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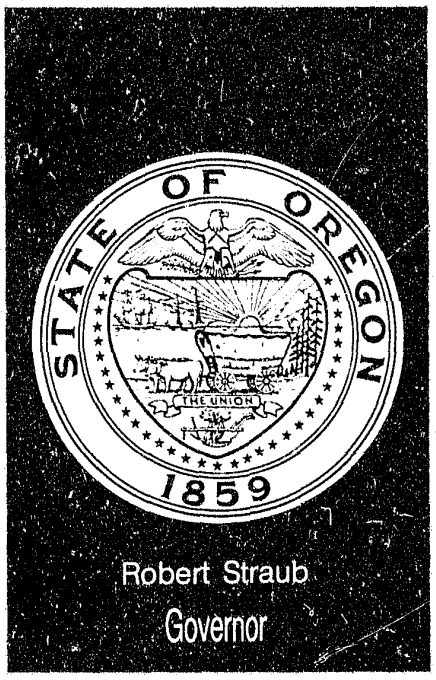


# Report of Governor's Task Force on Juvenile Corrections

## Volume I

Recommendations for Oregon's Juvenile Justice System

November 1978

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Report
of
Governor's Task Force
on
Juvenile Corrections

VOLUME I

# RECOMMENDATIONS
FOR
# OREGON'S JUVENILE JUSTICE SYSTEM

NCJRS
DEC 4 1978
ACQUISITIONS

November 1978

State Capitol

Salem, Oregon

The Governor's Task Force on Juvenile Corrections submits this report to the Governor of Oregon and the Sixtieth Oregon Legislative Assembly in accordance with Senate Joint Resolution 54 of the Fifty-ninth Legislative Assembly.

This study was conducted under Grant No. 75 J 253.1 from the Oregon Law Enforcement Council, utilizing funds granted to the state under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, together with matching state funds.

The opinions expressed in this report are those of the Task Force and do not necessarily represent the opinions of the Oregon Law Enforcement Council or the Law Enforcement Assistance Administration.

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# ACKNOWLEDGEMENTS

The members and staff of the Governor's Task Force on Juvenile Corrections have relied upon scores of persons in the public and private sectors in the course of their research into the juvenile justice system in Oregon.

State agencies which deal with problems of children and youth appointed ex officio members to serve as resource persons for the Task Force. These representatives and other agency employees gave generously of their time and expertise to assist the Task Force. Special thanks is due to representatives of the Children's Services Division, the Mental Health Division, the Corrections Division, the Health Division, the Bureau of Labor, and the Department of Education.

The Oregon Association of Juvenile Court Judges and the Oregon Association of Juvenile Department Directors offered helpful and constructive criticism and assisted the Task Force staff in surveying their memberships on statistical and policy questions.

Public and private agencies where children are placed, as well as public schools with innovative prevention programs, opened their doors to tours by members and staff, and other teachers and pupils travelled from various parts of the state to report on their programs to the subcommittees.

Staff members of the Oregon Law Enforcement Council, which funded the project, assisted by providing literature on juvenile justice subjects and consulting on statistical analysis problems.

The Oregon Council on Crime and Delinquency conducted studies related to the Task Force's assignment and shared the information with members, as well as sponsoring a workshop on diversion to which members and staff were invited.

Numerous persons in the juvenile justice system and private citizens concerned about children attended many of the meetings of the subcommittees and full Task Force and offered valuable materials and suggestions.

To all of these, the Task Force is indebted.

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# VOLUME I

## INTRODUCTION

> This act shall be liberally construed to the end that its purpose may be carried out, to wit: that the care, custody, and discipline of a child shall approximate, as nearly as may be, that which should be given by its parents, and in all cases where it can properly be done, the child to be placed in an approved home, and become a member of the family by legal adoption or otherwise.
>
> Section 17, Chapter 80
> General Laws of Oregon 1905

This statement of purpose from the statute which created Oregon's first juvenile court remains today, as it was in 1905, the guiding principle of the state's juvenile justice system. Children are to be cared for in their own homes, if possible, and, if they must be removed from their homes, they are to receive such care as their parents should have given them.

Yet, from January 1, 1975, to the same date in 1978, while 28 states were reducing their training school populations, the number of children in Oregon's training schools increased by 64 percent, the second highest percentage increase in the nation, according to Corrections Magazine (Vol. IV, No. 3, September 1978). (Texas, with a 68 percent increase, began from an artificially low base due to institutional closures ordered by a federal district court.) During the same period, new commitments to Oregon's juvenile institutions almost doubled.

On October 1, 1978, there were 670 students in the training schools, which health and safety standards indicate should have no more than 600 residents. An additional 79 were in the three satellite camps, and 726 were on conditional release. During the first three quarters of 1978, 573 children were admitted to the schools--a commitment rate which was running ahead of a similar period last year. Oregon juvenile corrections authorities estimate that by 1981 there will be more than 800 children in the training schools with inadequate space for up to 230 children during peak periods.

## INTRODUCTION

Commitments from the juvenile courts to the Children's Services Division for other types of out-of-home placement increased more than 18 percent from 1975 to 1977, and on October 1, 1978, 4,450 children were receiving such care. In the same three-year period, referrals to county juvenile departments went up by 15 percent. This increased use of the juvenile justice system has occurred during a period when the juvenile population of the state has remained relatively stable.

This was the principal problem facing the Governor's Task Force on Juvenile Corrections during its year of meetings and deliberations.

The Task Force did not give any serious consideration to recommending the construction of a new state training school or expansion of existing facilities. Instead, their principal recommendations fell into two major categories--aid to local communities for the development of new programs and facilities, and primary prevention programs to halt the flow of children into the juvenile justice system.

The proposed Community Juvenile Services Act and Capital Construction Act would make state money available to counties to enhance and expand their juvenile services and thus make it possible for communities to care for more of their children at home.

The suggested expansion of the Child Development Specialist programs, although the impact upon the juvenile justice system would not be immediate, represents agreement among Task Force members that primary prevention, available early in the lives of children, may be the most effective, compassionate, and, in the final analysis, the most economical method for dealing with juvenile misconduct.

The Task Force's emphasis on proposals to increase opportunities for youth employment reflects the members' concern that children must be given additional chances to become contributing members of society.

The Task Force submits the proposals contained in this volume with confidence that adoption of these recommendations will begin to reverse the trend of increasing involvement of Oregon's youth in the juvenile justice system.

# PART I

## THE TASK FORCE

## ORIGINS, ORGANIZATION, AND OUTCOME

The idea for a Governor's Task Force on Juvenile Corrections originated during a study of Oregon's adult corrections system conducted during the 1975-76 interim. While examining the corrections system, members of the Governor's Task Force on Adult Corrections learned that many adult offenders also had records as juvenile offenders. A study of Oregon's juvenile justice system was beyond the scope of the earlier Task Force, but the members recommended that such a study be undertaken in 1977-78 in an attempt to identify some of the patterns that lead to later adult criminal behavior and to suggest ways of reducing the number of juvenile offenders entering the adult system.

Senate Joint Resolution 54, calling for the creation of a Governor's Task Force on Juvenile Corrections, was part of the package of corrections bills recommended by the adult Task Force, endorsed by Governor Robert Straub, and introduced in the 1977 legislative session. The Legislature passed SJR 54, expanding the Task Force's assignment to include an assessment of the causes and prevention of delinquency and recommendations concerning the placement of status offenders, as well as suggestions for the improvement of Oregon's juvenile corrections system. (See Appendix A.)

The Task Force was established with a grant from the Oregon Law Enforcement Council, utilizing a portion of the money granted to the state under the Juvenile Justice and Delinquency Prevention Act of 1974, and state matching funds. Governor Straub appointed his legal counsel to chair the Task Force and named 15 members representing the various elements of the juvenile justice system, legislators, the Children's Services Division, and the general public.

At the Task Force's organizational meeting on September 14, 1977, the Governor, while noting that it might "not be easy to achieve consensus and agreement," instructed the Task Force "to examine our existing system and design policy recommendations and program alternatives for the future" and report back to him in October 1978. (See Appendix B.)

In order to broaden the base of representation, the Governor's

legal counsel appointed 18 associate members, including three youth members. The Task Force was divided into three subcommittees with five full Task Force members and six associate members serving with each group. (See Appendix C.)

The Task Force divided up the work assignments with Subcommittee #1, under the chairmanship of Representative Tom Marsh, looking at prevention and early intervention, youth employment, and statistical analysis; Subsommittee #2, chaired by Laverne Pierce, concentrating on intake, diversion, probation and disposition procedures, detention standards, development of additional community-based resources, and the need for a uniform data collection system; and Subcommittee #3, headed by Senator Tony Meeker, considering the operation of existing institutions, dispositional alternatives, different methods of funding the system, and the relationship of the juvenile courts and the Children's Services Division. (See Appendix D.)

Eight ex officio members, representing state agencies concerned with human resources and education, were designated to assist the Task Force and act as liaison with their agencies.

After a two-day orientation meeting in November, the Task Force embarked on an ambitious schedule of monthly meetings with the subcommittees usually meeting twice a month. At meetings in Salem, the Portland metropolitan area, Eugene, and Bend, the groups heard many hours of testimony from persons in the juvenile justice system, parents, volunteers in the system, and other citizens. They toured institutions and talked with state agency personnel and private care providers. Staff members prepared background papers on various aspects of the system, drafted proposed legislation, and undertook a statistical survey, based mainly on the information supplied by county juvenile departments. (See Volume II - Statistical Survey.)

Early in the process, the subcommittees developed lists of problem statements which then came before the full Task Force for approval. These statements formed a framework for the division of responsibilities among the subcommittees (although some subject matter was found to cut across the concerns of all three groups) and guided the subcommittees' work through the year. The Task Force then summarized these concerns in a statement concerning major problem areas. The Task Force also adopted definitions to assist them in communicating and to facilitate their work. Later in the study, the Task Force adopted a set of policy statements embodying the general philosophical approach to the juvenile justice system and the treatment of juvenile offenders espoused by the majority of the Task Force members.

Ultimately, the Task Force adopted some 40 proposals for

consideration by the executive branch of government and the Sixtieth Legislative Assembly, ranging from suggestions on early education programs to procedures for probation revocation. In a day-long session, the Task Force assigned priorities to these proposals, based on the members' perceptions of the relative importance of the problems and the urgency involved in seeking solutions. In a year in which taxpayers were protesting the high cost of government programs, close attention was also given to the estimated fiscal impact of each item. Priority I proposals were then further divided into ten subcategories.

In the following pages are the summary of proposals, the policy statements, the statement concerning major problem areas, the subcommittees' problem statements, and the definition of terms.

Following each of the proposals in this volume are the fiscal impact, priority placed on the proposal by the Task Force (Priority I, II, or III), and, where applicable, the policy statements and problem statements which the proposal addresses.

# MAJOR PROPOSALS

## Priority I

Members of the Governor's Task Force on Juvenile Corrections divided their recommendations and proposed legislation into three priority groupings. They further divided their Priority I proposals into ten subcategories. Following are brief summaries of the Task Force's Priority I proposals with notation after each to indicate whether the proposal takes the form of a recommendation to the executive branch of government or a legislative bill.

### Subcategory #1

--A Community Juvenile Services Act, creating a Juvenile Services Commission, which would make state grants to counties for juvenile programs and set minimum standards for service and facilities. (legislation) p. 61

### Subcategory #2

--A Capital Construction Act providing funds for local facilities, administered by the proposed Juvenile Services Commission and available on a competitive basis to counties participating in the Community Juvenile Services Act. (legislation) p. 83

### Subcategory #3

--Expansion of the existing program, administered by the Department of Education, of state aid to school districts operating Child Development Specialist programs. (legislation and recommendation) pp. 97 & 103

### Subcategory #4

--Provision allowing private employers to deduct as a business expense 125 percent of the salaries of employees under the age of 18 as an incentive to youth employment. (legislation) p. 107

--Recommendation that a portion of the Governor's discretionary CETA funds be granted to the Wage and Hour Commission for a study of youth employment rates. (recommendation) p. 111

### Subcategory #5

--Requirement that all counties with populations of more than 12,000 provide diversion personnel on a 24-hour basis to divert minor juvenile offenders to community resources. (legislation) p. 143

-- Requirement that all juveniles who have been found to have committed a second violation of the state liquor laws be referred to an alcohol program for assessment and possible treatment. (legislation) p. 147

Subcategory #6

-- Requirement that Children's Services Division pay costs of emergency medical care for children in CSD's custody who are placed in detention. (legislation) p. 171

-- Support for legislation to be introduced at the request of the Joint Legislative Interim Committee on the Judiciary which would provide 80 percent state payment of indigency defense costs for persons accused of felonies, including juveniles. (recommendation) p. 217

Subcategory #7

-- Recommendation that CSD offer full cooperation to Child Development Specialists seeking social services for school children. (recommendation) p. 105

-- Direction to Board of Education to conduct a study of the thoroughness and effectiveness of present auditory and visual screening procedures in public schools. (legislation) p. 113

-- Requirement that school districts provide education, including special education when necessary, to students living in child care centers and to expelled students. (legislation) p. 179

Subcategory #8

-- Prohibition against exclusion of residential care facilities for eight or fewer children from single-family residential neighborhoods. (legislation) p. 173

-- Recommendation that LCDC include residential group care facilities as an essential element in its Goals #10 and #11 dealing with housing and public facilities. (recommendation) p. 175

Subcategory #9

-- Direction to form a Committee on Youth and Alcohol Problems to make recommendations to Governor and Legislature. (legislation) p. 151

Subcategory #10

-- Recommendation that CSD resume accepting voluntary placement of children without the necessity for court action to remove

children from their homes. (recommendation) p. 121

-- Requirement that after June 30, 1981, no child be placed in a jail unless he has been accused of a violent act; that proposed Juvenile Services Commission set mandatory standards for juvenile detention facilities; and that the Jail Inspections Team be empowered to inspect facilities and enforce standards. (legislation) p. 163

-- Requirement that case of any child removed from home by the court or through voluntary placement be reviewed by the court within six months and annually thereafter. (legislation) p. 251

## OTHER PROPOSALS

Following are brief summaries of the Task Force's Priority II and III proposals. The Task Force did not rank the items in these two priority listings. The proposals within each priority have been separated into legislation and recommendations.

### Priority II

#### Legislation

-- Extension of the nondiscrimination provisions of existing law to cover the juvenile training schools, as well as adult correction institutions. p. 193

-- Provision that CSD and juvenile department personnel, acting in good faith, shall have immunity from civil and criminal liability when taking a child into custody. p. 201

-- Provision of an informal disposition procedure by which a child may be placed on nonjudicial probation through a voluntary agreement with a juvenile department counselor in lieu of a court appearance. p. 219

-- Dispositions and dispositional procedures act which would give the juvenile court authority to order placement, treatment, and conditions of probation when a child is committed to the custody of CSD; would allow the use of fines in juvenile court; and would establish probation and probation revocation procedures. p. 223

## OTHER PROPOSALS

### Recommendations

-- Recommendation of detailed administrative rules for detention standards to be proposed to the Juvenile Services Commission, if it is created. p. 167

-- Recommendation that additional psychological staff be provided at the training schools, in lieu of expansion of the Secure Adolescent Treatment Center at Oregon State Hospital; that increased community mental health services be provided for children and adolescents; and that dedicated funding sources be developed to pay for these services. p. 187

-- Recommendation to consider inclusion of preparenting and child development education in the training school curriculum. p. 191

-- Recommendation that attention and support be given to eliminating inequities based on sex in the training schools. p. 195

-- Recommendation that there be adequate intake personnel in the training schools to make assessment and placement decisions, if the system of placing children from the training schools in child care centers is to function successfully. p. 197

-- Recommendation that provisions of the Interstate Compact on Juveniles, requiring states to pay the costs of returning their resident juveniles, be enforced and expanded to include payment of costs of detaining children pending return. p. 275

## Priority III

### Legislation

-- Provision of state funds for the development of prevention programs in the public schools. p. 117

-- Provision that would allow CSD to designate relatives, other than parents and stepparents, as foster care providers and to pay such persons out of the General Fund in those instances in which the children are not qualified to receive ADC-FC payments or relatives do not wish to seek court-ordered placement. p. 125

-- Requirement that Department of Education adopt written rules regarding education of pregnant students; prohibition against exclusion of pregnant students from public schools; and extension of right to choose educational programs to pregnant students. p. 131

-- Establishment of a Maternal-Infant Services Study Project to study factors necessary for the creation of a nurturing maternal-infant relationship. p. 137

-- Requirement that juvenile court referees be legally trained and, after January 1, 1981, not be employed in any other capacity by the county. p. 205

-- Provision that a child, found to have committed a crime or to have violated probation after the commission of a crime, may be placed in detention for a period not to exceed 14 days, if a juvenile detention facility is available. p. 247

-- Establishment of an office of Ombudsman for Children and their families to assist them in their relationships with governmental agencies and programs. p. 261

-- Resolution requesting Oregon's participation in the International Year of the Child. p. 277

Recommendations

-- Recommendation that the use of volunteers in the juvenile justice system be encouraged and increased. p. 209

-- Recommendation that Oregon continue to participate in the federal Juvenile Justice and Delinquency Prevention Act. p. 269

## POLICY STATEMENTS

The Governor's Task Force on Juvenile Corrections adopted the following general policy statements to provide a framework for their recommendations:

1. The purposes of the juvenile justice system in Oregon are:

   (a) To offer services to children and families designed to prevent penetration of children into the system;

   (b) To offer opportunities for rehabilitation for children within the system, prepare these children for responsible, productive adulthood, and provide services to the families of these children; and

   (c) To protect the community from illegal acts by children.

2. Decision-makers in the juvenile justice system should choose the least restrictive alternative when deciding upon placement of a child both before and after adjudication.

3. The placement and treatment of a child found to have committed a status or criminal offense should be determined on the basis of the best interests of the child, taking into consideration the child's due process rights and the safety of the community.

4. There is a need for family-oriented services for children and their families at every stage from primary prevention to juvenile corrections.

5. There is a need for services for children and families that are non-stigmatizing in nature.

6. Services for children and families should be appropriate to their needs and delivered in a timely and efficient manner.

7. In order that the family unit shall be preserved and strengthened, a child in the juvenile justice system should be supervised in his own home whenever possible. (ORS 419.474)

8. When a child is removed from his home, preference should be given to treating the child in a facility in or near his own community, if such placement is in the child's best interests.

9. When a child is removed from his home, the objective of treatment should be reintegration of the child into his home and community as soon as possible, or, in the case of an older juvenile, preparation for independent living. When an institu-

tionalized child is released, follow-up services should be provided to help the child reenter the community.

10. The development of community-based facilities and alternatives to the formal juvenile justice system should be encouraged.

11. A single state agency should be designated to be in charge of planning and programs aimed at preventing the development of delinquent behavior.

12. Oregon's juvenile justice system should be coordinated so that:

(a) A child, when removed from home, receives a thorough, adequate evaluation which results in a consistent treatment plan;

(b) A child is sent to the minimum number of placements to accomplish this treatment plan; and

(c) Whenever possible, a child remains under the supervision of the same counselor or caseworker during the treatment period in order to benefit from consistency of approach.

13. Oregon's method for financing juvenile justice services should assure the continuation of the programs of private care providers and encourage the development of additional facilities.

14. Consistent with community safety and effective treatment, the number of juveniles committed to the state training schools should be reduced.

15. Public and private services to children and their families should be evaluated on a continuing basis in order to determine the efficacy of various types of prevention, care, and treatment programs.

## MAJOR PROBLEM AREAS

The Governor's Task Force on Juvenile Corrections identified four major problem areas in Oregon's juvenile justice system. These concerns are essentially a summary of the more detailed Problem Statements which appear on the following pages.

1. There is a separation between the organization and administration of the juvenile justice system, which lies with the county juvenile departments and the juvenile courts, and the funds to pay for juvenile corrections, particularly out-of-home placement, which is administered at the state level. The courts have unlimited power to commit children to the care and custody of the Children's Services Division, which must by statute care for these children with the finite resources available through legislative appropriations and federal funds.

2. There is a lack of prevention and diversion programs to keep children from entering, or becoming more deeply involved in, the juvenile justice system.

3. There is a lack of consistent evaluation and continuity of care for children in the juvenile justice system.

4. There is a lack of evaluation of the services which the state is purchasing from private care providers.

# PROBLEM STATEMENTS

Following are the Problem Statements adopted by each of the Task Force subcommittees and by the full Task Force:

## SUBCOMMITTEE #1

### Individual Rights

1. There are legal and ethical questions associated with programs which seek to address "high risk" groups.

2. Special attention should be given to the problems of confidentiality and expunction of records.

3. In identification and prevention of delinquency, the point at which coercion becomes appropriate and permissible should be explored.

### Prenatal to age 5

4. Opportunities for prevention programs at the pre-school level should be investigated.

5. Systematic studies which have employed respectable methodology in the area of early diagnosis and intervention methods appropriate for the neo-natal or pre-school level should be reviewed.

6. There is evidence of a significant and permanent relationship between early childhood experiences, particularly with parent or parents, and later emotional and behavioral problems. Addressing these realities requires program initiatives in at least the following areas:

(a) Family life education for high school students;
(b) Pre-natal care classes;
(c) Nutrition and infant care education for both parents at the time a child is born;
(d) Education in the development stages of childhood and a child's capacities at each stage;
(e) Special needs of single parents;
(f) Occasional "time-off" quality day care for children of parents who need a break from the stresses of young children; and
(g) Day care in general.

7. Intervention and therapy programs designed for families who exhibit a high risk of abnormal parenting practices should be explored.

Role of the Public Schools in Identification and Prevention

8. Maximum utilization of school buildings as an existing community resource has not been achieved.

9. Opportunities for early diagnoses of a variety of handicapping conditions are too frequently missed.

10. In view of the recent federal legislation (29 USCA 794) and the mandate to schools in the area of identification of handicapping conditions, in-service teacher training requirements which are related to the specific areas of identification and intervention should be examined.

