented a logical, well-conceived approach to resolving the many problems surrounding the monitoring issue.

The argument that it is each State planning agency's responsibility to obtain monitoring information and that LEAA has neither the authority nor the responsibility to compel State, local, or private agencies to report such information may be technically correct. However, we do not believe that argument absolves LEAA of responsibility. LEAA should be working with the States to resolve problems they have identified which hinder their capability to obtain compliance data and to monitor for compliance.

With respect to the actions taken by LEAA to resolve monitoring problems, our report points out that the extent and significance of such problems were not fully recognized by LEAA until the initial monitoring reports were due in December 1976. Thus, the success of efforts undertaken prior

to that time is questionable. LEAA actions taken subsequently may better address the monitoring problems of the States, but at the time of our fieldwork their effect could not assessed.

The monitoring problems noted during our review and the extent to which LEAA addressed them were summed up by the Director of Louisiana's State planning agency as follows:

> "LEAA told Louisiana and the States in Region VI (Arkansas, New Mexico, Texas, Oklahoma) that they had 'self determination in the monitoring process,' that LEAA wanted to see how the State would 'handle monitoring.' After not providing the federal 'guidance,' guidelines clarification and/or interpretation, they state that 33 state monitoring reports were incomplete. It reminds one of the cliche 'do as I say, not as I do.'" (Underlining added.)

GENERAL COMMENTS

The Department stated that the tone of our report reflects a belief that because the Congress has acted, the States could have or should have set about achieving compliance. The Department's interpretation is correct. We believe that when the States elected to participate in the act, they incurred the obligation to try to achieve what they had agreed to do. To expect less would not have been fair to the States that elected not to participate in the act because they believed 2 years to be an insufficient period within which to achieve deinstitutionalization.

Although the period has been extended, the message is still clear; if a State is not committed to achieving deinstitutionalization, it should not be participating in the program.

We realize that the deinstitutionalization issue is complex, but within the next few years participating States have an obligation to achieve deinstitutionalization and LEAA has an obligation to try to help them. Information obtained during our review indicated that the commitment to help was not strong during the first 2 years of the program. In fact, the Associate Administrator for LEAA's Office of Juvenile Justice and Delinquency Prevention told us that deinstitutionalization was never emphasized at the national level and, if anything, its importance had been downplayed. He also said that LEAA should have set goals, informed States about the requirements of the mandate, and encouraged the States to enact legislation after the passage of the act, but it did not.

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-171019 March 14, 1978

The Honorable Birch Bayh
United States Senate

Dear Senator Bayh:

On September 27, 1977, we testified before the Subcommittee to Investigate Juvenile Delinquency, Senate Committee on the Judiciary, on the results of our review of States' efforts to remove status offenders 1/ from detention and correctional facilities as required of participating States by the Juvenile Justice and Delinquency Prevention Act of 1974. At that time, you requested our views on Indiana's progress.

Our review of Indiana's efforts to remove status offenders 2/ indicates that Indiana is experiencing problems similar to those we identified in our testimony. Those problems were:

--Effective monitoring systems have not been established to determine whether deinstitutionalization has been or will be achieved.

--State laws and practices frequently conflict with the act's deinstitutionalization mandate.

--Appropriate alternatives to incarceration have generally not been identified and developed.

Each problem area as it applies to Indiana is discussed below.

We discussed Indiana's progress with officials of the Law Enforcement Assistance Administration's Office of Juvenile Justice and Delinquency Prevention and the Indiana Criminal

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1/Juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult.

2/In this report removal of status offenders is referred to as deinstitutionalization.

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Justice Planning Agency. We also talked with officials of the Indiana Departments of Correction and Public Welfare, members of the Juvenile Justice Division of the Indiana Judicial Study Commission, and a juvenile court official of Marion County.

SYSTEM TO MONITOR DEINSTITUTIONALIZATION

Guidelines of the Law Enforcement Assistance Administration (LEAA) require that each State participating in the Juvenile Justice and Delinquency Prevention Act of 1974 provide for accurate and complete monitoring to insure that status offenders are not placed in jails, detention facilities, correctional facilities, and other secure facilities. The guidelines also require that participating States report annually to LEAA on the results of their monitoring activities.