11. A school's response to a student's problems rarely includes the coordination of community resources that are potentially available.

12. There is not widespread recognition that the elementary level is an appropriate place to implement prevention.

13. There is a lack of supportive educational services designed to prevent developmental delays.

14. Expansion of the Reading Disability Prevention Program for Five-year-olds should be explored.

15. Expansion of the Child Development Specialist Program should be explored.

16. Because the talents and resources that are required for innovative prevention programs in the schools are diverse in nature, present teacher certification requirements may need reexamination.

17. There is a need of unknown dimension but certain profundity for alternative educational opportunities for young people. There is a need to clarify the financial responsibility of school districts and the state in providing finances to support a stable alternative school system in each community.

18. There is a need to examine the resources available in the school system, other than expulsion and suspension, to deal with disruptive behavior.

19. There is no systematic manner or assigned responsibility for the teaching of parenting skills in our society.

The Role of Other Agencies in Identification and Prevention

20. There are too few opportunities for families and children to get help, on a voluntary basis, that is non-stigmatizing in nature.

21. There is a need for further commitment to the guaranteeing of security and stability to children through a permanent planning initiative, which includes the following:

(a) Strengthen preventive services for children and families that are family-oriented, such as homemaker services, family crisis counseling, and 24-hour emergency response capability;

(b) The adoption of maximum periods of foster care and the consequent deemphasis of foster care as anything other than a short-term alternative; and

(c) The fixing of responsibility and the assuring of funds to process and resolve termination of parental rights cases on a timely basis.

21A. The problems of alcoholism and alcohol abuse should be considered as they relate to the subcommittee's other problem areas.

Youth Employment

22. There is a lack of incentive for the private sector to create jobs and training programs for youth.

23. Youth employment faces legal obstacles, including Wage and Hour Commission rules, which should be reexamined in view of changing social patterns and needs.

24. The potential of the state, as an employer, to provide additional opportunities for youth employment should be examined.

25. Youth find it difficult or impossible, with any degree of sanction, to interrupt their schooling temporarily to accept full-time jobs.

26. Particular attention should be paid to the employment problems of minority youth.

Comprehensive Services

27. In the area of prevention, there is a lack of coordination among institutions and agencies that affect and influence the

lives of all children. There is no agency that is responsible for the services and issues that affect children.

28. Statutes, rules, and guidelines that force children into the juvenile justice system for the purpose of obtaining services should be reviewed.

29. Due to their geography and demographic makeup, Eastern Oregon and Coastal Oregon are faced with a number of unique juvenile care problems which need to be investigated.

30. It is not clear whether Oregon should continue to participate in the JJDP Act.

SUBCOMMITTEE #2

31. Although the present methods of funding provide for fiscal accountability, there is no present method for evaluating programs or holding private-care providers accountable for program content and effectiveness.

32. There is no systematic and uniform manner for data collection and subsequent program evaluation in Oregon. This leads to several other related problems:

(a) Cost and program effectiveness cannot be measured in any meaningful manner;
(b) It is not possible to determine service duplications and ommissions;
(c) Communications between agencies are inadequate or non-existent; and
(d) Third-party evaluations are not required and, therefore, rarely carried out.

33. Zoning restrictions and community attitudes inhibit the development of new community-based facilities.

34. Intake standards, availability of 24-hour intake screening, and the use or non-use of diversion appear to vary from county to county.

35. Lack of voluntary services or lack of use of such resources leads to an excessive use of informal probation, with a possible lack of due process.

36. There are no consistent detention standards, and, therefore, the numbers and types of children detained vary from county to county.

37. There is a lack of community-based resources which may be

used as alternatives to court processing, placement in detention, and institutionalization.

37A. The problems of alcoholism and alcohol abuse should be considered as they relate to the subcommittee's other problem areas.

38. Community and judicial attitudes, rather than the child's alleged offense, may determine whether a child is diverted or processed through the juvenile justice system.

39. Juvenile department funding is based on the number of children processed formally or informally with little or no money devoted to prevention or diversion.

40. The historical view that the juvenile court is the provider of social services may inhibit other agencies from developing programs, particularly for economically disadvantaged children.

41. There is a perceived stigma or labeling when services are provided through the juvenile department and the juvenile court which might not be present if services were provided by other agencies.

42. Society does not allow children enough opportunities to make decisions, assume responsibilities, and face the consequences of their decisions and actions.

43. The placement of children from the training schools in child care centers seems to contribute to several problems:

(a) The proper allocation of limited resources for the benefit of children in care needs to be examined;
(b) Control of programming and possible conflicts between the needs of the delinquent and non-delinquent youths become important issues;
(c) Community attitudes toward the resident population may change;
(d) Staff turnover may occur because of increased demands made upon the staff;
(e) Some children may be committed unnecessarily to the training schools in order to expedite their placement in the child care centers; and
(f) There is possible role conflict between the parole officer and the child care center director.

44. Work-load measures and standards are needed for the best allocation of child-serving personnel.

45. There appears to be a need to examine the standards for

qualifications and training of juvenile justice system personnel. New standards may need to be developed, or existing ones revised, to insure that persons who actually deal with the children are highly skilled. Competitive salaries and career ladders are not widespread.

46. There is a lack of family-oriented, 24-hour crisis intervention services, with immediate and intensive follow-up counseling services.

47. Geographically, the resources are not always located where the greatest needs exist. When children are placed outside their communities, the families do not receive services as a unit.

48. Diagnostic services for children in the juvenile justice system are inadequate and inaccessible. Lack of diagnostic services for children may result in:

(a) Training school commitment for some children who might be better cared for in less structured facilities; or
(b) Out-of-home placement for some children who might better be treated in their own homes.

49. There is a need to examine alternatives to the funding systems now used by CSD, including the ADP system.

49A. The proposal to create a Juvenile Court Commission should be considered.

50. There is a need for an immediate assessment of the impact of Oregon's continued participation in the JJDP Act, including the effect upon child care centers and other residential treatment facilities and an evaluation of the purported necessity for the creation of a dual system serving status offenders and juvenile criminal offenders.

SUBCOMMITTEE #3

Training Schools

51. There is a need to analyze the causes for the overcrowded conditions of the training schools and camps with a view toward reducing the commitment of those who may be appropriately placed elsewhere and insuring adequate care for those committed.

52. There exist inequities in the opportunities afforded girls and boys in the juvenile corrections systems.

Private Care

53. There is a need to examine alternatives to the systems of funding, including the ADP system, now used by CSD to purchase care from private providers.

54. There is no present method for evaluating programs or holding private-care providers accountable for program content and effectiveness.

55. There is a possible need for crisis services to back up private-care agencies.

Systems

56. There appears to be a lack of coordination among the present juvenile corrections systems in dealing with a given youth, including a lack of flexible, coherent and consistent treatment methods as the youth passes through the systems. Specific examples of this lack of coordination include but are not limited to:

(a) A lack of centralized planning results in fragmented services to children;
(b) Multiple funding sources (private, federal, state, and local) with different aims and guidelines make program planning and accountability difficult;
(c) State and local responsibilities and authoritarian versus voluntary provision of services are not consistently defined;
(d) Congruent service regions for the various agencies serving juveniles do not exist;
(e) Children often appear to be placed in available space rather than in appropriate programs; and
(f) The lack of agreement concerning the types of social services which should be provided by juvenile departments and juvenile courts leads to wide variations in the services provided in different counties.

56A. The question of which branch of government should have authority over juvenile department services should be addressed.

57. There is a need for coordination among detention facilities to insure their effective utilization, taking into consideration the problems of geography, distances, and transportation.

58. There is a need for evaluating youths to determine the most effective dispositional alternatives and to coordinate planning in order to achieve treatment objectives.

Detention

59. There is a need for the payment of medical expenses during a juvenile's detention.

60. Juveniles are detained in some jails which apparently do not meet the sight and sound separation requirements of ORS 419.575(3).

61. There is a possible need to make exemplary post-adjudication "jail like" incarceration in detention facilities or juvenile sections of jails available as a dispositional option or as a penalty for probation violation in some cases.

Mental Health

62. There appears to be a need for increasing the availability of mental health care for juveniles in correctional facilities.

63. It appears that there are delinquent and dependent juveniles and their families who would benefit from mental health services and who are not receiving them.

Children's Services Division

64. On frequent occasions, there appears to be a lack of quick, effective response on the part of CSD when its services are needed.

65. There is a need to clarify the division of authority between CSD and the courts.

Miscellaneous

66. There is a need for more community-based juvenile correctional programs.

67. There is an apparent need for aftercare and follow-up procedures after residential treatment programs are completed.

68. The extent to which, and the mechanisms by which, parents are or should be held accountable for the acts of their children and the resulting costs to the state and others are not clear.

69. There is an apparent need for services for the families of many delinquent youths.

70. The responsibility and procedures for payment of expenses involving out-of-county and out-of-state runaways are unclear, and other states are not always responsive to the provisions of the Interstate Compact on Juveniles.

71. The value of maintaining the anonymity of juvenile offenders is in question.

72. Due to their geography and demographic makeup, Eastern and Coastal Oregon are faced with a number of unique juvenile care problems which need to be investigated.

73. It is not clear whether Oregon should continue to participate in the JJDP Act.

74. The occasions when a juvenile court may order restitution should be clarified.

75. The use of fines in juvenile court should be considered.

76. The problems of alcoholism and alcohol abuse should be considered as they relate to the subcommittee's other problem areas.

## DEFINITION OF TERMS

The following definitions were adopted by the Task Force members to guide them in their deliberations:

Diversion: Diversion limits penetration of a youth into the juvenile justice system through referral of the youth to some person or public or private community-based agency outside that system as an alternative to court processing. Diversion involves positive action, rather than "benign neglect" or nonintervention, and can occur at any point between apprehension or referral to the juvenile department and the filing of a petition. Diversion is distinguishable from other types of alternatives by the absence of coercion, defined as the implied or implicit threat of filing a petition, and by the presence of supportive social and educational services which the youth may participate in on a voluntary basis. Diversion is not synonymous with alternatives to incarceration or informal probation or disposition.

Entry: Entry into the juvenile justice system occurs when a child is referred to, or brought to the attention of, the juvenile department.

Informal Disposition or Informal Probation: Informal disposition is non-judicial probation requiring conformity to conditions imposed by a juvenile department counselor and agreed to by the child.

Intervention: Intervention is an act by society, in response to an individual's behavior, which has as its objective the prevention or modification of that behavior.

Juvenile Criminal Offense: A juvenile criminal offense is conduct by a child which, under the law of the jurisdiction in which the offense was committed, would be a violation, infraction, or crime if committed by an adult.

Juvenile Justice System: The juvenile justice system is composed of public and private institutions and agencies with which a child may become involved as a result of wrongdoing by the child or because the adults responsible for the child are not providing him with proper care. Such institutions and agencies may include, but need not be limited to, law enforcement agencies, juvenile departments, juvenile courts, the Children's Services Division, and private care providers.

Nonintervention: Nonintervention is the decision by society not to intervene in response to an individual's behavior.

Prevention: Prevention is the fostering of child and family development through activities at the community level designed to build a sense of competence and feelings of usefulness, belonging, power, potency, and self-worth in the child and the family with the goal of preventing the commission of status offenses or juvenile criminal offenses. Prevention may take three forms:

> Primary prevention is the provision of comprehensive services or modifications of social institutions with no specific target population. Examples of primary prevention are prenatal education programs, day care, nutritional programs, and parent education.
>
> Secondary prevention is the early recognition of an adverse condition followed by intervention. Secondary prevention has a target population which includes children and their families with characteristics which indicate a relatively high risk of chronic personal problems combined with a deficient ability, on whatever level, to cope adequately with those problems.
>
> Tertiary prevention or treatment is the provision of rehabilitation to the child and the family to minimize the degree of handicap or impairment.

Probation: Probation is the application by the juvenile court of terms and restrictions with respect to a child found to be within the jurisdiction of the court for a status offense or a juvenile criminal offense.

Probation With Suspended Commitment: Probation with suspended commitment is the revocable conditional release by the juvenile court, in lieu of commitment to a juvenile training school, of a child found to be within the jurisdiction of the court for an act which would be a crime if committed by an adult.

Protective Supervision: Protective supervision is the application by the juvenile court of terms and conditions with respect to a child found to be within the jurisdiction of the court because of the actions or inactions of a parent, guardian, or other person having custody of the child which are such as to endanger the child's welfare.

Screening: Screening is the initial determination by the juvenile department counselor of whether or not to act when a child has been referred to, or brought to the attention of, the juvenile department.

Status Offense: A status offense is conduct by a child which would not be a violation, infraction, or crime if committed by an adult, including running away, curfew violation, and truancy.

# PART II

## OREGON'S JUVENILE JUSTICE SYSTEM -- THEN AND NOW

The Governor's Task Force on Juvenile Corrections defined the juvenile justice system as including the juvenile courts, the county juvenile departments, the Children's Services Division, and private care agencies. The history and present status of these elements of the system are discussed in the following pages.

### Juvenile Courts and Juvenile Law

The first juvenile court was established in Cook County, Illinois, in 1899, the beginning of a reform movement designed to take children out of jails and criminal courts and provide them with the care that would lead to their rehabilitation.

Oregon followed suit six years later with the creation of a juvenile court in Multnomah County. The new juvenile law established the categories of "dependent" and "delinquent" children, gave the juvenile court original (but, as it turned out, not exclusive) jurisdiction over children up to the age of 16, provided for remand to criminal court, required the separation of children and adults in jails and other institutions, prohibited the jailing of children under the age of 12, gave children the right to trial by a jury of six, and specified that children could be released on bail.

An amendment to the law in 1907 granted jurisdiction over juveniles to county courts throughout the state, except in Multnomah County where the circuit court retained jurisdiction, and where the district attorney was required to prosecute cases in juvenile court. Children up to the age of 18 were included in this law revision, and wardship could be continued to age 21. The age at which a child could be jailed was raised to 14. In 1915, the Legislature gave the Multnomah County Court jurisdiction over juveniles, although the domestic relations court of that county was restored to the circuit court level in 1929. (By statute, Multnomah and Marion counties are the only jurisdictions in the state with domestic relations court judges specifically elected to these positions. These courts exercise juvenile jurisdiction. ORS 3.160 and 3.330)

On July 1, 1968, pursuant to a law passed by the 1967

Legislature, circuit courts assumed jurisdiction over juvenile matters in Oregon, except in counties with less than 11,000 population where circuit court judges do not reside (ORS 3.250 to 3.280). At the present time, county courts retain juvenile jurisdiction in Crook, Gilliam, Harney, Jefferson, Morrow, Sherman, and Wheeler counties.

The juvenile laws were amended in piecemeal fashion until 1959, when the Legislature adopted a comprehensive juvenile code revision, developed during 1957-58 by the Legislative Interim Committee on Judicial Administration, which established procedural safeguards and provided legal authority for the juvenile court to order certain remedies.

Two of the most important changes contained in the 1959 revision involved the jurisdiction of the court. Although it may have been the intent of the original juvenile laws to give the juvenile court exclusive jurisdiction over children, the Oregon Supreme Court, in In re Loundagin, 129 Or 652 (1929), ruled that criminal and juvenile courts had concurrent jurisdiction, proceedings could commence in either court, and a child could be remanded back and forth between the two courts. The 1959 revision established that juvenile matters must commence in juvenile court, which had exclusive jurisdiction unless it waived that jurisdiction through remand to adult court.

Secondly, the 1959 revision abolished the long-standing categories of "dependent" and "delinquent" children, on the basis that such distinctions were meaningless, and instead substituted specifications of the circumstances under which the juvenile court could intervene for the protection of the child and of society. Except for the 1977 addition of matters concerning emancipation of children, the jurisdictional statute, ORS 419.476, remains essentially unchanged in 1978. The juvenile court has exclusive original jurisdiction over a child who is less than 18 year of age and:

> (a) Who has committed an act which is a violation . . .of a law or ordinance or the United States or a state, county or city; or
> (b) Who is beyond the control of his parents. . .; or
> (c) Whose behavior, conditions or circumstances. . . endanger[s] his own welfare or the welfare of others; or
> (d) Who is dependent for care and support on a public or private child-caring agency. . .; or
> (e) [whose]. . .parents. . .have abandoned him, failed to provide him with the support or education. . . [or mistreated him] or failed to provide him with the care, guidance and protection necessary for his physical,

mental or emotional well-being; or
(f) Who has run away from his home; or
(g) Who has filed a petition for emancipation. . .

Legislative efforts to erase the distinctions between dependent and delinquent children suffered a series of setbacks in the late 1960s and early 1979s as first the United States Supreme Court and then the Oregon appellate courts handed down a group of decisions which extended to juveniles accused of crimes and in danger of institutionalization many of the same due process rights enjoyed by their elders.

Today, ironically, the only two major due process rights which Oregon children do not have are the two rights they started out with in 1905--the right to trial by jury and the right to bail.

There has been no thorough juvenile code revision since 1959, although there were unsuccessful attempts to enact new codes in 1973 and 1977. As case law has altered and formalized juvenile court procedures, the code has been amended several times, most notably in 1975 when several bills were enacted which limited to 72 hours the time that status offenders could be held in detention, removed status offenders from the state training schools, modified remand procedures, and provided for expunction of juvenile records.

## County Juvenile Departments and Court Services

The 1905 juvenile law authorized the appointment of a juvenile probation officer in Multnomah County to supervise those children placed on probation by the new juvenile court. The 1907 revision of the law specified that such officers should be paid $150 a month and their assistants $100, but officers in smaller-population counties should be unpaid. Further, counties with populations of more than 100,000 were required to maintain homes with masters and matrons where children could be detained both before and after court appearances. Thus began the development of county juvenile departments and juvenile detention homes.

The modern juvenile departments were established by the 1955 Legislature (ORS 419.602 to 419.616). The law requires that the judge or judges of each juvenile court shall appoint ". . . counselors of the juvenile department of the county, to serve at the pleasure of and at a salary designated by the appointing judge and approved by the budget-making body of the county," thus assigning both judicial and administrative duties to juvenile court judges.

In Norman v. Van Elsberg, 7 Or App 66, 489 P2d 394 (1971); rev'd on other grounds, 262 Or 287, 497 P2d (1972), the Oregon Supreme Court interpreted the relationship between the judges, as the appointing authority, and the county commissions, as the budget-making bodies. The judges were to have the authority to fix the salaries, and the commissioners reviewed the salaries only for the purpose of rejecting them if they were found to be unreasonable. The burden was upon the commissioners to show that the salaries were excessive.

All of the counties in Oregon now have juvenile departments, although in some smaller-population counties the departments may have only one or two employes with the county judge acting as juvenile department director.

The 1955 legislation also authorized counties to acquire, equip, and maintain "suitable detention facilities" to be paid for with county funds and directed and controlled by the juvenile court judge. Six counties, including Multnomah, Marion, Lane, Jackson, Klamath, and Umatilla, now have detention homes, some of which are used on a regional basis. Washington County has recently opened a juvenile shelter home.

The same legislation which placed juvenile matters under the circuit courts, also defined the court services which were to be provided by the juvenile courts and departments. Subsection (2) of ORS 3.250 lists these services as "intake screening, juvenile detention, shelter care, investigations, study and recommendations on disposition of cases, probation on matters within the jurisdiction of the court. . ., family counseling, conciliation in domestic relations, group homes, and psychological or psychiatric or medical consultation and services provided at the request of or under the direction of the court, whether performed by employes of the court, by other government agencies or by contract or other arrangement."

In fiscal year 1976, the latest year for which compiled figures are available, the counties budgeted almost $8.7 million for juvenile courts, juvenile departments, and detention facilities.

The State of Oregon, by statute, provides for at least two forms of state aid to counties to assist in paying for these services. ORS 420.855 to 420.885 provides for state aid to county governments, as well as public and private agencies, for the care and rehabilitation of children found to be in need by the juvenile court. ORS 420.880 specifies that the amount of state support shall be 50 percent of the average monthly cost for each child for whom care is provided.

At the present time, Douglas County is the only local jurisdiction operating a program, Pitchford Boys' Ranch, which is eligible to receive assistance under this law.

The second form of state aid to counties is through the Juvenile Court Subsidy Act (ORS 423.330 to 423.360). The program is funded 70 percent from state allocations and 30 percent from county matching funds. Applicant counties must submit plans for the use of these funds to the Children's Services Division, which administers the Act.

Amounts are distributed to counties according to a formula based on the child risk population, which is defined as the number of children between the ages of 14 and 18 according to the latest school census. This formula is expressed in the statutes as:

$$\text{State Contribution} = \frac{\text{County Risk Pop.}}{\text{State Risk Pop.}} \times \begin{array}{l}\text{110\% of the sum}\\ \text{appropriated for}\\ \text{state assistance}\end{array}$$

Although it is stated in ORS 423.360 that it is the policy of the Legislature to expand this form of aid, the program has not increased substantially since it began in 1969 with an appropriation of approximately $550,000. For the 1977-79 biennium, the state's share was $663,121 with the 28 participating counties contributing $248,195 in matching funds. (See Table 1.)

Children's Services Division

Prior to the creation of Children's Services Division in 1971, the primary responsibility for providing services to delinquent youth lay with the counties, which operated their own care facilities. Dependent children were cared for by the state and county welfare departments. The creation of the Oregon Children's Services Division in 1971 grew out of lengthy discussions of several issues: funding of children's programs through a purchase of care arrangement rather than direct per capita state aid; complying with federal legislation and regulations that required a single state agency for receipt of federal funds; and consolidating all children's services into a single agency for more efficient service delivery.

In 1964, the Governor's Study Committee on Private Child Caring Agencies recommended that a purchase of care system be implemented, with per capita state aid payments continuing during the change-over. The 1965 Legislative Assembly appropriated $1,000,000 for the inauguration of the purchase of care system

# TABLE 1

## Juvenile Court Subsidy Program

## 1977-79 Biennium

| COUNTY | *COUNTY CHILD POPULATION | **MAXIMUM STATE SHARE 70% | COUNTY SHARE 30% | TOTAL |
|---|---|---|---|---|
| BAKER | 4,320 | $ 4,434 | $ 1,900 | $ 6,334 |
| BENTON | 14,600 | 14,986 | 6,423 | 21,409 |
| CLACKAMAS | 63,500 | 65,178 | 27,933 | 93,111 |
| CLATSOP | 8,600 | 8,827 | 3,783 | 12,610 |
| COLUMBIA | 10,500 | 10,777 | 4,619 | 15,396 |
| COOS | 17,530 | 17,993 | 7,711 | 25,704 |
| CROOK | 3,240 | 3,326 | 1,425 | 4,751 |
| CURRY | 3,770 | 3,870 | 1,659 | 5,529 |
| DESCHUTES | 12,600 | 12,933 | 5,543 | 18,476 |
| DOUGLAS | 25,080 | 25,743 | 11,033 | 36,776 |
| GILLIAM | 530 | 544 | 233 | 777 |
| GRANT | 2,075 | 2,130 | 913 | 3,043 |
| HARNEY | 2,070 | 2,125 | 911 | 3,036 |
| HOOD RIVER | 4,005 | 4,111 | 1,762 | 5,873 |
| JACKSON | 32,530 | 33,390 | 14,310 | 47,700 |
| JEFFERSON | 3,200 | 3,284 | 1,407 | 4,691 |
| JOSEPHINE | 12,900 | 13,241 | 5,675 | 18,916 |
| KLAMATH | 15,950 | 16,371 | 7,016 | 23,387 |
| LAKE | 1,870 | 1,919 | 822 | 2,741 |
| LANE | 66,500 | 68,257 | 29,253 | 97,510 |
| LINCOLN | 6,700 | 6,877 | 2,947 | 9,824 |
| LINN | 24,900 | 25,558 | 10,953 | 36,511 |
| MALHEUR | 7,665 | 7,867 | 3,372 | 11,239 |
| MARION | 49,550 | 50,859 | 21,797 | 72,656 |
| MORROW | 1,795 | 1,842 | 789 | 2,631 |
| MULTNOMAH | 129,600 | 133,024 | 57,010 | 190,034 |
| POLK | 12,170 | 12,492 | 5,354 | 17,846 |
| SHERMAN | 580 | 595 | 255 | 850 |
| TILLAMOOK | 4,955 | 5,086 | 2,180 | 7,266 |
| UMATILLA | 13,950 | 14,319 | 6,137 | 20,456 |
| UNION | 6,720 | 6,898 | 2,956 | 9,854 |
| WALLOWA | 1,855 | 1,904 | 816 | 2,720 |
| WASCO | 5,510 | 5,656. | 2,424 | 8,080 |
| WASHINGTON | 60,700 | 62,304 | 26,702 | 89,006 |
| WHEELER | 610 | 626 | 268 | 894 |
| YAMHILL | 13,420 | 13,775 | 5,904 | 19,679 |
| Totals | 646,050 | $663,121 | $284,195 | $947,316 |

*County Child Population as of October 25, 1976, prepared by PSU
** Pro-rata factor: $663,121 ÷ 646,050 = 1.0264236

and $800,000 for temporary continuation of state aid.

The Governor's Committee was reactivated in October 1965 and recommended further study of Oregon's child welfare services system.

The 1967 Legislative Assembly authorized the State Public Welfare Commission to conduct such a study. Executive Order No. 67-29 created the Governor's Child Welfare Study Committee to work with the Welfare Commission and the Governor's Policy Planning Committee to plan the study, select an appropriate private research agency, supervise the study, make recommendations, and assist in implementation of the recommendations. The private research agency which received the contract was Greenleigh Associates, Inc.

In December 1968, the Greenleigh Report was delivered to the Governor's Child Welfare Study Committee. The first recommendation urged the creation of a single state agency for children and family services:

> It is recommended that a State agency for children's and families' services be created and given administrative responsibility for all major State-supported services for children and families in Oregon. This would promote a concentrated and coordinated approach to children's services. It should include all appropriate parts of the Welfare Commission, the Board of Control, the Board of Health and the Department of Vocational Rehabilitation, and have liaison with education and selected other programs. (Greenleigh Report, p. 7)

The report also recommended that ". . .payment of public funds to voluntary agencies should be on the basis of the purchase of care only and for services which the State wishes to purchase." (Greenleigh Report, p. 9) During the 1969-70 interim, the Legislative Fiscal Committee studied the implementation of the Greenleigh recommendations. HB 1228, introduced in the 1971 session, authorized the purchase of care system for children's services.

Also in 1971, Oregon adopted a comprehensive social services delivery system administered through a single agency, the Department of Human Resources. This department included the Corrections Division, the Employment Division, the Health Division, the Mental Health Division, the Public Welfare Division (now called Adult and Family Services Division), the Vocational Rehabilitation Division, and the new Children's Services Division (CSD).

Services to be delivered by CSD included the consolidated protective services of child welfare previously administered by the Public Welfare Commission, the children's correctional programs previously administered by the Corrections Division, the children's correctional facilities previously supervised by the State Board of Control, the Youth Care Center programs which the State Department of Vocational Rehabilitation administered, and the certification or licensing responsibilities exercise by the State Board of Health and the Public Welfare Commission.

Thus, CSD was given responsibility for a wide range of programs, including family self-support services, preventive and restorative services, protective services, adoption services, substitute care and treatment services, and juvenile corrections services.

Of these services, in addition to its concern for delinquency prevention programs, the Task Force concentrated its attention on substitute care and treatment, particularly for the juvenile offender, and juvenile corrections.

In addition to the state training schools and camps, which are discussed in detail below, CSD utilizes a number of out-of-home placement resources for delinquent children.

These resources, from which CSD purchases care, include:

Independent living programs, authorized in 1973, which place juveniles in independent living situations and teach them to manage and take responsibility for their daily activities. Most juveniles in these programs live in apartments and are employed or engaged in academic or vocational training programs.

Family foster homes for six or fewer children (including natural children of foster parents), with support services, such as counseling and medical care, supplied through CSD. Special foster care rates are paid for physically, or mentally handicapped children or others needing special supervision.

Adolescent shelter care which is designed to provide assessment, evaluation, and planning for juveniles in residence. By CSD policy, placement in adolescent shelter care is limited to 56 days. Based on the planning done during this time, a juvenile may be returned home or placed in a more permanent residential program.

Professional group homes which are designed to provide 24-hour care, treatment, and supervision of hard-to-manage juveniles. Such juveniles are provided counseling and treatment to modify their behavior patterns.

Group homes, operated by private child-caring agencies, which are used primarily as transitional living experiences for juveniles moving from a more restrictive form of care back into the community.

Child care centers which provide community-based residential care to juveniles who are delinquent or socially maladjusted and require professional supervision and treatment. (See section on Private Care Providers.)

Child study and treatment centers which provide care primarily for younger severely emotionally disturbed children who need intensive mental health services. The centers are private, non-profit corporations, supervised by the Mental Health Division from which CSD purchases care.

Institutional care, provided by private agencies and utilized when programs involving less intervention are not sufficient. Institutions provide 24-hour care, treatment, and supervision usually in a secure or semi-secure setting. (See section on Private Care Providers.)

Secure Child and Adolescent Treatment Center, administered by the Mental Health Division at Oregon State Hospital, for the treatment of psychotic youth. There are 25 beds each for children and adolescents. Commitments are made by CSD under Mental Health voluntary placement procedures.

In the 1977-79 biennium CSD had a budget of $156 million including $92 million General Fund dollars. For the 1979-81 biennium, CSD has requested a total budget of $282 million including $217 million from the General Fund. Purchase of out-of-home care for dependent and delinquent children represents $51 million of the 1977-79 budget of which $34 million is General Fund dollars. The projected purchase of out-of-home care budget for the 1979-81 biennium was not available at the time this was written.

The federal government acts in partnership with the state in providing some of this out-of-home care. Part of the

rationale for the creation of CSD, lay in the availability of federal Social Security Act funds through Title IV(a) (Aid to Dependent Children-Foster Care or ADC-FC) which requires administration through a central state agency. The federal ADC-FC money pays for approximately half of the cost of foster or institutional care of those children who are otherwise eligible for welfare and have been removed from their homes by court order. (Regular ADC funds for children living with their own families are administered by Adult and Family Services.)

In order to be eligible to receive ADC-FC funds, a state must insure that placement and care of children are the responsibility either of a central state agency or another public agency with which the central agency has made a contract. The public agency is required to develop a plan for a child in its care which is satisfactory to the central agency.

Title IV(a) money is dispersed on an "as used" basis and, from the point of view of a state agency, is inexhaustible, since the federal government will pay for all claims for eligible children submitted by a state. Oregon will receive approximately $7.5 million in ADC-FC funds during the 1977-79 biennium.

CSD also utilizes funds from three other titles of the Social Security Act. Title IV(b) provides limited block grants to states to fund innovative child welfare services. The states must pay 75 percent of the costs. CSD had slightly more than a million dollars of these funds in 1977-79. Title XIX pays 57 percent of the medical costs of low-income persons, including dependent children, and state entitlement is dependent on availability of state matching funds. In 1977-79, Oregon's combined federal-state expenditure for all persons under this title was $163 million. Title XX funds may be used for training, protective services for children, and support services for foster care, but not for foster care itself. It is a limited block grant, based on a 25 percent matching formula from the state. CSD had approximately $37 million in these funds in 1977-79. Title IV (b) and Title XX funds may be passed through to the local level, although in Oregon this is done only on a limited basis.

## State Juvenile Training Schools and Camps

The Oregon Reform School was founded in 1891 in Salem. The name was changed to the Oregon State Training School in 1911, and the facility was relocated in Woodburn in 1929. In 1951, the institution was renamed MacLaren School for Rev. William G. MacLaren, humanitarian and reformer who served as volunteer

chaplain at the school. It is a secure residential program for boys from 12 to 21 committed by the juvenile courts. For a period from 1973-75, MacLaren was coeducational, but overcrowding forced an abandonment of this policy.

Hillcrest School in Salem, founded in 1913 as the State Industrial School for Girls, was originally for delinquent girls 12 to 17 years of age and women 18 to 25 years of age who had been convicted of such offenses as vagrancy, habitual drunkenness, and prostitution. The population was later changed to girls form 12 to 21, and in 1974, the institution became coeducational.

(Only persons under the age of 18 can be committed to the training schools, but they can be kept there until they reach 21. As a practical matter, most students are released before or shortly after their 18th birthdays.)

Administration of the institutions was originally the responsibility of the State Board of Control (composed of the Governor, the Secretary of State, and the State Treasurer). Juvenile corrections programs became a part of the Corrections Division in 1966. When the Children's Services Division was created as part of the Department of Human Resources in 1971, juvenile corrections was transferred to that agency.

Both facilities operate separate cottage programs with group counseling and case work carried out in each cottage. Hillcrest has a standard secondary educational program, and MacLaren offers classes from the sixth through twelfth grade with special education programs for the low achievers and emotionally disturbed students. MacLaren also offers a wide range of vocational education opportunities.

The two facilities are among the few training schools in the United States that are not surrounded by fences or other physical restraints. Buildings at MacLaren known as Detention I and Detention II are secure facilities where children may be placed for varying lengths of time for misbehavior or disobedience. A separate cottage at Hillcrest serves the same function of separating some children from the general school population for brief periods of time.

Commitments to the training schools declined steadily from 1969 to 1972, but have risen sharply since 1973 at a rate which far exceeds what might be expected from population growth. In 1973, when commitments were at their lowest, serious consideration was given to closing the Hillcrest facility entirely. Since its near-closure, Hillcrest has been virtually rebuilt. Hillcrest and MacLaren are designed, from a health and safety standpoint,

to serve a total of 598 residents. They are currently budgeted to serve 700 average daily population during this biennium. Projections indicate that in 1981 the institutions will need to serve 865 residents during peak periods. Testimony before the Task Force was unanimously in opposition to building a new training school facility or to expanding existing physical facilities to house more residents. (See Graph 1 and Table 2.)

Numerous reasons have been given for the increase in commitments since 1973, and the high commitment rate may result from a combination of factors. Among the factors observed are:

1. An increased public awareness of juvenile crime and a corresponding diversion of state, local, and federal law enforcement resources to this area, leading to increases in the detection and arrest of suspected juvenile offenders;

2. A judicial response to decreased tolerance of juvenile offenses on the part of the public;

3. Inflation, which has eroded local juvenile department resources, leading to increased reliance on the state and a corresponding willingness on the part of the state to assume responsibility for children in need of services;

4. A change from a corrections and justice model of dealing with juvenile offenders at the local level to a social services approach on the part of CSD for those juvenile offenders placed in its custody but not sent to the training school;

5. Instability in the traditional family structure caused by changing sex roles and increased mobility of family members; and

6. Periods of economic stagnation and high unemployment which have made it increasingly difficult for youths to find jobs.

An overview of the training school populations reveals some notable facts. The current commitment rate is 3.09 juveniles per 1000 risk population (age 11-17). For boys, this is 5.5 per thousand while for girls it is 1.06 per thousand, or about a 5 to 1 ratio of boys to girls. At the low point of commitments in 1972-73, the combined rate was 1.64 per thousand (1.10 per thousand for boys and .53 per thousand for girls).

GRAPH 1

# TRAINING SCHOOL COMMITMENTS

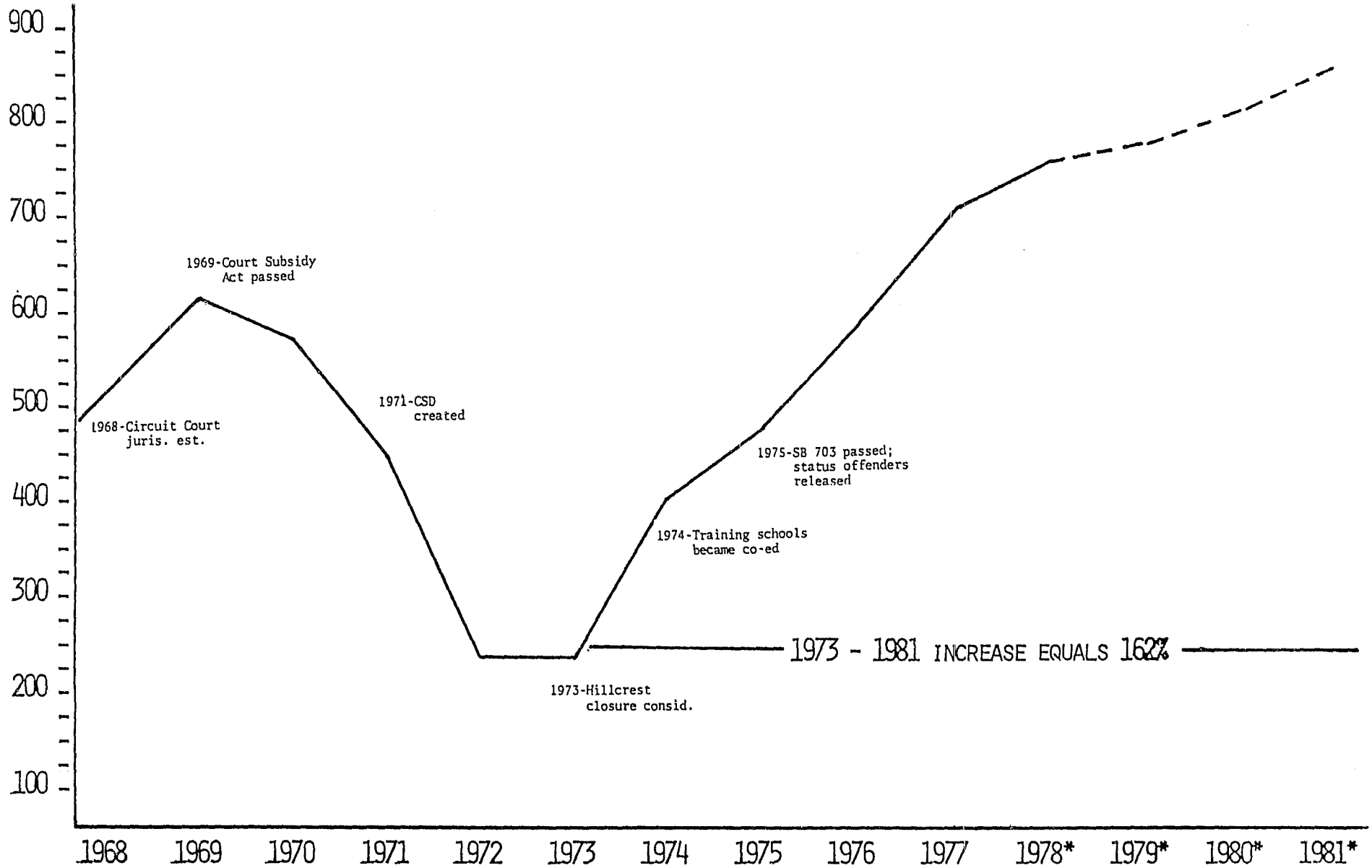


TABLE 2

Children's Services Division

Juvenile Corrections Programs

Population Projections

| | 77-79 Budgeted Jan E Board | Health & Safety Standards 77-79 Capacity | 79-81 Projected | Health & Safety Standards 79-81 Capacity | Peak Month 79-81 | New Custody Resources Asked for in 79-81 |
|---|---|---|---|---|---|---|
| MacLaren | 450 | 365 | 450 | 365 | 572 | |
| Hillcrest | 148 | 133 | 158 | 143 | 158 | |
| Camps | 102 | 100 | 128 | 125 | 135 | New Camp Capacity-25 |
| Close Custody Sub-Totals | 700 | 598 | 736 | 633 | 865 | |
| Child Care Center and Private Agency | 50 | | 67 | | 81 | |
| Projected Population | 750 | | 803 | | 946 | |

A CSD client background study of 414 boys and 73 girls committed to the training schools in 1976-77 reveals the following information:

-- Average age at time of commitment is 15 years and 11 months for boys and 15 years and 8 months for girls.

-- Sixty percent of the boys (248) had an average of 1.9 out-of-home placements before being committed to the training school. Comparable figures for the girls were 75 percent (55) with an average of 2.2 out-of-home placements.

-- Of those previously placed in out-of-home care, 73 percent of the boys (181) and 88 percent of the girls (48) were discharged from the placement programs, primarily because of subsequent delinquent acts, persistent running away, or serious "acting-out" behavior.

-- Of those boys not previously placed in out-of-home care, four percent (6) were referred to out-of-home placements which refused to accept the children either because of their behavior or the nature of their delinquent acts. Virtually none of the girls not previously placed out-of-home had been considered or referred for such care.

-- Twenty-eight percent of the boys (115) and 26 percent of the girls (19) were involved in offenses causing bodily harm or placing persons in immediate danger. The boys committed 173 such acts and the girls 29.

-- Almost all of the boys (409) and 78 percent of the girls (57) were involved in offenses resulting in the destruction, theft, or unauthorized use of property. The boys committed 1,830 such acts and the girls 102.

-- Forty-three percent of the boys (177) and 42 percent of the girls (32) were involved in offenses of fraud or deception or offenses against public order or public health and decency. The boys accounted for 283 such acts and the girls 56.

-- Seventy-three percent of the boys (302) and 89 percent of the girls (65) were involved in the status offenses of being beyond parental control, running away, or possessing intoxicants, in addition to the criminal acts which placed them in the training schools. The boys committed 917 such acts and the girls 352.

-- The boys in the study had come to the attention of CSD or the juvenile departments a total of 3,203 times, an average of 7.7 times per boy. If status offenses are excluded, the boys were involved in 2,286 crimes, an average of 5.5 per boy.

-- The girls in the study had come to the attention of CSD or the juvenile departments a total of 539 times, an average of 7.38 times per girl. If status offenses are excluded, the girls were involved in 187 crimes, an average of 2.6 per girl.

-- Before being committed to the training school, 65 percent of the boys (267) and 59 percent of the girls (43) were enrolled in public school; one percent of the boys (4) were working or attending trade school; and 34 percent of the boys (140) and 41 percent of the girls (30) were neither working or attending school.

-- A substantially greater proportionate number of boys (76 percent; 313 persons) were residing with family members at the time of commitment compared to the girls (59 percent; 43 persons). Nineteen percent of the boys (80) were in out-of-home care compared to 46 percent of the girls (34). The percentage of boys and girls living independently were five (20) and eight percent (6) respectively.

-- The average juvenile committed to the training school is two-to-five years behind his peers academically and has only one high school credit. The academic records of the girls appear to

be somewhat stronger than those of the boys, even though a smaller percentage of the girls were enrolled in school at the time of commitment.

The children committed to Oregon's training schools appear to differ from the general stereotype of the juvenile delinquent in at least four ways. First, minorities as a whole are under-represented in the training school population, meaning that there are proportionately fewer minority juveniles in the training school than in the general population of the state. The only exceptions are Native Americans who are slightly over-represented at the schools.

Second, the I.Q. level of the training school population is about average, with the same distribution of intelligence levels as in the juvenile population of the state as a whole.

Third, if ADC eligibility may be used as a poverty indicator, juveniles from poor families are not over-represented at the training schools. Approximately nine percent of the juveniles at the training school are from homes that would be eligible for ADC payments.

Fourth, historically, referrals to juvenile departments and commitments to juvenile correctional institutions generally decrease during those months when children are out of school, and increase once school starts in the fall, peaking about midway through the school year. In the past two years in Oregon, however, the seasonal summer decrease in commitments has not occurred.

The average length of stay in the training schools is 4.7 months. (ORS 419.511 specifies that children cannot be institutionalized or committed for a longer period of time than an adult could be imprisoned for the same offense.) Children are usually under the supervision of CSD juvenile corrections for 28 months, the remainder of the time in the camps or on conditional release in their own homes, in foster homes, or in child care centers.