Indiana's monitoring consists of surveying--on three specified dates each year--all county jails and juvenile detention facilities, State correctional institutions, and group homes and shelter facilities serving juvenile delinquents. Some secure facilities such as city jails, local lockups, and private institutions are not surveyed. An official responsible for monitoring stated that his office had neither the staff nor the funds to monitor these facilities. He also expressed reservations about whether they had authority to monitor them.

Indiana's initial monitoring report, submitted December 29, 1976, did not provide any results of monitoring activities because such activities had only recently begun under a grant from the State planning agency to the Department of Correction. However, an addendum to the report concluded that the State was near LEAA's substantial compliance standard for deinstitutionalization. According to LEAA, a State can achieve substantial compliance with the deinstitutionalization requirement by statistically showing a reduction of at least 75 percent in the number of status offenders in secure detention and correctional facilities within 2 years of its initial State comprehensive plan submission. 1/

Our analysis of the addendum indicated that Indiana had incorrectly determined the reduction in the number of status offenders held in secure detention and correctional facilities.

1/Recent amendments (Public Law 95-115) to the Juvenile Justice and Delinquency Prevention Act of 1974 give the States a total of 3 years to achieve at least a 75-percent reduction, provided such States have demonstrated an unequivocal commitment to achieving full compliance.

B-171019

Since LEAA had not reviewed the addendum at the time of our review, we requested its comments on the adequacy of the data. On December 15, 1977, the Administrator of the Office of Juvenile Justice and Delinquency Prevention told us that the Office did not agree with either the State planning agency's data analysis or its conclusions. We were told that on December 22, 1977, he had notified the executive director of the State planning agency of his response to us and requested additional information so that a more complete evaluation could be made.

According to LEAA, Indiana should have compared January 1975 data on the number of status offenders in secure facilities with January 1977 data to arrive at a percentage reduction. Instead, Indiana compared the number of status offenders in secure facilities to the total population for these facilities on January 15, 1977.

To get some indication of whether the number of status offenders in secure facilities had been reduced, we compared the data included in the addendum on the number of status offenders in such facilities on January 15, 1975, and January 15, 1977, the last date for which information was included. For January 1975, the addendum showed 294 status offenders in secure facilities and for January 1977, 260--a reduction of 34 (12 percent). Thus, Indiana was further from substantial compliance than its report concluded.

STATE LAW AND PRACTICES REGARDING DEINSTITUTIONALIZATION

Indiana law, which allows most types of status offenders to be held in detention and correctional facilities, conflicts with the Federal mandate prohibiting the use of such facilities for status offenders. Specifically, under Indiana law, youth involved in activities considered to be status offenses such as ungovernability, incorrigibility, truancy, and curfew violation are classified as delinquent children and may be placed in secure detention or correctional facilities. In contrast, runaway youth, also considered status offenders, are classified as dependent children. Under Indiana law, incarceration of dependent children in any county jail, city lockup, detention center, State penal institution, the Indiana Boys' School, or the Indiana Girls' School is prohibited.

Indiana monitoring results indicate that the institutionalization option in Indiana's law is being applied by juvenile judges and law enforcement officials. Status offenders are being held in secure detention facilities and are being committed to State juvenile correctional institutions.

State and county officials whom we spoke with offered the following explanations why this practice continues:

--Secure detention of some status offenders is considered necessary for proper diagnosis and evaluation of their problems.

--Status offenders are often committed to State institutions to receive services, due to a shortage of alternative dispositions.