Based on their experience with the juveniles, Oregon juvenile correctional authorities have estimated that approximately 80 percent of training school students can be helped by the programs and, through this assistance and the maturation process, will not find themselves in serious trouble again.

A recent study conducted by CSD and the Corrections Division appears to bear out this estimate. The data showed that 78 percent of students in 1974-75 successfully completed the training school program. This successful completion rate rose to

84.5 percent for the last fiscal year. However, between the time of discharge and the age of 25, 19.7 percent of the former training school inmates were sentenced to adult correctional institutions in the state.

Parole officers are assigned to juveniles at the time they are admitted to a training school. Each juvenile remains a part of the same officer's caseload during the time he or she remains at the institution. After release from the training school, assignment is based upon the geographical location of the juvenile. In addition to supervising a juvenile's parole, the parole officer assists the parolee in reentering the community by coordinating employment, vocational education, and academic services for the juvenile.

At the present time, the training schools utilize 32 parole officers who handle a total caseload of 1,560 juveniles.

Work-study camps are also operated by the training schools as community-based satellite programs. The camps offer juveniles from the training schools a combination of work and academic experience. The training schools contract for work, typically with the Parks and Recreation Branch of the State Department of Transportation. The students continue their educations while gaining work experience on the job, devoting about half of their time to each pursuit.

The job contracts call for payment on the average of $1.25 per hour for work done by a juvenile. The actual amount earned by an individual may vary somewhat above or below this amount based upon the nature of the work assigned and a counselor's appraisal of job performance. All money earned by a juvenile becomes his personal property, and no deductions are made from it. There has been some discussion of raising the rate of pay for juveniles to minimum wage levels. The state's position on this matter is that, if it is done, deductions should also be made for living expenses currently paid by the state.

At the present time, there are two camps located near Tillamook and Florence, each with a capacity of 28. A third camp is scheduled to open in LaGrande in June 1979, also with a capacity of 28. CSD is requesting funds from the 1979 Legislature for a fourth camp with an eventual capacity of 25 to be located in Southern Oregon. Cost of establishing a new camp is about $550,000, and the biennial operating expenses for each camp is more than $600,000.

Picture House in Portland, also operated by the training schools, has a capacity of 32 and may be regarded as an urban

"camp." The program at Picture House varies from that of the other camps in that the work experience for juveniles there comes from private employers who hire the residents at the prevailing wage. Juveniles at Picture House may pursue varying combinations of work and educational experience ranging from full-time employment to full-time school.

Currently, all the camp programs in operation are for boys, largely because the girls' training school commitment rate has not been large enough to generate a sustained camp population of a size sufficient to make operation of a girls' camp feasible. With the increase in the commitments of girls to the training schools, however, a girls' camp does appear feasible in the near future, and a site is currently being examined for this purpose. Consideration is also being given to utilizing the Picture House program in Portland for girls.

In 1977, in an effort to improve overcrowded conditions at the training schools, CSD instituted a new program to move children directly out of the training schools into child care centers. At the present time, there are 45 beds in the centers reserved for this purpose. (For further discussion of this program, see recommendation on CSD intake personnel in Part V-Facilities and Personnel.)

Testimony before the Task Force indicates that judges are presently committing children to the training schools with the recommendation that they go from intake directly into this program. Judges use this procedure to avoid having to wait for a placement as would be the case if the judge simply placed a child in the care and custody of CSD. The training schools are required to accept all commitments, and the crowded situation in the schools is such that when immediate placement elsewhere is available, it is used.

Child care centers are paid a differential for juveniles in this program. Originally, they were paid $45 per day per child as compared to an average of approximately $33 per day for placements coming directly from the community. Since its inception, however, payments have come to vary from center to center based upon the type of child involved and negotiated arrangements with CSD. When a child care center involves itself with this program, it does so on a "no-refusal basis." This means that, unlike admittance of other juveniles into the program, the child care center has no discretion to refuse admittance of juveniles from the training schools. (See Table 3 for total juvenile corrections appropriations for 1977-79 biennium.)

TABLE 3

State Juvenile Corrections Expenditures

Children's Services Division

1977-79 Biennium

| | |
|---|---|
| Juvenile Training Schools | $19,623,996 |
| Camps | 2,248,519 |
| Parole Supervision | 2,075,842 |
| Administration of Above Activities | 224,931 |
| Purchase of Care for Parolees in Child Care Centers | 2,057,802 |
| Capital Improvements | 163,797 |
| TOTAL | $26,394,892 |

## Private Care Providers

Only a relatively small percentage of children who get in trouble are sent to the training schools. In Oregon, as in many other states, private non-profit agencies and institutions form a vital part of the juvenile corrections system and provide care for many of the delinquent children who are removed from their homes by the court. These are the children who are barred from commitment to the training schools by law (status offenders and children under the age of 12) or for whom the training school program is unnecessary or inadvisable.

The state of Oregon purchased care for children from private care providers on a limited basis in the 1960s, but the majority of children in these facilities at that time were private placements. In 1971, the Children's Services Division, as the new central state agency for child care and protection, was designated to provide services to children committed to its care and custody by the juvenile courts.

The passage of ORS 418.015, establishing an open-ended commitment policy and requiring CSD to "accept any child placed in its custody by a court" and to provide the child with "such services. . .as the division finds to be necessary," increased substantially the number of children for whom the state assumed responsibility. The average daily population of children in substitute care has fluctuated between approximately 4,400 and 5,400 since 1971, and on October 1, 1978, the figure stood at 4,450. (Although dependency or neglect cases constitute only

about 6.5 percent of total juvenile department referrals, the majority of children in substitute care at any one time are dependent children because these youngsters remain in out-of-home care for longer periods of time. The majority of children in substitute care are in foster homes.)

The principal private care providers from which the state purchases care for delinquent (as well as dependent) children may be divided into two groups: the child-caring agencies and the child care centers.

The private child-caring agencies in Oregon have a history dating back to the founding of the Boys' and Girls' Aid Society in 1885. Most of these agencies were begun in the late nineteenth century, many of them as orphanages or foundling homes with church affiliations. They received their financial support mainly from charitable contributions.

These agencies, 12 of which are members of the Conference on Private Child-Caring Agencies of Oregon, have adapted to meet current needs and accept both dependent and delinquent children. Several of the agencies operate specialized secure or semi-secure facilities for severely disturbed children and other youngsters who cannot be handled in the more open settings of the child care centers or are too young to be committed to the training schools. Most of these agencies operate full educational programs on the premises which are approved by the Department of Education and paid for by CSD.

To some extent, these agencies, operated as non-profit corporations licensed and supervised by CSD, are also relied upon to assume a portion of the cost of caring for these children who have been placed in the state's custody by the courts. According to testimony received by the Task Force, the contracted payment to these agencies represents only a portion, estimated at 65 to 75 percent depending on the agency, of the actual cost of caring for children in these facilities. The remainder of the cost comes from such sources as United Way, private donors, and fund-raising events. The extent to which the state should be responsible for reimbursing private agencies for their services has been a continuing source of controversy.

The child care centers developed in 1971 out of the older youth care center system. Originally, most of these centers were operated by the counties and were considered to be facilities to which children were sent in lieu of commitment to the training schools. Beginning in 1967, the state contributed to their financial support by matching county funds, but the decisions on

which children should be placed in the centers lay with the juvenile department judges and not with a state agency.

When CSD was established in 1971, state officials believed federal regulations required that, in order for the state to use Social Security Act funds for the care of children in the centers, these programs would have to become privately operated. Within a short period of time, all of the county-controlled youth care centers, with the exception of Douglas County's Pitchford Boys' Ranch, became private non-profit agencies and were renamed child care centers by CSD. This change in ownership was subsequently found to have been unnecessary to take advantage of federal funds.

The abrupt transition between public and private operation of the centers broke the financial and programmatic ties between the counties and the centers. In addition, the 1971 change in the law (ORS 419.507) gave CSD the power of placement of a child in a particular facility, thus opening up the centers to placements of children from throughout the state, rather than primarily from the local community.

At the present time, 24 child care centers with a bed-capacity of about 430, are affiliated in the Oregon Association of Residential Youth Centers, Inc. These centers continue to accept mostly delinquent youth, including status offenders who cannot by law be placed in the training schools. Most of the centers are open residential settings with the children attending school and sometimes holding jobs in the community.

As previously noted, since 1977 CSD through agreements with several of the child care centers have reserved beds within the facilities for children being conditionally released from the training schools. Under terms of the agreements, the centers cannot refuse to take these children. With this exception, all of the private care providers can accept or refuse a child placed with them by CSD, depending upon their bed space and the suitability of the child for the particular program being offered.

Testimony before the Task Force by a number of judges, juvenile directors, and care providers indicated that programs are scarce or completely unavailable for certain types of children. Among those children frequently refused by private care facilities at the present time and, as a result, extremely hard to place, are children with histories of arson, sex offenses, prostitution (especially males), alcohol problems, or running away. Children below the age of 12, especially those in need of a secure setting, and juveniles with a combination of mental problems, including retardation, and a history of delinquency

are also difficult to place. Ultimately it appears that in the absence of resources, judges are committing children with these problems to the state training schools when it is legally permissible.

Judges also cited a lack of resources in general, resulting in waiting periods of from 30 days to nine months from the time a judge commits a child to the care and custody of CSD and the time the child is actually placed in the preferred program. Representatives of CSD, judges, juvenile department directors, and private care providers also indicated that over-demand for space available is resulting in inappropriate placements being made. Often children in need of more intensive and specific care end up being placed in foster care, as these resources are available in the greatest number and are relatively inexpensive. The Administrator of the Children's Services Division has noted in testimony that such placements are not only detrimental to the child involved, but result in a high "burn-out" rate among foster parents as well. Persons willing to provide foster care for a young child often find that they have been given "acting-out" teenagers with problems serious enough to justify intensive treatment if it were available.

Circuit Court Judge Albin Norblad of Marion County has testified that the long waiting periods have led, in part, to his high commitment rate to the training schools. Over 30 percent of the cases which he commits to the the training schools carry with them specific recommendations that the juveniles not remain at MacLaren or Hillcrest, but that they be placed in youth care centers if and when there are openings.

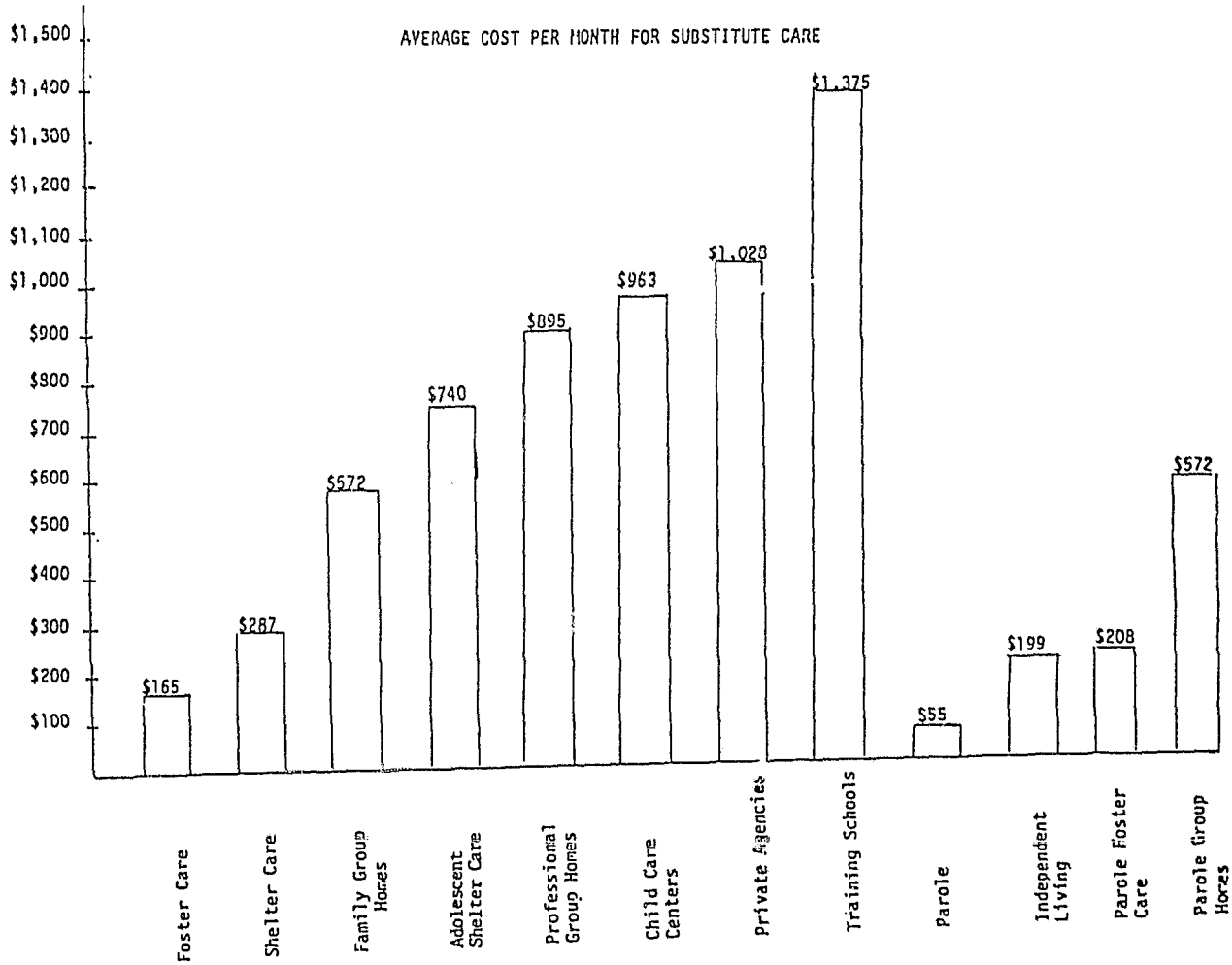
When CSD cannot find suitable placement for a child, the child is released without the needed intensive treatment or remains in detention until CSD is able to find a placement. Testimony indicated that children released pending placement often become involved in more serious activities prior to the time placement is actually accomplished.

Contracts for the purchase of care from all private care providers are made according to the average daily population (ADP) system. Under this system, CSD agrees to contract for a given number of beds for children in a facility. Under-utilization of the facility results in a lowered ADP and a smaller payment. Private care providers have argued that this system is an inflexible and unrealistic method of assessing the cost of care. Testimony received by the Task Force indicated that CSD and the private care providers are now reviewing the ADP system and studying alternatives.

Oregon currently spends a total of approximately $480,000 per month in purchasing care from the private child-caring agencies not including foster care, child care centers, or child study and treatment centers. The monthly expenditure for both private agency care and these latter forms of care is approximately $980,000. (For full list of agencies from which CSD purchases substitute care, see Appendix E. See also Graph 2.)

Interestingly enough, CSD is unable to determine from its records the proportion of the children in these facilities who have come to CSD as the result of delinquency adjudications, as opposed to dependency, neglect, or voluntary placements. This is true, in part, because CSD, unlike the juvenile departments and courts, categorizes children more in accordance with their treatment needs than with their acts or conditions. CSD is now developing an improved client-information computer system.

GRAPH 2



The history of juvenile justice in Oregon has been characterized by a rather abrupt change from a decentralized system with primary responsibilities placed on the counties to a semi-centralized system in which in-home supervision of delinquents is still in the counties' hands and out-of-home placement is almost totally the responsibility of the state.

Despite this change to centralization, the system remains a fragmented one, in the opinion of the Task Force. Judges have the authority to commit children to CSD, but do not have the authority to order specific placement. CSD has the authority to place a child in a particular facility, but only if that facility will accept the child. The counties' ability to commit an infinite number of children to CSD for care by the state has caused problems for an agency which must operate with the finite resources available to it from federal funds and legislative appropriations.

These various areas of authority and discretion have led in the past few years to conflicts among the elements of the system, sometimes exacerbated by lack of data and communications, different nomenclature, and varying approaches to assessment and treatment of erring children.

# PART III

## COMMUNITY JUVENILE SERVICES ACT

## AND

## CAPITAL CONSTRUCTION ACT

The major problem immediately facing the state of Oregon in the juvenile corrections field is the high and rising commitment rate to the state training schools. If this commitment rate continues as projected, the state of Oregon may need to construct new juvenile correctional facilities. More specifically, by 1981, it is estimated that training school and camp populations will exceed the capacities of those facilities by 232 at peak periods.

Members of the Governor's Task Force on Juvenile Corrections were in agreement that the construction of new training school facilities or the expansion of existing facilities should be avoided if possible, particularly in view of projections indicating a decrease in juvenile population beginning in 1981. Increased utilization of training school facilities would be the least desirable approach to the delinquency problem in Oregon both from a cost and program standpoint. The Task Force believed, moreover, that the training schools are overused at the present time, primarily because of an absence of alternatives, especially local community-based alternatives, to training school commitments. These findings form the basis for the two recommendations receiving the highest priority from the Task Force: the Community Juvenile Services Act and the Capital Construction Act. The first proposal provides funding for programs at the local level; the second provides funds for local facilities specifically designed to reduce training school commitments.

While exact figures are not available, it appears that a substantial proportion of the juveniles committed to the training schools are not physically dangerous and could be handled elsewhere, in a less expensive manner, if services were available. An estimated 45 to 55 percent of the juveniles committed to the training schools are committed for Class C felonies or less serious criminal acts. A survey by the Children's Services Division of MacLaren and Hillcrest School residents indicate that only 28 percent of the boys and 26 percent of the girls have ever been involved in offenses causing, or threatening to cause, immediate danger to other persons. Community supervision, instead of training school commitment, might be a feasible

alternative for the other non-violent juveniles, if strong, effective local programs were available. Such programs would be considerably less expensive than the $1,375 per student per month, not including capital expenditure, that a training school commitment currently costs the state.

Additionally, the Community Juvenile Services Act addresses a number of other problems identified by the Task Force.

Oregon has 36 different juvenile justice systems, one for each county in the state, and each one different to some degree from the next. The Task Force did not regard these differences as being necessarily undesirable. On the contrary, one of the strengths of Oregon's juvenile corrections structure is its capacity for flexibility and adjustment to meet local desires and individual needs. At the same time, there appear to be areas in which state-wide uniformity is desirable, primarily in matters involving due process procedures, minimal standards of services, and data collection.

The Task Force was extremely reluctant to recommend the creation of yet another regulatory state commission; yet, in the final analysis, the Task Force decided that a commission with members representing both professionals and lay citizens, advised by representatives of state agencies, would be the most efficacious way of developing uniformity in those areas in which uniformity seems desirable. Thus, in addition to other duties, the commission would be charged with establishing minimum standards for services, minimum personnel standards, a uniform data collections system, an evaluation system for programs funded by the state, and minimum standards for detention facilities and programs. Of these, only standards relating to detention and data collection would be mandatory for all counties; the other standards would be mandatory only for those counties participating in the Community Juvenile Services Act.

At the local level, the Task Force recommended that each county develop its own comprehensive juvenile services plan, subject only to those standards developed by the state commission and the agreement to provide 24-hour intake service for juveniles referred to the county juvenile department, family crisis counseling services, and a diversion program. These latter services are broadly described so that the specific method of meeting these requirements is left up to the individual counties. Additionally, participating counties would be required to work toward the elimination of the use of jails for juvenile offenders who do not represent a threat to other persons.

The local plan required by the Act would be drawn up with

the assistance of a local juvenile services advisory commission made up both of professional and lay members. This mechanism was chosen to insure citizen input into the planning process. The formulation of the plan would allow each community to identify its most serious problems and suggest the ways of solving those problems that best fit local institutions and customs.

The Task Force believed not only that local programs developed in this manner can reduce dependency upon state institutions, but also that community-based programming is desirable for other reasons.

Local services appear to lend themselves to being provided in a timely and efficient manner, making use of local resources too often ignored. Local programs also have the potential of being family-oriented and more apt to be directed successfully toward keeping a child in his or her own home or at least in the child's own community

Further, the Task Force felt that local resources, when developed with active citizen participation, will reduce the apparent over-reliance on judicial and state resources and secure facilities. These more expensive resources then can be reserved for those situations needing the full power, authority, and coercive capabilities of the law.

To some extent, the Community Juvenile Services Act may be viewed as a partial return to the type of local control present before the formation of the Children's Services Division, but with the addition of significant funding through state General Fund revenues for a wide variety of local programs. While centralization of services appeared to have significant advantages in 1971, it now appears to have brought with it some problems, the most serious of which may be an increasing reliance by the counties on the state for the care of juveniles who might better be cared for in their home communities. A recurring theme heard in testimony before, and discussions of, the Task Force was the lack of consistency and continuity in the care received by some children in the juvenile justice system.

The Community Juvenile Services Act is an attempt to retain the gains achieved through centralization of state-wide services while at the same time fostering the development or redevelopment of local programs to manage those problems which can be handled best at the local level.

The full effects of the Community Juvenile Services Act will

not be felt immediately even with strong support from the counties. The Task Force anticipated that the Act may have the immediate effect of leveling off the commitment rate to the state training schools and the long-range effect of reducing other commitments to CSD. During the inevitable transition period, resources at the state level cannot be drastically reduced. However, gradual reductions over the next few years in state expenditures for out-of-home care should be one of the effects of this Act.

In looking at the experience of other states, the Task Force, relying on recent research conducted by the Oregon Council on Crime and Delinquency, found that Minnesota has had a marked success with the juvenile portion of its Community Corrections Act of 1973.

Minnesota, like Oregon, is a predominantly rural state with three major population centers. The state's risk population (children 12 to 18 years of age) is almost twice that of Oregon's. But while Oregon has been experiencing a sharp rise in commitments to the training schools, Minnesota has been able to reduce its commitments dramatically.

The population of Minnesota's two state training schools dropped from 450 to 130 from 1973 to July 1978, while in the same period Oregon's training school population doubled from 320 to 640. (See Graph 3.) On October 1, 1978, Oregon's training school "close custody count" had increased further to 670. (Minnesota's two most populous counties also maintain local training schools with a combined capacity of 140.) Minnesota has accomplished this reduction even though a law completely removing status offenders from its training schools did not go into effect until May 1978, while a comparable law in Oregon became effective in September 1975.

Much of Minnesota's success is attributed to its policy of making money available at the local level for the development of programs which reduce the necessity for commitment to the training schools and limit the penetration of children into the juvenile corrections system. The state has developed a serious juvenile offender program; the county juvenile departments have modified their programs to concentrate on the juvenile criminal offenders; and private and volunteer groups have developed to provide services to the less serious offenders and status offenders. Minnesota authorities have observed that the required process of preparing a local juvenile services plan has led to a more coordinated local effort and the more efficient use of community resources.

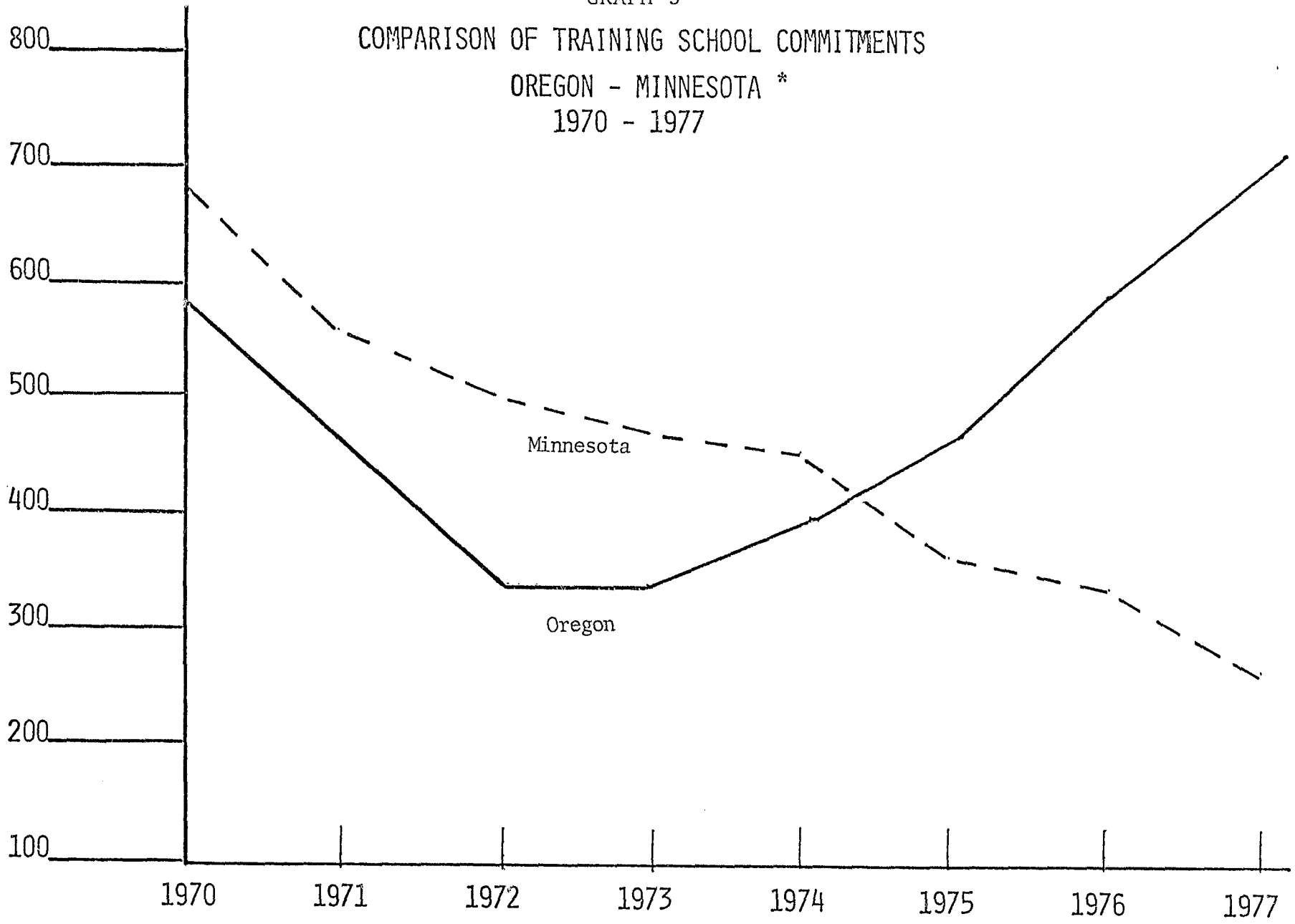
The Task Force believed that, through adoption of the proposed

GRAPH 3

COMPARISON OF TRAINING SCHOOL COMMITMENTS

OREGON - MINNESOTA *

1970 - 1977




*Comparative graph prepared by Oregon Council on Crime and Delinquency

Community Juvenile Services Act, Oregon could begin to accomplish similar goals without, in the long run, any increased expenditure of public funds.

The Community Juvenile Services Act has at least three sources. It is modeled, to some extent, on Oregon's adult Community Corrections Act passed by the 1977 Legislature. It has the same emphasis on developing local services as alternatives to the use of state resources but with the addition of provisions encouraging the development of prevention, as well as correctional, services. The Oregon adult Community Corrections Act was itself based upon the Minnesota model.

The Community Juvenile Services Act may also be viewed as a logical extension of Oregon's 10-year-old Juvenile Court Subsidy Act which it supplants. But rather than simply providing a state subsidy to juvenile departments, the Community Juvenile Services Act insures active citizen participation in planning and coordinating community resources to deal with the problems of juvenile delinquency, establishes minimum standards, provides for a degree of coordination between state, county, and private services, and recommends that some of the funds be spent in the private sector.

A third source of this proposed legislation is a bill creating a Juvenile Court Commission, which was introduced at the request of the juvenile court judges and directors in the 1975 and 1977 legislative sessions but failed to pass. The commission would have set standards and collected data. The Community Juvenile Services Act differs in its introduction of lay-citizen participation and the provision of funds for local jurisdictions.

At its recommended $7.7 million level of funding, the Community Juvenile Services Act would represent a substantial increase in local expenditures for juvenile services. Although it is not the intention of the Task Force that all funds from this Act be allocated to the county juvenile departments, the department budgets provided a handy gauge by which to measure the impact which these funds might have at the local level. A survey of selected counties indicates that in most cases the counties' entitlements under the Act would represent about one-third of current juvenile department budgets. For smaller-population counties, the impact would probably be even greater, due to the $20,000 minimum annual grant to these counties provided in the Act. (See Table 2 for the entitlements of all counties based on the 1977 risk population.)

Concern was expressed to the Task Force about the abrupt abandonment of the Juvenile Court Subsidy Act on which county

# TABLE 4

## Estimated County Entitlement

## Under Community Juvenile Services Act*

| COUNTY | % OF STATE POPULATION | AMOUNT OF GRANT |
|---|---|---|
| BAKER | .7% | $ 24,850 |
| BENTON | 2.6% | 92,300 |
| CLACKAMAS | 9.8% | 347,900 |
| CLATSOP | 1.2% | 42,600 |
| COLUMBIA | 1.6% | 56,800 |
| COOS | 2.8% | 99,400 |
| CROOK | | 20,000 |
| CURRY | .6% | 21,300 |
| DESCHUTES | 2.1% | 74,550 |
| DOUGLAS | 3.9% | 138,450 |
| GILLIAM | | 20,000 |
| GRANT | | 20,000 |
| HARNEY | | 20,000 |
| HOOD RIVER | .6% | 21,300 |
| JACKSON | 5.0% | 177,500 |
| JEFFERSON | | 20,000 |
| JOSEPHINE | 2.1% | 74,550 |
| KLAMATH | 2.5% | 88,750 |
| LAKE | | 20,000 |
| LANE | 10.9% | 386,950 |
| LINCOLN | 1.1% | 39,050 |
| LINN | 4.0% | 142,000 |
| MALHEUR | 1.2% | 42,600 |
| MARION | 7.7% | 273,350 |
| MORROW | | 20,000 |
| MULTNOMAH | 21.4% | 759,700 |
| POLK | 1.8 | 63,900 |
| SHERMAN | | 20,000 |
| TILLAMOOK | .8% | 28,400 |
| UMATILLA | 2.3% | 81,650 |
| UNION | 1.0% | 35,500 |
| WALLOWA | | 20,000 |
| WASCO | .9% | 31,950 |
| WASHINGTON | 9.3% | 330,150 |
| WHEELER | | 20,000 |
| YAMHILL | 2.1% | 74,550 |
| TOTAL ANNUAL EXPENDITURE | | $3,750,000 |

*Table 4 is based on an assumed appropriation of $7.5 million for the 1979-81 biennium, or $3,750,000 annually. The 10 least populous counties, representing 2.7 percent of the population 0-17, would receive flat $20,000 grants for an annual total of $200,000. The populations of the remaining 26 counties then would be assumed to equal 100 percent of the risk population, and the remaining $3,550,000 annual appropriation would be distributed to these counties on a proportional basis.

juvenile departments have been depending to some degree for the past 10 years. For this reason, the proposed legislation includes provision for phasing out the Subsidy Act and phasing in the more lucrative Community Juvenile Services Act. Counties which have been receiving funds under the Subsidy Act would continue to receive those funds, under the terms of the Subsidy Act, for the coming biennium or until they began participation in the Services Act. This provision would give the counties time to appoint local commissions and prepare comprehensive plans without disruption of those services funded by the Subsidy Act or loss of jobs for those persons whose salaries are paid with Subsidy Act funds.

The Task Force was also made aware of the lack of physical facilities in local communities. There are only six juvenile detention homes, occupying separate quarters and specifically designed for children, in Oregon. In counties which do not have access to one of these homes, children are detained in jails, some of which do not meet the statutory requirements for the separation of adult and juvenile inmates. (For detailed discussion, see Part V - Facilities and Personnel.) Family shelter care, while useful for the small child, is not always successful for the older, acting-out teenager.

There are not sufficient facilities for holding children for longer periods of time on court order until the children can be reintegrated into their own homes. Testimony indicated that in some parts of the state children who are awaiting openings in child care centers or other facilities get into additional trouble and are sent to the training schools without the opportunity for treatment in a less secure and stigmatizing setting.

For these reasons, the Task Force assigned its second priority to the Capital Construction Act which would give counties participating in the Community Juvenile Services Act access to state funds to acquire, improve, or build local physical facilities. These funds would be distributed on a competitive, rather than a flat-grant, basis so the limited amount of money could be used where it is most needed. Preference would be given to facilities that could be used regionally and that held promise of reducing commitments to CSD, including commitments to the training schools.

The text of these two bills, along with more detailed commentary, appear on the following pages.

A BILL FOR AN ACT

Relating to juvenile services programs; creating new provisions; amending ORS 3.250 and 418.005; repealing ORS 423.320, 423.330, 423.340, 423.350 and 423.360; appropriating money; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 13 of this Act shall be known and may be cited as the "Community Juvenile Services Act."

SECTION 2. It is declared to be the legislative policy of the State of Oregon to aid in the establishment of local juvenile services programs and finance such programs on a continuing basis with appropriations from the General Fund. The intended purpose of this Act is to develop state-wide standards for juvenile services through the creation of a Juvenile Services Commission; assist in the provision of appropriate preventive, diversionary and dispositional alternatives for children; encourage coordination of the elements of the juvenile services system; and provide an opportunity for local involvement in developing improved local services for juveniles so that the following objectives may be obtained:

(1) The family unit is preserved;

(2) Intervention is limited to those actions which are necessary and utilize the least restrictive and most effective and appropriate resources; and

(3) The family is encouraged to participate actively in

whatever treatment is afforded a child.

SECTION 3. As used in this Act, unless the context requires otherwise:

(1) "Commission" means the Juvenile Services Commission.

(2) "County" means a county or two or more counties which have combined to provide services to juveniles.

(3) "Juvenile" means a person who is:

(a) Less than 18 years of age and has not been permanently remanded to criminal court pursuant to subsection (4) of ORS 419.533 or emancipated pursuant to ORS 109.555; or

(b) Eighteen to 20 years of age and is under the jurisdiction of the juvenile court.

(4) "Plan" means the comprehensive juvenile services plan required by section 9 of this Act.

(5) "Program" means those programs and services described in section 8 of this Act.

SECTION 4. (1) There is created a Juvenile Services Commission consisting of a chairperson, who shall be a lay citizen not employed by, or receiving remuneration from, a law enforcement agency or a public or private agency offering services to juveniles, and eight members appointed by the Governor. The members shall be representative of the general population of the state, except that they shall include:

(a) One judge of the circuit court;

(b) One county juvenile department director;

(c) One law enforcement officer;

(d) One county commissioner; and

(e) One representative of a private agency offering services to juveniles.

(2) The commission shall appoint an advisory committee which shall meet at least once each quarter to advise the commission on matters of policy influencing state agencies and to assist in the coordination of delivery of services to juveniles. The advisory committee shall consist of the following persons or their designees:

(a) The Superintendent of Public Instruction;

(b) The Chancellor of the State System of Higher Education;

(c) The Director of the Department of Human Resources;

(d) The assistant directors of the divisions of the Department of Human Resources;

(e) The administrator of the Law Enforcement Council of Oregon; and

(f) The Legislative Fiscal Officer.

(3) The commission may appoint members of such other advisory committees as it deems necessary to assist it in the performance of its duties.

SECTION 5. (1) The chairperson and members of the commission shall serve for a period of four years at the pleasure of the Governor provided they continue to hold the office, position or description required by subsection (1) of section 4 of this Act.

Before the expiration of the term of the member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become effective immediately for the unexpired term.

(2) A member of the commission shall receive compensation as provided in ORS 292.495.

(3) A member of an advisory committee shall receive no compensation, but shall receive actual and necessary travel and other expenses incurred in the performance of official duties within limits as provided by law or rule under ORS 292.210 to 292.288.

SECTION 6. (1) The commission shall appoint an executive director who shall be the administrative officer of the commission. The executive director shall be in the unclassified service for the purposes of the State Merit System Law and shall receive actual and necessary travel and other expenses incurred in carrying out prescribed duties, within limits as provided by law or rule under ORS 292.210 to 292.288.

(2) With the approval of the commission, the executive director may employ such other personnel as may be necessary to facilitate and assist in carrying out the functions of the commission. The employment of such personnel shall be subject to the applicable provisions of the State Merit System Law.

SECTION 7. The commission shall have the following duties:

(1) Establish minimum standards of services to be offered by county juvenile departments in counties receiving funds under this Act, taking into consideration differences in population and geography and including those services set forth in section 11 of this Act;

(2) Establish minimum professional standards, including requirements for continuing professional training, for employes of juvenile departments and other youth-serving agencies receiving funds under this Act;

(3) Establish standards for juvenile detention facilities including, but not limited to, standards for physical facilities, care, programs and disciplinary procedures;

(4) Establish a uniform system of reporting and collecting statistical data from county juvenile departments and other youth-serving agencies;

(5) Establish and operate a state-wide system to monitor and evaluate the effectiveness of programs provided under this Act in preventing persons from entering the juvenile justice system and in rehabilitating juvenile offenders;

(6) Recommend standards of administrative procedures for county juvenile departments, including, but not limited to, procedures for intake, detention, petition filing and probation supervision;

(7) Recommend rules of procedure for juvenile courts to the Council on Court Procedures;

(8) Recommend guidelines to be used by the counties for the diversion of juveniles from the juvenile justice system;

(9) Develop curricula for, and cause to have conducted, training sessions for juvenile court judges and employes of juvenile departments and other youth-serving agencies;

(10) Collect data annually on juvenile department staffing, salaries, classifications and budgets;

(11) Administer funds appropriated for juvenile programs, as provided in section 10 of this Act;

(12) Administer funds for capital construction under chapter _____, Oregon Laws 1979 (Enrolled _____ Bill _____);

(13) Assist and advise state and local agencies in the establishment of volunteer training programs and the utilization of volunteers;

(14) Provide consultation services on request to juvenile court judges and employes of juvenile departments and other youth-serving agencies;

(15) Receive funds from federal and private sources for carrying out the purposes of this Act;

(16) Prepare a biennial report to the Governor and the Legislative Assembly containing recommendations on administrative and legislative actions which would improve the juvenile justice system;

(17) Meet at least once each quarter; and

(18) Have the authority to adopt rules in accordance with ORS 183.310 to 183.500.

SECTION 8. The commission shall make grants in accordance with the provisions of this Act to assist counties in the implementation and operation of juvenile programs including, but not limited to, programs for delinquency prevention, diversion, detention, shelter care, probation, restitution, family support services and community centers for the care and treatment of juveniles in need of services.

SECTION 9. (1) A county may apply to the commission in a manner and form prescribed by the commission for funds made available under this Act. The application shall include a comprehensive juvenile services plan. The commission shall provide consultation and technical assistance to counties to aid in the development and implementation of juvenile services plans.

(2) After approval of the juvenile services plan by the commission, the county may receive moneys for the operation of the plan by notifying the commission 90 days prior to implementation of the plan. Such notification shall be in the form of a resolution by the appropriate board of county commissioners.

(3) All juvenile services plans shall comply with rules adopted pursuant to this Act and shall include, but need not be limited to:

(a) The manner in which services shall be provided to juveniles at various stages of their development;

(b) The manner in which each proposed juvenile program will be provided and a demonstration of the need for each program, its

purpose, administrative structure, staffing, proposed budget, degree of community involvement, client participation and duration;

(c) The manner in which the requirements of section 11 of this Act will be met;

(d) The manner in which counties that jointly apply for participation under this Act will operate a coordinated juvenile services program;

(e) The manner in which the community juvenile services commission will participate in planning juvenile services;

(f) Provisions for administering moneys awarded under this Act;

(g) Criteria which shall be used in evaluating programs pursuant to subsection (5) of section 7 of this Act; and

(h) A description of programs of youth-serving agencies within the county which have a significant prevention aspect.

(4) That portion of a juvenile services plan dealing with the administration, procedures and programs of the juvenile court and the county juvenile department shall not be submitted to the commission without the concurrence of the presiding judge of the court having jurisdiction in juvenile cases.

(5) Counties shall give consideration to contracting with private nonprofit agencies for provision of juvenile services.

(6) No amendment to or modification of an approved juvenile services plan which involves more than five percent of the moneys awarded to a county in a fiscal year shall be placed in effect without prior approval of the commission.

(7) Any county that receives funds under this Act may terminate its participation at the end of any month by delivering a resolution of its board of commissioners to the commission not less than 120 days before the termination date.

(8) If a county terminates its participation under this Act, the remaining portion of the funds made available to the county under section 8 of this Act shall revert to the commission for redistribution to participating counties under the formula provided in section 10 of this Act.

SECTION 10. (1) Funds for juvenile programs shall consist of payments from moneys appropriated to the commission, pursuant to subsection (1) of section 16 of this Act, for the purposes of preventive, rehabilitative and supervisory programs. The commission shall, prior to October 1, 1979, and prior to April 1 of each year thereafter, determine each county's estimated percentage share of the amount to be appropriated for the purposes of this subsection. Such determination shall be based upon each county's respective share of resident juveniles under the age of 18 in accordance with rules adopted by the commission, except that a minimum grant of $20,000 shall be provided to each participating county. In those cases where two or more counties have combined to deliver services to juveniles, the counties shall not receive less as a group than they would have received if each county had participated separately.

(2) The numbers of resident juveniles under the age of 18 for each county shall be certified to the commission annually by

January 1 of each year by the Center for Population Research and Census.

SECTION 11. (1) A county which accepts funds under this Act shall:

(a) Within a reasonable time comply, or show substantial progress toward compliance, with the standards and reporting procedures established by the commission pursuant to subsections (1), (2), (3), (4) and (10) of section 7 of this Act.

(b) Cooperate with the Children's Services Division to insure effective coordination of county and state programs and, subject to negotiations with the commission, agree to accept responsibility for those services to juveniles which are currently provided by the Children's Services Division and which may appropriately be assumed by the county with due consideration given both to the costs incurred by the county in assuming this responsiblity and the effect on treatment quality.

(c) Insure that the following services be provided:

(A) Twenty-four hour intake screening services for juveniles referred to the county juvenile department;

(B) Family crisis intervention services; and

(C) A program to divert juveniles from the juvenile justice system.

(d) Work toward the elimination, by a date to be negotiated by the county and the commission but in no case later than June 30, 1981, of the use of local correctional facilities and lockups,

as defined in ORS 169.005, for the detention of juveniles except for a juvenile who:

(A) Has been taken into custody for an act involving serious bodily harm or a threat of serious bodily harm to another and is detained in such a facility for a period of time not to exceed 24 hours; or

(B) Has been remanded to criminal or municipal court pursuant to subsection (1) of ORS 419.533.

(2) The negotiations required in paragraph (b) of subsection (1) of this section shall involve services to those juveniles who have been found within the jurisdiction of the juvenile court for one or more of the acts specified in paragraph (a), (b) or (f) of subsection (1) of ORS 419.476 or paragraph (c) of subsection (1) of ORS 419.476 when the juvenile's own behavior is such as to endanger the juvenile's welfare or the welfare of another.

SECTION 12. (1) The commission shall periodically review the performance of counties participating under this Act. If the commission determines that there are reasonable grounds to believe that a county is not in substantial compliance with its plan, the commission shall, after giving the county not less than 120 days' notice, conduct a hearing to ascertain whether there is substantial compliance or satisfactory progress being made toward compliance. After the hearing, the commission may suspend any portion of financial aid made available to the county under this Act until the required compliance occurs.

(2) Financial aid received by a county pursuant to section 8 of this Act shall not be used to replace county general fund moneys, other than federal or state funds, currently being used by the county for existing programs for juveniles and shall not be used for capital construction or for lease or acquisition of facilities.