An effort is underway in Indiana to modernize its juvenile justice laws. The Juvenile Justice Division of the Indiana Judicial Study Commission was established to study the juvenile code and recommend changes to it. Funded by an LEAA grant, the Division has prepared a proposed revision to the Indiana Juvenile Code. After public hearings are held, the proposal will be submitted to the 1978 Indiana General Assembly. The proposed code recommends that status offenses be kept in the delinquency category and that "running away" be classified as delinquency. It also prohibits the incarceration of status offenders but, when necessary, allows status offenders to be placed in shelter care facilities. A shelter care facility is defined as a place of residence, licensed under the laws of any State, which is not locked to prevent a child's departure unless the administrator determines that locking is necessary to protect the child's health.

ALTERNATIVE SERVICES FOR STATUS OFFENDERS

Indiana does not have a uniform statewide procedure for delivering services to status offenders. State and local juvenile justice officials said that throughout Indiana, particularly in the State's rural counties, a shortage of residential and nonresidential services existed as alternatives to incarceration for juvenile offenders, including status offenders.

Under the monitoring grant received from the State planning agency, Indiana's Department of Correction surveyed facilities throughout the State which provide services to juvenile delinquents, including status offenders. The Department concluded that if the State fully complied with the Federal requirement for deinstitutionalization of status offenders it would need substantially more group homes and child caring facilities.

The State planning agency has identified a number of regions within the State which have established as a priority

need the development of alternatives to institutionalization for juveniles. An agency official said that some diversional alternatives are available for juvenile offenders, including group homes, boys' clubs, youth service bureaus, crisis hotlines, and various police/school liaison programs. For fiscal years 1975 through 1977, the State planning agency had awarded approximately $1.5 million of LEAA funds to cities and counties to develop community alternatives to institutionalizing juvenile offenders. Some of the projects supported include:

--The construction and establishment of a county juvenile shelter facility to serve as a short-term residential center for 20 juveniles. Placement would be made by the county juvenile courts or the welfare department. The center would provide care for runaways awaiting return to their homes and for early offenders who need only short-term treatment. It would also provide outpatient services in tutoring, counseling, and other treatment for juveniles and their families.

--The operation of a regional youth services program involving 12 counties and the use of foster care homes. The program, which has been in operation for over 4 years, has used about 42 foster homes a year. Under the program, treatment and training of the parents and other members of the immediate family is an integral part of the treatment process.

The Indiana fiscal year 1978 comprehensive State plan submission for LEAA funds indicates that the State planning agency will continue funding community-based alternative programs for juveniles.

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In a letter dated January 20, 1978, a copy of which was sent to you, the executive director of the State planning agency commented on our observations. With respect to monitoring, he stated that in view of the questions raised by the Office of Juvenile Justice and Delinquency Prevention and our observations on the methodology, the State planning agency was reassessing the tasks before it. He believed that the means established for monitoring facilities was providing comprehensive and very useful data.

The director stated that at the present time, certain laws and practices do conflict with the Federal mandate. He noted, however, that proposed revisions to the Indiana Juvenile Code have been introduced in the Indiana legislature.

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Regarding alternatives to incarceration, the director called our attention to Indiana's increased use of probation and stated that alternative residential facilities were not the only appropriate programmatic response to deinstitutionalization. Our purpose was not to convey that impression but only to indicate that shortages of such facilities, as well as nonresidential services, were reported.

We plan to issue a report to the Congress this spring, which will contain our overall conclusions and recommendations concerning State efforts to remove status offenders from detention and correctional facilities.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution until 30 days from the date of this report. At that time we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

Comptroller General
of the United States

PRINCIPAL OFFICIALS OF THE DEPARTMENT OF JUSTICE RESPONSIBLE FOR ADMINISTERING ACTIVITIES DISCUSSED IN THIS REPORT

	Tenure of office	
	From	To
DEPARTMENT OF JUSTICE		
ATTORNEY GENERAL:		
Griffin B. Bell	Jan. 1977	Present
Edward H. Levi	Feb. 1975	Jan. 1977
William B. Saxbe	Jan. 1974	Feb. 1975
ADMINISTRATOR, LAW ENFORCEMENT ASSISTANCE ADMINISTRATION:		
Vacant	Mar. 1977	Present
Richard W. Velde	Sept. 1974	Feb. 1977

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