SECTION 13. (1) The board of county commissioners of a county that is participating under this Act shall appoint, with the cooperation of the presiding judge of the court having jurisdiction in juvenile cases, a chairperson and at least 11 but not more than 21 other members of a community juvenile services commission. At least 51 percent of the members, including the chairperson, shall be lay citizens not employed by, or receiving remuneration from, law enforcement agencies or public or private agencies offering services to juveniles.

(2) Members of a community juvenile services commission shall be appointed to four-year terms, except that the board of county commissioners shall establish staggered terms for the first persons appointed to such commission. Members may be reappointed.

(3) The community commission shall participate actively in the design of the county's juvenile services plan and application for funds, observe the operation of juvenile services in the county, make an annual report and develop appropriate recommendations for improvement or modification of juvenile services to the county commissioners.

[Sections 14 and 15 are conforming amendments to ORS 3.250 and 418.005 to eliminate cross references to ORS 423.320 which is repealed by this Act. The sections are not included in this report because they do not contain any substantive changes in the law.]

SECTION 16. There is hereby appropriated to the Juvenile Services Commission, for the biennium beginning July 1, 1979, out of the General Fund:

(1) $7,500,000 for the purpose of providing funds to counties under section 8 of this Act; and

(2) $200,000 for the operation of the commission.

SECTION 17. ORS 423.320, 423.330, 423.340, 423.350 and 423.360 are repealed.

SECTION 18. (1) Notwithstanding the repeal of ORS 423.320 to 423.360 and subject to the provisions of subection (2) of this section, a county that received funds under ORS 423.340 during the 1977-79 biennium shall continue to receive such funds from moneys appropriated under subsection (1) of section 16 of this Act until June 30, 1981, or until the county becomes a participant in the Community Juvenile Services Act, whichever occurs first.

(2) During the 1979-81 biennium, the duties of the advisory committee on court services provided in ORS 423.320 shall be assumed by the commission, which shall receive and evaluate county plans in accordance with the policies and

# CONTINUED

# 1 OF 4

guidelines contained in ORS 423.360 and dispense funds in accordance with the formulas provided in ORS 423.330 and 423.340, except in those cases where counties elect to participate in the Community Juvenile Services Act.

(3) This section shall expire and stand repealed on June 30, 1981.

SECTION 19. Notwithstanding the term of office specified in section 5 of this Act among the chairman and members first appointed to the commission:

(1) Three shall serve for a term of two years;

(2) Three shall serve for a term of three years; and

(3) Three shall serve for a term of four years.

SECTION 20. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on its passage.

COMMENTARY

Section 1 establishes the short title of the legislation as the Community Juvenile Services Act.

Section 2 declares that it is the legislative policy of the state to aid in establishing local juvenile services, develop state-wide standards for services, coordinate elements of the juvenile services system, and provide an opportunity for increased local involvement in the planning and provision of juvenile services.

Section 3 defines commonly used words which have general application throughout the Act.

Section 4 creates the state Juvenile Services Commission consisting of nine members appointed by the Governor, including a judge, a juvenile department director, a law enforcement officer, a county commissioner, and a representative of private child-serving agencies. The chairperson and other members would be laypersons. This section also creates an advisory committee to the state commission consisting of representatives from state agencies dealing with children and the Legislative Fiscal Officer. The commission would be able to appoint other advisory committees as necessary.

Section 5 specifies that the commission members would be appointed for four-year terms and receive compensation at the rate of $30 for each day devoted to commission work. Advisory committee members would receive reimbursement for actual and necessary expenses but no compensation.

Section 6 provides for the appointment of a commission staff, headed by an executive director, who would be appointed by the commission and would be in the unclassified service.

Section 7 sets forth the duties of the commission. The commission would establish minimum standards of services and minimum professional standards for juvenile departments in those counties participating in the Act and would set standards for juvenile detention facilities in all counties. In addition, the commission would set up a uniform system of data collection on juvenile department case loads and collect information on juvenile department staffing, salaries, classifications, and budgets from all counties.

The commission would administer and distribute the funds under this Act and under the proposed Capital Construction Act and operate a state-wide system to monitor and evaluate the effectiveness of programs funded by this Act.

Among other responsibilities, the commission would recommend standards of administrative procedures for juvenile departments and formulate model guidelines for diverting children from the juvenile justice system.

The commission would report biennially to the Governor and the Legislature and would have the authority

to adopt rules under the Administrative Procedures Act.

Section 8 authorizes the commission to make grants to assist counties in the implementation and operation of juvenile programs, including prevention, diversion, detention, shelter care, probation, restitution, family support services, and juvenile community centers.

Section 9 provides for application by counties for grants under this Act. The application procedure includes a requirement that the county submit a comprehensive juvenile services plan outlining the services to be provided, the criteria to be used by the state commission in evaluating the services, and the way in which the county intends to meet the requirements of the Act.

The portion of a county plan dealing with the juvenile court and the county juvenile department must have the concurrence of the juvenile court judge before it can be submitted to the commission.

Counties receiving money under this Act must give consideration to contracting for services from private nonprofit agencies. No county can institute a modification of its plan which involves more than five percent of its annual state grant without the approval of the commission.

Section 10 provides for the allocation of grants to the counties based upon each county's share of resident juveniles under the age of 18, except that in no event would a county receive less than $20,000. Counties joining together to participate in the Act would each receive at least a minimum grant of $20,000.

Section 11 contains the requirements to be met by counties electing to participate in the Act. Among the major requirements:

(1) Within a reasonable time, demonstrate compliance, or substantial progress toward compliance, with the minimum services, personnel, and detention standards established by the commission;

(2) Participate in the uniform statistical reporting procedures established by the commission;

(3) Provide family crisis intervention services, a diversion program, and 24-hour intake services for juveniles referred to the county juvenile department;

(4) Agree, through negotiation with the commission, to provide those services to juvenile offenders which are currently provided by CSD and which might more appropriately be provided by the county; and

(5) Work toward the elimination by June 1981 of the use of jails for the detention of juveniles, except those juveniles remanded to adult court or representing a physical threat to others. In the latter case, a juvenile could be held in jail no longer than 24 hours, giving the county time to transport the child to an appropriate juvenile detention facility.

Section 12 gives the commission power to review the performance of a county participating in the Act and, after a hearing, suspend financial aid to a county not in compliance with its local juvenile services plan. This section also contains a maintenance-of-effort clause to insure that funds provided under this Act would not merely replace county general funds currently used in the juvenile services area.

Section 13 provides for a local juvenile services commission of 12 to 22 members, appointed by the county commissioners with the cooperation of the juvenile court judge. The local commission would participate in formulating the local juvenile services plan, observe its operation, and recommend improvements to the county. The members would be appointed to four-year terms and at least 51 percent would be lay citizens.

Sections 14 and 15, not reproduced in this report, would amend ORS 3.250, concerning circuit court jurisdiction over juvenile matters, and ORS 418.005, concerning the duties of the Children's Services Division and its advisory committees, to eliminate cross references to ORS 423.320, which would be repealed by this Act. (See Commentary on section 17.) The amendments would not make substantive changes in these laws.

Section 16 would appropriate $7.5 million to be distributed to counties for increasing juvenile services at the local level pursuant to the other provisions of this legislation. A total of $200,000 would be appropriated for the operation of the commission.

Section 17 would repeal the existing Juvenile Court Subsidy Act, which has provided state funds to county juvenile departments and juvenile courts since 1969. This law has been administered by the Children's Services Division since 1971. The Community Juvenile Services Act would replace this law. The Community Juvenile Services Act differs from the existing law in the following respects:

(1) The proposed act would be administered by an independent standard-setting commission, appointed by the Governor and including a prescribed number of lay citizens.

(2) A commission at the community level would participate in formulating a comprehensive plan for juvenile services.

(3) Participating counties would be required to adhere to certain minimum standards in the provision of services and could, if they wished, assume some of CSD's present duties.

(4) State funds would go to the county commissioners, as the chief executive officers and budget-makers of the county, for distribution in accordance with the local plan to juvenile departments and juvenile courts, to other county departments, and, through contracts for services, to private nonprofit agencies.

Section 18 provides that, despite the repeal of the Juvenile Court Subsidy Act, counties now receiving funds under that act would continue to receive moneys under the terms and conditions of the Subsidy Act until June 30, 1981, or until the counties elected to participate in the Community Juvenile Services Act. The state advisory committee on court services would be dissolved and its duties assumed by the Juvenile Services Commission. This section provides for an orderly transition between the two funding methods and assures counties that they would not lose funding during the 1979-81 biennium.

Section 19, which would not become a part of the permanent Community Juvenile Services Act, provides for staggered terms for the first members of the commission in order to provide for continuity.

Section 20 is the standard Emergency Clause.

Fiscal Impact: $7.7 million, including $7.5 million for grants and $200,000 for operating expenses. (New General Fund appropriation, except for $663,121 appropriated for the Juvenile Court Subsidies Act during the 1977-79 biennium.)

Priority I (1)
Policy Statements #1, #4 to #10, & #13 to #15
Problem Statements #32, #34, #36 to #40, #45 to #47, #49A, #51, #56, #60, #66, #67, & #69

MINORITY REPORT

on the

Community Juvenile Services Act

A minority of the Governor's Task Force on Juvenile Corrections believed that submission of the Community Juvenile Services Act without a payback requirement for participating counties which commit juveniles to the training schools is inadvisable for the following reasons:

1. It results in a lack of accountability for funds dispensed to local government.

2. It is unreasonable to expect the state to risk financing local programs to any large extent without some protection against failure at the local level to reduce the number of children in the care of state agencies.

3. It fails to accomplish one of the primary purposes of the Act which is to discourage use of high-cost secure institutions whenever possible.

4. It is fiscally and programmatically undesirable for the state to finance local alternatives and, at the same time, allow training school commitments to continue rising unchecked.

5. It appears to be necessary and advisable to insure that the training schools, which are among the most expensive, coercive, and secure facilities for delinquent youths in the state, be reserved for those juveniles who have committed the most serious offenses and pose the greatest danger to society.

For these reasons, the undersigned members and associate members of the Task Force recommend the addition of the following section to the Community Juvenile Services Act:

SECTION ____. (1) Except as provided in subsection (2) of this section, after January 1, 1981, each county receiving funds under this Act shall be assessed a charge of $3,000 for each juvenile offender who is a resident of that county and who has been committed to a state training school for an act other than an act which would be a murder, a Class A felony, or a Class B felony if committed by an adult.

(2) A county assessed for commitments to the state training schools pursuant to subsection (1) of this section shall not be assessed for more than the mean number of commitments made to the training schools by the county in the three previous calendar years.

COMMENTARY

This proposed section provides that a $3,000 charge would be made to counties participating in the Community Juvenile Services Act for each juvenile committed to the training school for a Class C felony or a lesser offense.

There would be a limitation on the total amount of such assessments, based on the mean number of commitments from a county in the previous three years. Thus, for example, a county which has committed an average of five juveniles to the training schools in the past three years would pay $3,000 for each of the first five commitments in the next year and pay no fee for any additional commitments. An increase in the number of commitments above the three-year average would, of course, raise that average so that

there would be an increase in the number of commitments for which the county would be required to pay the $3,000 fee in following years.

Fiscal Impact: If the law were in effect during the 1979-81 biennium, the counties would pay the state an estimated $2 to $3 million if (1) all counties were participating in the Community Juvenile Services Act, (2) CSD's estimate of the 1979-81 commitment rate proves accurate, and (3) the new commitments were similar to the present training school population with an estimated 45 to 55 percent of the students committed for Class C felonies or lesser offenses.

Jess Armas

Tom English

Representative Vera Katz

Laverne Pierce

A BILL FOR AN ACT

Relating to juvenile corrections; appropriating money; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. There is appropriated to the Juvenile Services Commission, established pursuant to section 4, chapter _____, Oregon Laws 1979 (Enrolled _____ Bill _____) (LC 1105), for the biennium beginning July 1, 1979, out of the General Fund, the sum of $5 million for the purpose of making grants to counties to acquire, develop, build or improve local facilities for juveniles.

SECTION 2. The Juvenile Services Commission shall award grants to counties participating in the Community Juvenile Services Act established by chapter _____, Oregon Laws 1979 (Enrolled _____ Bill _____) (LC 1105), from moneys provided in section 1 of this Act, providing the development and use of the facilities are set forth in the counties' approved juvenile services plans. The commission shall award grants on a competitive basis, giving preference to those facilities which are or will be utilized on a regional basis and which, in the opinion of the commission, can aid in reducing the number of commitments to the juvenile training schools or placements in other types of long-term out-of-home care for children who have been found to have committed offenses.

SECTION 3. No funds awarded under this Act shall be used to

acquire, develop, build or improve local correctional facilities, as defined in ORS 169.005, unless such facilities contain juvenile sections separated from the sight and sound of adult inmates and operated and staffed by county juvenile department employes.

SECTION 4. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on its passage.

COMMENTARY

If the current trend in the commitment rate continues, the populations of the state juvenile training schools and camps will exceed their capacities during peak periods in 1981. It would cost an estimated $4,950,000 to build nine additional camps to accommodate an excess population of 225 based on a cost of $550,000 for a 25-person camp. At current prices, it would then cost an additional $5,670,000 per biennium to operate these new camps. Siting of new camps would also be difficult. The Children's Services Division encountered numerous problems during 1977-78 in locating a single new camp authorized by the 1977 Legislature.

The Task Force believed that by putting the money that might be needed for new camps to work at the local level the present commitment trend might be reversed with eventual savings to the state.

The proposed legislation provides funds to be used by counties for facility acquisition, development, construction, and improvement. The funds would be distributed by the Juvenile Services Commission on a competitive basis to those counties participating in the Community Juvenile Services Act. Preference would be given to those facilities that would be used on a regional basis and that would assist in reducing commitment to training schools and other types of

long-term out-of-home care.

None of the funds under this Act could be used for jails or lockups, unless those facilities contained separate juvenile sections, separated from adult inmates and operated and staffed by county juvenile department personnel.

Fiscal Impact: $5 million (new General Fund appropriation)

Priority I (2)
Policy Statements #8 & 10
Problem Statements #37, #47, & #66

# PART IV

## CAUSES AND PREVENTION OF JUVENILE DELINQUENCY

Under the provisions of SJR 54, the Task Force was instructed to examine the causes and prevention of juvenile delinquency, particularly as they applied to Oregon, and to suggest ways for reducing the number of children entering the juvenile justice system.

Subcommittee #1 was given this assignment and, during the course of the year, reviewed the literature and consulted a broad spectrum of experts in the field, including educators, psychologists, physicians, sociologists, and others. (See Appendix F)

According to the literature and studies conducted in other states, there is no single agreed-upon causal theory of delinquency, and few of the theories which have emerged over the years can be supported by empirical data. The theory of basic personality disturbance as the principal precipitating cause of antisocial behavior has produced many studies and given rise to a variety of prevention and intervention programs, none of which has been notably successful in reducing delinquency. In addition, many of the generalizations about delinquency which arise in more populous states seem to have little relevance when applied to Oregon.

Although no controlled studies have been made of the types of children who are referred to county juvenile departments, persons who have worked in the field for many years are able to provide insight into the characteristics of referrals and referral patterns. Much more is known about the children who become so deeply involved in the system that they are committed to the training schools or placed in private-care facilities. Taking these sources together, there is considerable agreement on these general observations:

-- Factors within the schools seem to be an important influence on delinquent conduct. Historically, referrals to juvenile departments and commitments to the training schools have increased shortly after school starts in the fall, decreased during the holiday season, increased again in the late winter and early spring, and reached their low points during the summer vacation months. (An exception to this is the fact that, for the first time, training school commitment rates have remained high during the summers of 1977 and 1978.) In addition, many of the

children in the child care centers and training schools are under-achievers in school and are functioning below their grade level.

-- Many of the juveniles who are committed to the training schools have been physically or sexually abused at some time during their lives.

-- Many of the children in the child care centers and training schools have suffered a series of failures in life (at home, in school, in a series of out-of-home placements) and have a poor self-image.

-- There is considerable agreement among the experts that the stability and quality of family life have an influence on delinquent behavior, but an Oregon study has shown that single-parent families are not more prone to produce delinquent children than are families with both parents present.

-- Despite national statistics that indicate that the majority of delinquents come from lower socio-economic levels and minority groups, Oregon's training school population appears to be fairly representative of the state's general population in these and other respects. In addition, despite poor school performance, training school students, taken as a whole, exhibit a normal IQ curve. (For a more complete discussion of the training school population, see the section on State Juvenile Training Schools in Part II-Oregon's Juvenile Justice System.)

-- For many adolescents, occasional illegal conduct seems to be a natural part of growing up. A 1976 survey of high school students conducted by the Governor's Commission on Youth showed that 57 percent of the respondents (63 percent of the boys and 52 percent of the girls) had committed crimes, but only a fifth of these children had been caught. The majority of the self-reported crimes involved shoplifting and illegal drug use.

-- Despite an increasing number of referrals to juvenile departments, there are indications that the majority of these contacts are minimal. More than half of these referrals in Oregon are handled informally, sometimes with only a warning or a single conference. There are no figures on recidivism in Oregon, but statistics from other states indicate that more than half of the referrals never have contact with the system again.

-- Most delinquents, even those committed to the training schools, exhibit fairly normal personality patterns, and the majority grow up to be law-abiding adults. More that 80 percent of Oregon's training school students complete the program successfully, and

only about 20 percent later appear in the state's adult penal institutions. The most difficult children to control--and the ones who may become adult criminals--are the ones who seem incapable of making emotional commitments or forming any attachments to a "person, place, or program," according to an Oregon juvenile corrections official.

The Task Force agreed that not all children who, in their early lives, exhibit the characteristics found in the training school population, will necessarily become juvenile delinquents or adult criminals. However, to minimize the development of those characteristics or life situations which may lead to delinquency, the Task Force took a broad view of prevention, identifying three levels--primary, secondary, and tertiary (or treatment)--all of which are needed in a complete prevention system. (See Definition of Terms.)

There is no common agreement among practitioners and theorists, either in Oregon or nation-wide, concerning the best prevention tactics and programs. In accordance with the once-popular theory that personality disorders are at the base of antisocial conduct, most prevention programs in the past have been clinically oriented, targeted toward a "high-risk" population presumed to be exhibiting "pre-delinquent" tendencies or providing counseling and psychotherapy to persons already involved in the system.

While the Task Force recognized that treatment must be afforded children within the system, it was the area of secondary prevention that provoked the most intense discussion. Proponents of emphasis on secondary prevention argue that, with limited funds, efforts must center on those children most likely to encounter trouble in later life, rather than using public monies for children who, if they are left alone, "will turn out all right anyway." Opponents, while casting doubt on the efficacy of most secondary prevention programs, assert that such tactics may do more harm than good. "Labeling" or identifying certain children and their families as being somehow deficient is degrading, the opponents say, leading to feelings of worthlessness and dependency which turn into self-fulfilling prophesies. Doubt is also cast on the reliability of predictive indicators, as exemplified by the discussion of the root causes of delinquency, and ethical issues surround the "labeling" of certain groups based on such factors as learning disabilities, socio-economic status, or family relationships.

In addition, a new approach to prevention has emerged in the United States during the past decade. Advocates of this new theory argue that attempts to "correct" or "fix up" the individual

child oversimplify a complex problem and ignore the social forces and institutions which help create delinquency. This approach would concentrate on community-based reform of institutional and cultural factors which have adverse effects on the lives of children and their families, including education, employment, and lack of opportunities for children to participate actively and meaningfully in the life of the community.

Recognizing that in the past most of the resources and talent have been expended on secondary and tertiary prevention, Subcommittee #1 decided, and the full Task Force concurred, that major emphasis should now be placed on primary prevention, in which an entire age-group population receives services which will be supportive and helpful to all members of the group, whether or not they or their families exhibit "high-risk" characteristics.

The Task Force made this decision fully aware of the problems involved in funding primary prevention programs. As has been noted, there is a tendency to put money where the most acute problems manifest themselves. In addition, the promise of long-term funding is becoming increasingly dependent on evaluation and proven success--and the success of primary prevention, which is, in effect, proving a negative, is difficult to demonstrate. When primary prevention techniques are utilized with pre-schoolers or elementary school children, the success that the program may have in keeping children out of the juvenile justice system cannot be demonstrated for 10 or 12 years, while children already in the system require immediate services. Proof of success involves long-term longitudinal studies, which are both expensive and may intrude into the lives of individuals who have a right to privacy. The problem is also complicated by the confidentiality and right to expunction of juvenile records.

Despite the problems which may exist in implementing primary prevention programs, the Oregon Legislature pioneered in this area in 1973 when it made state funds available, through the Department of Education, to assist the establishment of Child Development Specialist (CDS) programs at the local school district level. These specialists, serving all the children in kindergarten and the lower grades within a school, act as liaison between the school and parents and between the child and family, on the one hand, and available social agencies in the community, on the other.

The Task Force identified this program as a superior effort and recommends as its third priority that funding be quadrupled in the 1979-81 biennium in order to make these services available to an estimated one-fifth of Oregon's school children in kindergarten through sixth grade. (See Appendix G)

The CDS program appears to meet the major qualifications for a good primary prevention program identified by Subcommittee #1:

-- The program involves children in the early elementary years where chances of prevention are the most promising.

-- The program recognizes that each child is unique in growth and developmental patterns and focuses on all aspects of healthy personal development.

-- The program has an impact on the varied facets of a child's life, including school, family, and peer relationships, and is aimed at equipping the child with the skills to cope with the environment in socially acceptable ways.

-- The program is organized in such a way that participating children are not able to identify themselves as belonging to a "high-risk" group so there is no stigmatizing effect.

-- The program does not concentrate on "fixing" the individual child, but rather tries to adjust the factors in the child's life that may be having an adverse impact on the child.

-- The criteria for staffing the CDS program are elastic so that a variety of different talents and skills may be employed.

In addition to asking for expansion of the program, the Task Force recommends amending ORS 343.125 and 343.135 to allow additional school districts to apply for funds and to establish criteria for evaluation of CDS programs for their impact, not only on school-related matters, but on involvement of children in the juvenile justice system. The Task Force urges the Children's Services Division to establish a state-wide policy of cooperation with the CDS program in providing needed social services to children and their families.

Drawing upon the testimony of several observers of youth employment and its relationship to juvenile crime, the Task Force recognized increased opportunities for youth employment as an important element of the preventive effort and assigned its fourth priority to expansion of these opportunities.

Only 20 percent of youths holding valid work permits in the state have jobs, according to an estimate from the Department of Labor. The subcommittee heard testimony that it was reasonable to expect that, since youths are economically worse off than adults, their crime rate will be higher. However, employment for youth in a society that provides few acceptable roles for the "non-adult" becomes more than an economic matter. Employment provides an opportunity for competence- and confidence-building

and results in young persons being able to participate in some of the decisions that affect their lives and community.

Subcommittee #1 sought ways of creating an effective youth employment program which would increase the opportunities for employment of teenagers in the private sector without requiring the establishment of an additional bureaucratic agency to administer it. The proposed legislation, which would provide an additional business expense deduction equal to 25 percent of the total wages paid to employes under 18 years of age, would be an incentive to meeting this social need.

In addition, the Task Force recommended that the administrative rules of the Wage and Hour Commission which govern the employment of youth be reviewed, and those that are unnecessarily restrictive be revised or omitted. The Wage and Hour Commission concurred that the study was needed, and the Task Force further recommended that the study be funded from the Governor's discretionary CETA funds.

Based on testimony received concerning the school and learning difficulties encountered by delinquent youth, the Task Force recommended that the auditory and visual screening techniques and follow-up procedures now used in the public schools to detect sensory problems be reviewed by the Department of Education for their adequacy and efficacy.

In addition, although a lower priority was placed upon the suggestion because of cost factors, the Task Force recommends that a package of prevention programs, using innovative but proven techniques, be made available to school districts through the Department of Education with the help of state funds.

The Task Force recognized that it is within the family group that interpersonal communications, socialization, self-discipline, and social and economic skills are learned, and that family instability can, in some cases, be a precursor of anti-social conduct. If these skills are learned poorly or not at all, the resulting social and economic pressures may contribute to alienation, frustration, and delinquent behavior. Children living for long periods of time away from their homes and families may encounter difficulties in developing attachments to "persons and places" so important to a healthy social adjustment. Strengthening, maintaining, and developing families can make the learning process more effective and positive because the family is a natural system with stronger effects than social or cultural institutions such as schools or churches.

The Task Force made two recommendations for strengthening

the family unit in Oregon by changing present legislation and practice affecting foster care. One recommendation would allow voluntary placement in foster care instead of the mandatory, stigmatizing court-ordered placement which is now required in those cases which are eligible for federal assistance. (See Appendix H) This would make it easier for families to seek temporary help when they needed it without losing control of their children through court wardship. The second recommendation proposes legislation to authorize payment for foster care by relatives. Existing laws which prohibit such payment discourage relatives from assuming responsibility for dependent children and thus tend to break up the extended family. (The Task Force agreed, however, that children should not be placed in out-of-home care, even if it is voluntary, for unlimited lengths of time and, therefore, recommends periodic court review of such placements. See Part VI-Juvenile Court Procedures.)

Addressing the area of secondary prevention, the Task Force, in an effort to break the pattern of neglect and abuse which may occur when young, unmarried, under-educated women become mothers, recommends legislation that would make it easier for pregnant high-school students to complete their educations, and further recommends that a study be undertaken to identify those factors which encourage bonding between a mother and her newborn infant.

The Task Force recognized that, despite the effectiveness of any primary prevention programs which might be instituted, many children are already in the juvenile justice system--or may soon be drawn into it.

To prevent increased involvement in this system for children accused of minor offenses, the Task Force recommends the presence in each county of a trained diversion person who could refer such children to appropriate community resources rather than to juvenile court.

All three subcommittees considered the role which alcohol plays in irresponsible, destructive, and illegal conduct by juveniles. The Task Force assigned top priority to two recommendations to help deal with this problem. Proposed legislation would require that a second-time juvenile liquor-law violator be referred to an alcohol assessment and treatment program. Based on testimony that adult treatment programs frequently are not effective with youth and there are no generally agreed upon methods for treating youthful alcohol abusers, the Task Force recommends passage of a joint resolution which would create a Committee on Youth and Alcohol Problems to study these critical social and behavioral questions.

Subcommittee #1 considered proposals brought forward by the Tri-County Community Council for an alcohol treatment program for juveniles in Multnomah, Clackamas, and Washington counties. The subcommittee and the Task Force approved of the cooperative efforts being displayed by the county governments and the private agencies of the area, but did not recommend direct funding. Instead, the Task Force urged that county mental health departments in the three jurisdictions give serious consideration to funding such a program in the near future.

An additional problem which the Task Force was unable to resolve involves the lack of coordination of, and responsibility for, prevention programs, particularly primary prevention programs, in the state. For the most part, the Children's Services Division and Adult and Family Services Division deal with children and their families only after problems have been identified or family crises have erupted. CSD has prevention programs, such as homemaker services, but these are targeted to a "high-risk" group. The Task Force believed that this is a problem that requires further study, but felt that consideration should be given to assigning this responsibility to a central state agency sometime in the near future.

# PART IV

## PROPOSAL SUMMARIES

-- Expansion of the existing program, administered by the Department of Education, of state aid to school districts operating Child Development Specialist programs. pp. 97 & 103

-- Recommendation that CSD offer full cooperation to Child Development Specialists seeking social services for school children. p. 105

-- Provision allowing private employers to deduct as a business expense 125 percent of the salaries of employes under the age of 18 as an incentive to youth employment. p.107

-- Recommendation that a portion of the Governor's discretionary CETA funds be granted to the Wage and Hour Commission for a study of youth employment rates. p. 111

-- Direction to Board of Education to conduct a study of the thoroughness and effectiveness of present auditory and visual screening procedures in public schools. p. 113

-- Provision of state funds for the development of prevention programs in the public schools. p. 117

-- Recommendation that CSD resume accepting voluntary placement of children without the necessity for court action to remove children from their homes. p. 121

-- Provision that would allow CSD to designate relatives, other than parents and stepparents, as foster care providers and to pay such persons out of the General Fund in those instances in which the children are not qualified to receive ADC-FC payments or relatives do not wish to seek court-ordered placement. p. 125

-- Requirement that Department of Education adopt written rules regarding education of pregnant students; prohibition against exclusion of pregnant students from public schools; and extension of right to choose educational programs to pregnant students. p. 131

-- Establishment of a Maternal-Infant Services Study Project to study factors necessary for the creation of a nurturing maternal-infant relationship. p. 137

-- Requirement that all counties with populations of more than 12,000 provide diversion personnel on a 24-hour basis to divert minor juvenile offenders to community resources. p. 143

-- Requirement that all juveniles who have been found to have committed a second violation of the state liquor laws be referred to an alcohol program for assessment and possible treatment. p. 147

--Direction to form a Committee on Youth and Alcohol Problems to make recommendations to Governor and Legislature. p. 151

A BILL FOR AN ACT

Relating to education; creating new provisions; amending ORS 343.125 and 343.135; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

Section 1. ORS 343.125 is amended to read:

343.125. (1) [On or before July 1, 1977,] The district school board of every school district operating any elementary schools may make the services of a child development specialist available to the pupils enrolled in the elementary schools.

(2) A child development specialist shall provide primary prevention services throughout a child's environment directly or in cooperation with others:

(a) To pupils enrolled in the elementary school, with priority given at the primary level, including kindergarten, to assist them in developing positive attitudes toward themselves and others [in relation to life career roles] and to assure that assessment and screening procedures, in compliance with federal law, shall occur to aid in the early identification of pupils with learning or developmental problems.

(b) To the professional staff of the elementary school to assist them in early identification of pupils enrolled therein with learning or developmental problems.

(c) To parents of pupils enrolled in elementary schools to assist them in understanding their children's unique aptitudes and needs and to aid in relating home, school and neighborhood

experiences.

(d) To refer pupils enrolled in the elementary school to appropriate state or local agencies for additional assistance.

(e) To coordinate resources available through the community and the school.

(3) School districts may provide the services authorized or required under this section by contract with qualified state or local programs.

Section 2. ORS 343.135 is amended to read:

343.135. (1) [On or before October 1, 1977, and thereafter] Following the close of [the school year] each fiscal quarter for which reimbursement is claimed, any district making the services of a child development specialist available pursuant to ORS 343.125 in a state approved program shall file a verified claim with the Superintendent of Public Instruction for the costs incurred by the district in providing the services of the child development specialist.

(2) If the Superintendent of Public Instruction approves the application for reimbursement, he shall cause the district to be reimbursed in the amount claimed. If the moneys specifically appropriated for payment of such claims are insufficient to pay the full reimbursable amount of all approved claims for the [school year] fiscal quarter, the reimbursement to each district shall be prorated according to the ratio that the total amount of funds available bears to the total amount that would be

required to pay in full all approved claims for the [school year] fiscal quarter.

SECTION 3. (1) The Executive Department shall contract with a third party evaluator to measure longitudinally the effectiveness of the child development specialist programs under ORS 343.125 in randomly selected sites. Evaluation shall include, but not be limited to:

(a) Measurement of the extent to which the programs achieve enhanced parental attitudes;

(b) Increase in number of staff development workshops in the areas of learning disabilities and developmental problems in children;

(c) Increased interactions among agencies serving children;

(d) Increased involvement of parents in planning education programs;

(e) Reductions of learning difficulties;

(f) Reduction of school disruptions and school vandalism;

(g) Reduction of truancy and school dropout rates;

(h) Reduction of number of children taken into custody by police for offenses; and

(i) Reduction of number of referrals of children accused of offenses to county juvenile departments.

(2) No less than five percent of project funds for child development specialist programs shall be expended by the Executive Department on the longitudinal evaluations described

in subsection (1) of this section.

SECTION 4. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on its passage.

COMMENTARY

The Child Development Specialist (CDS) is a professional employed by a school district who works with parents, community services, and school staff to prevent and remedy problems of students by utilizing, and serving as a broker for, all available resources. The CDS program is a primary prevention program in that it is designed to serve all students rather than only those identified as having specific problems. In the concern for a few students with severe problems, the needs of many others have been neglected. The CDS attempts to meet the needs of all students by making use of currently untapped and uncoordinated resources beyond those available in the school. The CDS, in working with the significant individuals in a child's life, strives to reinforce a positive growth process.

Research has shown that children who become involved in the juvenile corrections system are often those for whom the school environment alone has proved insufficient. Typically such students, even though of normal intelligence, show up in juvenile institutions three to five years behind their peers in academic achievement. They have usually experienced a series of failures in school and in other aspects of their lives and have poor self-images.

The CDS concept recognizes that every individual is unique and has a unique combination of strengths and needs. The objective of the CDS approach is to work from strengths that children exhibit rather than identified weaknesses that may be only developmental delays.

Strengths can be further described as cognitive and affective. Cognitive strengths refer to such things as mastery of subject matter, acquired knowledge, synthesis of information, and comprehension. Affective strengths refer to attitudes, beliefs, and values which contribute to a person's outlook on life, decision-

making abilities, and personal effectiveness. Neither set of strengths exists independently of the other. However, it is through the specialized skills of the Child Development Specialist that attention is given to affective learning. Affective learning and the building of affective strengths at an early point in the child's life have come to be recognized as an important aspect of delinquency prevention.

State assistance in establishing CDS programs in local school districts was authorized by the 1973 Legislature in HB 2455 (ORS 343.125). To date, there are 51 such programs in Oregon. The 1973 Act sets a cut-off date of July 1, 1977, for school districts to begin participation in the program. The proposed legislation would remove the cut-off date for beginning participation in the program, allow new programs to be developed, and give CDS personnel the responsibility for assuring that pupils are screened for learning and developmental problems. The act would also make reimbursement to school districts available on a quarterly basis rather than annually. The proposed act would require the Executive Department to contract for third-party evaluations of randomly selected CDS programs and sets forth the criteria for judging the effectiveness of the programs, including their effectiveness in preventing delinquency.

Fiscal Impact: No direct impact. (See following recommendation)

Priority I (3)
Policy Statements #4, #5, & #6
Problem Statements #9, #12, #13, & #15

## RECOMMENDATION

The Governor's Task Force on Juvenile Corrections recommends expansion of the Department of Education's Child Development Specialist program from its present $583,680 funding level to $2.6 million. (See Appendix G.)

## COMMENTARY

This recommendation is in addition to legislation proposed by the Task Force allowing new CDS programs to be started by school districts with state assistance. At the present time, 51 CDS programs are operating, all but five of them with state assistance. The Task Force recommendation would increase funding to allow the development of 78 new programs for a total of 128 programs, based upon Department of Education estimates.

It is important to note that funding for these programs is not to be viewed as an assumption of indefinite responsibility by the state. Current Department of Education policy is to phase out state support for a program over a four-year period. The first year involves 75 percent funding by the state with a 25 percent match by the local school district. In succeeding years, the state-local division of costs are 60-40, 45-55, and 30-70. In the fifth year, the school district assumes the full cost of the program. The state money is used as an encouragement to local districts to establish CDS programs with the assumption that the program's worth will have been established in four years, and the districts will include the full costs of the program in their budgets.

Fiscal Impact: $2.6 million ($1.5 million in additional expansion funds is recommended by the Task Force; $1.1 million is in the proposed Department of Education budget; $583,680 was the funding level during the 1977-79 biennium.)

Priority I (3)
Policy Statements #4, #5, & #6
Problem Statements #9, #12, #13, & #15

## RECOMMENDATION

The Governor's Task Force on Juvenile Corrections recommends that the Children's Services Division adopt and implement a state-wide policy to encourage local CSD offices and personnel to work in conjunction with the Child Development Specialists in the public schools to provide and coordinate services to children and their families when requested to do so by the Child Development Specialists or other appropriate school officials.

## COMMENTARY

This recommendation was made in response to a proposal to the Task Force from the Department of Human Resources that the Task Force might wish to endorse a CSD preventive service outreach plan which would have provided an additional 356 CSD employes to offer services to high-risk families through counseling in child rearing, home management, relationship problems, and general problem-solving and to assist the families in obtaining other community services. The basic objective of the plan was early identification and intervention to prevent or ameliorate family crisis situations. The estimated cost of the CSD plan was $26.5 million in the 1979-81 biennium.

The Task Force felt that expansion of the existing Child Development Specialist programs, which have become accepted as primary prevention programs serving all children, would be preferable to the creation of a new, expensive, and somewhat duplicative program. Instead, the Task Force recommends that CSD personnel become better informed concerning the work of the Child Development Specialists and continue to be responsive to the requests from these specialists for social service assistance.

Fiscal Impact: None (It is assumed that cooperative efforts could be carried out with existing CSD personnel.)

Priority I (7)
Policy Statements #4 & #6
Problem Statement #11

A BILL FOR AN ACT

Relating to taxes imposed upon or measured by income; creating new provisions; and amending ORS 318.030.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this Act is added to and made a part of ORS chapter 316.

SECTION 2. (1) In addition to the modifications to federal taxable income contained in this chapter, there shall be subtracted from federal taxable income an amount equal to 25 percent of the amount of wages, salary or other compensation paid to, or incurred by employing, during the taxable year of the taxpayer, a person who is, at any time during the taxable year of the taxpayer, under the age of 18 years. To qualify for inclusion in the basic amount of wages, salary or other compensation to which the 25 percent is applied in computing the subtraction allowed by this section, the wages, salary or other compensation must:

(a) Be paid on an hourly basis.

(b) Be paid at a rate not less than the minimum wage rate applicable for the employment.

(c) Be deductible in arriving at adjusted gross income for federal income tax purposes as an ordinary and necessary expense paid or incurred in carrying on a trade or business under section 162(a) of the Internal Revenue Code.

(2) The subtraction allowed under this section is in

addition to and not in lieu of other deductions allowed under this chapter for wages, salaries or other compensation paid or incurred by the taxpayer.

SECTION 3. Section 4 of this Act is added to and made a part of ORS chapter 317.

SECTION 4. (1) In computing net income, there shall be allowed as a deduction an amount equal to 25 percent of the amount of wages, salary or other compensation paid to, or incurred by employing, during the taxable year of the taxpayer, a person who is, at any time during the taxable year of the taxpayer, under the age of 18 years. To qualify for inclusion in the basic amount of wages, salary or other compensation to which the 25 percent is applied in computing the deduction allowed by this section, the wages, salary or other compensation must:

(a) Be paid on an hourly basis.

(b) Be paid at a rate not less than the minimum wage rate applicable for the employment.

(c) Be deductible for federal income tax purposes as an ordinary and necessary expense paid or incurred in carrying on a trade or business under section 162(a) of the Internal Revenue Code.

(2) The deduction allowed under this section is in addition to and not in lieu of other deductions allowed under this chapter for wages, salaries or other compensation paid or incurred by the taxpayer.

[Section 5 is a conforming amendment to ORS 318.030, adding a cross reference to this Act, which would preserve the legislative intent that the Corporation Excise Tax Law of 1929 and the Corporation Income Tax Act of 1955 shall be administered as uniformly as possible. Since it makes no substantive change in the law, other than the provisions set forth in this Act, it is not included in this report.]

SECTION 6. Sections 1 to 4 and the amendments to ORS 318.030 by section 5 of this Act apply to taxable years beginning on or after January 1, 1980. For prior taxable years, the law applicable for those years shall continue to apply.

COMMENTARY

To the extent that delinquency is defined in terms of society's perception of legitimate and appropriate behavior for juveniles, prevention tactics must include increased opportunities for youth to engage in legitimate behavior. In the opinion of the Task Force, one of the most important of these is the opportunity to work.

Employment has long been recognized as a vital component of the rehabilitative process. The lack of employment opportunities for youth was identified by all of the Task Force subcommittees as a contributing factor in juvenile delinquency, and juvenile parole officers called particular attention to the lack of work as one of the barriers to successful adjustment for juveniles on conditional release from the training schools.

However, employment must also be viewed as an important preventive measure, since successful employment provides youth with a chance to build self-confidence and demonstrate competence. Feelings of confidence, competence, self-worth, and a positive direction

in life are notably absent among juvenile offenders.

A survey conducted by the Oregon Bureau of Labor has shown that youth employment increased 12 percent between 1976 and 1977, for an estimated total of 25,720 employed youth, many of whom work part-time. During the same period, overall wage and salary employment in the state increased only four percent. However, even with this increase in youth employment, only an estimated 20.4 percent of juveniles with valid work permits had jobs.

In an effort to create an incentive for the private sector of the economy to create more opportunities for youth employment, this proposed legislation would allow corporations, sole proprietors, and partnerships a 125 percent tax deduction for the cost of employing persons under the age of 18. One-hundred percent of the wages and salaries of all employees is allowed as a tax deduction under existing law; the additional 25 percent deduction would be available to employers of youth, as long as these employees were paid at least an hourly minimum wage. Employment paying less than the minimum wage and piece-work would not qualify under this act.

Using the hours of work per week for juveniles with jobs which was reported to the Governor's Commission on Youth in a 1978 youth opinion survey and the Bureau of Labor's estimate of the number of youths employed, it was estimated that there is the equivalent of about 10,260 full-time workers under the age of 18 in Oregon. If all of these workers were earning the minimum wage, their total annual wages would be $54.3 million dollars. If employers were entitled to deduct as a business expense an additional 25 percent of these wages, on which they would otherwise be required to pay the 7.5 percent corporate tax, it would result in a loss of revenue to the state of about a million dollars a year.

Fiscal Impact: $2 million revenue loss per biennium ( based on estimated number of youths employed.)

Priority I (4)
Problem Statement #22

## RECOMMENDATION

The Governor's Task Force on Juvenile Corrections recommends to the Governor and the Oregon Manpower Council that money be allocated to the Wage and Hour Commission from those CETA funds which may be utilized at the Governor's discretion to study the effects of the Oregon Administrative Rules on the employment opportunities of minors under 18 years of age.

## COMMENTARY

The Task Force, in studying the causes and prevention of delinquency, determined that youth employment, in addition to its accepted role in rehabilitative efforts, must be considered an important preventive measure.

The problems of youth unemployment were exacerbated in Oregon in 1971 when ORS 339.030 was amended to provide that juveniles between the ages of 16 and 18 could leave school with the mutual consent of the school administrator and the child's parent or legal guardian (chapter 494, section 1, Oregon Laws 1971). The lowering of the school-leaving age was not accompanied by any changes in the child labor laws or the Administrative Rules governing youth employment to make it easier for juveniles to find work.

At its organizational meeting on March 14, 1978, the Wage and Hour Commission voted unanimously to undertake a study of Administrative Rules which may have become outdated and unnecessarily impinge on employment opportunities for minors. The Commission has held hearings in Newport and Portland regarding rules governing minors working on or around commercial waterfronts. The hearings have drawn enthusiastic response and valuable public testimony, including a petition submitted to the Commission in Newport, requesting rule changes and bearing a thousand signatures. However, the Commission cannot continue the study unless it has additional funds.

The Commission estimates that the study will cost $84,500. This represents approximately the average request for money from the Governor's discretionary CETA funds, according to the Manpower Planning Division staff. The total amount of money in the

discretionary fund for fiscal year 1979 will not be known until March, but will probably be about half a million dollars.

The Task Force commends the Wage and Hour Commission's proposed study to the Oregon Manpower Council, which advises the Governor on the use of discretionary CETA funds, as a method for eliminating unnecessary barriers to youth employment.

Fiscal Impact: $84,500

Priority I (4)
Problem Statement #23

JOINT RESOLUTION

Be It Resolved by the Legislative Assembly of the State of Oregon:

(1) The State Board of Education, in cooperation with the Health Division of the Department of Human Resources, education service districts, local school districts and health care professionals, is directed to conduct a study and make recommendations to the Sixty-first Legislative Assembly regarding the screening of school children for auditory and visual defects. In addition to such other activities as the State Board of Education may perform in carrying out the provisions of this resolution, the board shall:

(a) Assess the effectiveness of present screening techniques in detecting auditory and visual problems;

(b) Make recommendations for assigning responsibility for screening in all school districts;

(c) Make recommendations concerning the role of the schools or other agencies in assisting parents in obtaining diagnostic and treatment services after visual and auditory problems have been identified;

(d) Assess the feasibility of utilizing, and make recommendations concerning the use of, teachers and volunteers in carrying out visual and auditory screening processes;

(e) Make recommendations concerning the feasibility of testing for integrative and perceptual visual problems in

children functioning below grade level; and

(f) Document the extent to which visual and auditory screening is currently being utilized at the preschool and primary grade levels.

(2) Necessary expenses for the purposes of carrying out the provisions of this resolution shall be allocated from funds available to the Department of Education.

COMMENTARY

Testimony before the Task Force indicated that undiagnosed or untreated visual and auditory problems, resulting in poor school performance, can in some cases lead to antisocial behavior and delinquency. Children suffering from these problems, which should have been discovered when the children were in elementary school, have been found in the training school populations.

This resolution is largely in response to concerns expressed by persons currently engaged in visual and auditory screening programs in the public schools. A survey done by the Department of Education indicates that while most schools provide visual screening, almost half of the schools responded that they felt their screening procedures were inadequate in identifying vision problems.

The Health Division of the Department of Human Resources currently provides auditory screening to all Oregon children in grades K, 1, 3, and 5 in both public and private schools. This program covers more than 135,000 children each year. Diagnositic services are also provided. However, according to Dr. Rhesa Penn, Jr., Manager of the Maternal and Child Health Section of the Health Division, limited follow-up resources in the schools and local health departments permit some children to go untreated, usually because their parents are medically indigent.

This resolution instructs the Board of Education,

in cooperation with others, to conduct a study and to make recommendations concerning visual and auditory screening, diagnostic and follow-up services for school children in Oregon. Since integrative and perceptual visual problems are usually not identified in mass screenings, the Task Force recommended that this study include an assessment of the feasibility of testing all children functioning below grade level for these handicapping conditions.

Fiscal Impact: None (It is assumed that the study can be conducted by existing Department of Education personnel.)

Priority I (7)
Policy Statement #6
Problem Statement #9

A BILL FOR AN ACT

Relating to education; and appropriating money.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in this Act, unless the context requires otherwise:

(1) "Approved program" means an educational program, approved by the Department of Education and conducted by a school district or education service district, which has demonstrated effectiveness in preventing or ameliorating those conditions which may lead to juvenile delinquency.

(2) "Department" means the Department of Education.

SECTION 2. It is declared to be the policy of the State of Oregon to encourage and assist in the adoption or continuation of educational programs in the public schools that have, as one of their aims, the reduction of the involvement of youth in delinquent conduct.

SECTION 3. For the purpose of carrying out the policy contained in section 2 of this Act, the Department of Education shall:

(1) Approve programs for funding in accordance with the criteria contained in section 5 of this Act;

(2) Review applications and award grants to school districts and education service districts for partial funding of approved programs;

(3) Disseminate information concerning approved programs and

grant application procedures; and

(4) Adopt rules for the administration of the provisions of this Act, including, but not limited to:

(a) Rules governing the preparation and submission of grant applications; and

(b) Rules for prorating funds in the event that more grants are awarded than can be funded by the appropriated funds.

SECTION 4. The State Board of Education shall appoint a state prevention program advisory committee to assist the department in identifying programs for approval and in carrying out the duties contained in section 3 of this Act. The committee shall include, but need not be limited to, school board members, school administrators, teachers and representatives of public and private child-caring agencies.

SECTION 5. In order to be approved, a program shall:

(1) Have been developed in a school setting;

(2) Have among its goals the prevention, rather than the treatment, of destructive, antisocial or unlawful behavior;

(3) Be nonstigmatizing for participating students; and

(4) Be supplementary to educational services provided with federal, state and local funds.

SECTION 6. No school district or education service district shall be eligible for funding for a specific approved program under this Act for more than four consecutive years. A school district or education service district shall be responsible for

an increasing share of the funding for the program during the period of time the program receives state funds. In no case shall the state's share of the funding for a program exceed 75 percent of the total annual cost of the program.

SECTION 7. A school district or education service district receiving funds under this Act shall provide for an evaluation of the effectiveness of the approved program. Such evaluations shall be made at least once annually by an independent evaluator and shall be submitted to the Department of Education.

SECTION 8. There is appropriated to the Department of Education, for the biennium ending June 30, 1981, out of the General Fund, the sum of $1 million for the purpose of carrying out the provisions of this Act.

COMMENTARY

The purpose of this Act is to ensure that communities, through their local school districts, will have the opportunity to adopt approved prevention programs with state financial assistance.

A community's effort in the field of delinquency prevention is largely determined by two factors: (1) the commitment and creativity of community leaders, particularly in the education fields; and (2) the extent to which funds are available and allocated to the prevention effort.

The Task Force has determined that there are some superior models for prevention programs that have been developed in Oregon. However, most of the models that do exist have been developed out of local need assessment, local initiative and, for the most part, local funding. In Oregon, it is characteristic for good prevention programs to gain support

in local areas and undergo subsequent perfecting and adaptation over time with little or no dissemination of information or encouragement for implementation elsewhere.

This Act would enable school districts to capitalize on innovative efforts in the field of delinquency prevention throughout the state without having to make a substantial investment in research and development, typically the most high-risk and expensive phase.

Currently, federal funds under Title IV of the Education Act cover the costs of research and development for a variety of innovative educational programs. Some of these programs meet the criteria for delinquency prevention programs. This Act would make funds available for adoption of these programs, as well as other approved programs. The current Title IV programs, which meet the criteria for delinquency prevention programs, would form the initial "pool" of prevention programs from which school districts or education service districts could select. It is anticipated that the number of approved programs would increase with the annual review by the Department of Education, assisted by an advisory committee appointed by the Board of Education. The bill provides criteria for program certification.

Under this Act, state funds would be expended only for approved and certified programs. The state would pay no more than 75 percent of the cost of a local program. The school district would assume an increasing share of the costs over a four-year period which would be the maximum time that the state would be involved in the funding of any individual program.

Fiscal Impact: $1 million (new General Fund appropriation)

Priority III
Policy Statement #4
Problem Statement #12

## RECOMMENDATION

In the event that the Congress does not pass a bill deleting the requirement of court removal of a child from the home as a prerequisite for receiving Aid to Dependent Children - Foster Care (ADC-FC), the Governor's Task Force on Juvenile Corrections recommends to the Legislative Assembly that the Children's Services Division receive sufficent General Fund moneys for the 1979-81 biennium to permit the division to resume its practice of accepting voluntary placement of children for short-term care without the necessity for court appearances.

## COMMENTARY

From 1971 until July 1, 1978, the Children's Services Division accepted voluntary placement of children in accordance with ORS 418.270. Cost of out-of-home care for these children was paid from the General Fund because of a provision in Title IV(a) of the Social Security Act which prevents the use of ADC-FC funds for substitute care unless the child has been removed from the home by court order.

Beginning July 1, 1978, CSD discontinued this practice after having adopted a change in the Administrative Rules governing the agency's use of, and payment for, family foster homes (OAR 412-21-005 to 412-21-045) and payment for children placed by CSD in the care of private group residential care facilities (OAR 412-23-005 to 412-23-035). This change was made as an economy measure which, it was estimated, would save CSD approximately a half-million dollars in the second year of the 1977-79 biennium.

Public testimony, written and oral, taken during the public hearings concerning this rule change was overwhelmingly in opposition. Included among those testifying were judges, juvenile department directors, private child-care providers, Citizens for Children, the Ecumenical Ministries of Oregon, and several parents of children in foster care.

Because one of the requirements for receipt of ADC-FC funds is that the child must have been removed from the home within the previous six months, this change affected all children voluntarily placed with CSD between February 1 and July 1, 1978.

At the time the new rule became effective, CSD had 582 children in substitute care who had been placed there voluntarily by their parents because of the parents' temporary inability to care for them. Of these children, 239 would have been eligible for ADC-FC funds with the addition of a court commitment. If the parents wanted their children to remain in voluntary placement, they and the children were required to appear in juvenile court, and the children had to be formally committed to the care and custody of CSD by court order. If the parents refused to take this action, a voluntarily placed child could not remain in substitute care with CSD for more than 30 days. (Cost of care for voluntarily placed children who do not meet the ADC-FC requirements in other respects is still being paid from the General Fund.)

A bill was introduced in the last session of the Congress which would have eliminated the requirement that a child must be removed from the home by court order before being eligible for ADC-FC payments, but the bill did not pass. At the request of the Task Force, the Governor has written to HEW Secretary Joseph Califano and the Oregon Congressional delegation, urging that this issue be given consideration by the next Congress. (See Appendix H.)

The Task Force has taken the position that if the federal law is not changed CSD should receive sufficient funds to continue to take voluntary placements without court involvement. The placing of legal barriers in the way of families seeking voluntary, nonstigmatizing assistance is contrary to the policy and problem statements approved by the Task Force.

In addition, the Task Force found that:

1. Unnecessary entry into the juvenile justice system may have long-lasting detrimental effects;

2. Removing legal custody, when issues of parental fitness are not in question, may discourage parents from seeking early assistance;

3. Eliminating parental involvement in treatment removes the parents from the problem-solving phase and may dilute their sense of commitment to, and responsibility for, their children;

4. There may be increased incidence of abuse and neglect if services are not readily available to families in crisis; and

5. Processing children through the courts unnecessarily will result in the expenditure of funds that might otherwise have been used for services.

The Task Force, however, did not feel that children should be placed in out-of-home care indefinitely without some degree of court involvement. The Task Force is proposing legislation which would require court review of any case in which a child is in voluntary placement for as long as six months. However, the court would have a choice of whether or not to take jurisdiction of the child depending on the individual circumstances, and a court order removing the child from the home would not be required.

Fiscal Impact: $1 million (CSD estimate)

Priority I (10)
Policy Statements #5 & #6
Problem Statements #20 & #28

A BILL FOR AN ACT

Relating to foster homes; creating new provisions; amending ORS 418.630; repealing ORS 418.625; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 418.625 is repealed and section 2 of this Act is enacted in lieu thereof.

SECTION 2. As used in ORS 418.625 to 418.645, unless the context requires otherwise:

(1) "Certificate" includes a provisional certificate which is effective for 90 days and a regular certificate which is effective for one year.

(2) "Child" means an unmarried person less than 18 years of age, but may include an unmarried person less than 21 years of age if the latter age limit is necessary for the purpose of securing federal financial participation in the foster care payment.

(3) "Division" means the Children's Services Division.

(4) "Foster home" means any home maintained by a person other than a natural parent or stepparent who has under the person's care in such home any child for the purpose of providing such child with care, food and lodging. "Foster home" includes any home where a child in care:

(a) Has been accepted by the division for care and placement, either through commitment from a juvenile court under ORS

chapter 419 or through a voluntary agreement between the division and the child's natural parent or stepparent; or

(b) Has been and is currently placed by the division or was placed by the division with a private child-caring agency and subsequently placed by that agency in the home of a relative other than a natural parent or stepparent.

(5) "Foster home" does not include:

(a) Any boarding school which is essentially and primarily engaged in education work; or

(b) Any home in which a child is provided board and room by a school board unless such services are provided by, or under the control of, a residential school required to be certified under ORS 418.327.

SECTION 3. A home approved by the division in which a child lives with a relative who receives foster care payments need not be certified as a foster home by the division unless the relative maintaining the home wishes to apply for such certification. If the relative applies and meets the certification requirements of the division, the division shall issue the appropriate type of foster home certification, and the relative thereby becomes subject to the applicable provisions of this 1979 Act and ORS 418.630 and 418.645.

SECTION 4. Persons caring for foster children who have been placed in their homes by private child-caring agencies holding valid certificates of approval by the division to make foster

home placements shall be considered to have met the conditions for certification by the division and are not required to seek separate certification.

SECTION 5. Sections 3 and 4 of this Act are added to and made a part of ORS 418.625 to 418.645.

Section 6. ORS 418.630 is amended to read:

418.630. Except as provided in sections 3 and 4 of this 1979 Act, no person shall operate a foster home without a certificate of approval issued by the Children's Services Division.

SECTION 7. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on its passage.

COMMENTARY

The purpose of the proposed act is to repeal and rewrite ORS 418.625 to allow the Children's Services Division to designate relatives, other than natural parents and stepparents, as foster care providers and to pay such persons out of the General Fund in those instances where the children are not qualified to receive ADC-FC payments or relatives do not wish to go to court in order to receive the payments.

Under Title IV (a) of the Social Security Act, ADC payments, administered in Oregon by the Adult and Family Services Division, are available to needy children who have been deprived of parental support because of death, continued absence, or incapacity, and who are living with a relative, including a parent or stepparent.

Under the same title, ADC-FC (foster care) payments, administered in Oregon by the Children's Services Division, are available only to needy children who have been placed in a foster home by

CSD, and who are or would have been eligible for ADC within six months of being removed from their homes.

Prior to 1977, CSD (and before the formation of CSD, the Welfare Department) did not pay relatives for the care of children under the ADC-FC program or from the General Fund, even though such children had been removed from their nuclear families, because of the provisions of ORS 418.625, which define a "foster home" as a home maintained by a person who has in his care a child under the age of 18 years who is not related to him by blood or marriage.

However, the U.S. District Court in Jones v. Davis, _____F. Supp._____(D. Oreg., 1977), declared this statute and the accompanying CSD rule "invalid" under the Supremacy Clause of the United States Constitution, ruling that the Social Security Act made no distinctions between relatives and non-relatives and that the federal law superceded the state statute. The court did not reach the question of equal protection and did not declare ORS 418.625 unconstitutional. As a result, when federal funds are involved, CSD now makes application for ADC-FC payments for relatives, as well as non-relatives. However, if the full cost of foster care must be paid from the General Fund, no payments are made to relatives on the assumption that ORS 418.625 is constitutional and still governs the expenditure of state funds.

Hence, up until July 1, 1978, when CSD changed its rules and ceased to accept any voluntary placements of children who would otherwise be eligible for ADC-FC payments, dependent children voluntarily placed in foster care with non-relatives received support, and those voluntarily placed with relatives did not receive support from CSD.

CSD sought to amend ORS 418.625 in the 1977 legislative session. The bill, SB 1067, died in the Joint Ways and Means Committee, which added a note to CSD's budget directing the state to appeal the decision in Jones v. Davis. This case is now before the Ninth Circuit Court of Appeals.

Research into the legislative history of ORS 418.625 shows that it was not originally a "relative responsibility" law, but appeared in the statutes in 1935 as a description of the foster homes in Multnomah County which required state certification. Persons taking care of children related to them by blood or marriage were exempt from such certification requirements. This law was made applicable to the remainder of the state in 1939. Through a series of amendments, this statute

emerged in 1953 as a prohibition against payment of relatives for caring for children in foster-home placement.

In August 1978, AFS adopted a new rule (OAR 461-06-008) which reduced the payments for dependent children living with non-needy relatives. Previously, AFS had been making payments to a dependent child living with a non-needy relative at the same rate as one person living alone (a rate otherwise applicable only to single, pregnant women), including allowances to establish living arrangements and pay current market rents. This had the effect of paying a child living with a non-needy relative about three times as much as a child living with a needy relative. The effect of the rule change was to reduce payments for a dependent child living with non-needy relatives from $173 to about $50 a month. Legal Aid Services of Portland brought a suit for injunction against this reduction in the U.S. District Court in Portland, which issued a temporary restraining order and required the state to make up the reductions on the checks mailed September 1, 1978. Subsequently, the court dismissed the suit. Legal Aid is appealing the dismissal.

Before the restraining order was issued and with the thought that this reduction in payments might work a hardship on some persons, particularly elderly grandparents caring for their grandchildren, AFS suggested transferring some of these children to CSD and arranging to have them receive ADC-FC (foster care) payments. Out of more than 6,000 cases reviewed, only about 130 to 140 cases were considered for transfer to CSD.

These children who were transferred from AFS and any similarly situated children in the future must go through the courts if they are to receive foster care assistance from CSD because:

(1) The Social Security Act requires that children must be removed from their homes by a court in order to be eligible for federal ADC-FC payments;

(2) CSD has stopped accepting any voluntary placements of children whose support would have to be paid entirely by General Fund dollars unless they are determined to be non-eligible for ADC-FC; and

(3) ORS 418.625 prohibits payments from the General Fund to relatives for caring for children in foster care, even if the voluntary placements had not been restricted.

Many relatives, such as grandparents, aunts and uncles, and older siblings, may be self-supporting and

willing to care for a child, but are unable to do so because of the added financial burden.

AFS is not affected by the provisions of ORS 418.625 because that agency does not deal with foster home placements. Under AFS's newly adopted rule, a non-needy relative caring for a dependent child is receiving about $50 a month. If the same relative could be designated a foster-home parent by CSD, the relative would recieve from $123 to $195 a month, depending upon the age of the child.

The proposed act, which is based on SB 1067 (1977 Regular Session), would conform the Oregon law to the U.S. District Court's interpretation of the Social Security Act in its decision in Jones v. Davis. Parents and stepparents are excluded from the provisions of the proposed act, in accordance with ORS 109.055, which provides that stepparents shall be responsible for the support of their stepchildren if the natural parents are unable to provide for them. Unlike the existing law, the proposal would extend foster care payments until the child is 21, if the child is attending school.

Section 3 specifies that relatives caring for children do not need to be certified as foster-care parents unless they wish to apply for certification. Section 4 continues the current practice of not requiring separate certification for foster homes operating under the auspices of private agencies already certified to make foster-care placements.

Section 5 includes these two exceptions in ORS 418.630 which requires all foster homes to be certified by CSD.

This proposal, taken together with the Task Force recommendation that CSD receive sufficient funds to allow the agency to resume taking voluntary foster-care placements without the necessity for court intervention, would have the effect of allowing a parent to place a child voluntarily with a relative and assuring the relative of sufficient payments from the General Fund to care for the child.

Fiscal Impact: $6.5 million (based on CSD estimates that all 1300 to 1400 children believed to be living with relatives, other than parents and stepparents, in the state would apply for foster care payments.)

Priority III
Policy Statement #6
Problem Statements #20 & #28

A BILL FOR AN ACT

Relating to education; amending ORS 343.077.

Be It Enacted by the People of the State of Oregon:

Section 1. ORS 343.077 is amended to read:

343.077. (1) A child shall be considered for special education upon application by the parent, legal guardian or surrogate of the child or by the school district. Upon appropriate evaluation the child may be found eligible for special education under a school district program approved under ORS 343.221. Such evaluation shall be made within a reasonable time.

(2) A child who is thought to be eligible and in need of special education by the school authorities or parents, guardians or surrogate of the child shall neither be placed in, transferred from nor be denied placement in such a program unless the administrative officers of the school district shall have properly notified the parents, legal guardians or surrogate of the child of such proposed placement, transfer or denial and the right to due process. The proceedings shall be those for a contested case under ORS [chapter 183] 183.310 to 183.500 with the school district being the agency within the meaning of applicable provisions of ORS [chapter 183] 183.310 to 183.500. The notification must be in the parents', guardian's or surrogate's native language, unless it is clearly not feasible.

(3) The parents, guardians or surrogate of the child shall be given an opportunity to examine all relevant records with respect to the identification, evaluation, and educational

placement of the child and to obtain an independent educational evaluation of the child if the parents, guardian or surrogate disagrees with the evaluation obtained by the school district. If there is disagreement, before the second evaluation is commenced, the school district may initiate a hearing as a contested case under ORS [chapter 183] 183.310 to 183.500 to show that its evaluation is appropriate. If the final decision is that its evaluation is appropriate, the parents, guardian or surrogate still has the right to an independent educational evaluation but not at the school district's expense. If, however, the district's evaluation is found inappropriate, the independent evaluation shall be conducted at the district's expense.

(4) The Department of Education shall establish by rule procedures to protect the rights of the child whenever the parents or guardians of the child are unknown or unavailable, or the child is a ward of the state. Whenever the parents of the child are unknown or unavailble or the child is a ward of the state, an individual, who is not an employe of the department or the educational unit involved in the education or care of the child, shall be appointed to act as a surrogate for the parents or guardian of the child. The Department of Education shall appoint the surrogate from a list of nominees submitted by the State Advisory Council for Handicapped Children, the Oregon Developmental Disabilities Council and the Commission for the

Blind. However, if no lists are submitted the department shall appoint a suitable person as surrogate.

(5) Notwithstanding ORS 183.480, if the decision of the school board is appealed, the Superintendent of Public Instruction shall conduct an impartial review and render an independent decision on the record compiled at the hearing and shall enter a final order sustaining or reversing the decision of the school board.

(6) Any party aggrieved by the final order rendered under subsection (5) of this section shall have the right to bring it to review by the Court of Appeals pursuant to ORS 183.480.

(7) During any proceedings the child shall remain in the then current educational program placement, or if applying for initial admission to a public school, with consent of the parent, guardian or surrogate shall be placed in the public school program until all proceedings are completed. The school district and the parents, guardian or surrogate may agree otherwise than as provided in this subsection for the provision of appropriate education services.

(8) Any decision of the school board relating to a child being placed in, transferred from or denied placement in a special education program is subject to appeal not more frequently than once each school year.

(9) A child being considered for or receiving special education by reason of pregnancy shall be afforded the same

rights and privileges as her parents, guardian or surrogate under this section. In addition, the child shall have the right to choose whether she will remain in school, receive instruction in her own home or enter an alternative education program.

[(9)] (10) Nothing in this section is intended to prevent the temporary exclusion of a pupil from the public schools if the condition or conduct of the pupil constitutes an imminent danger to the health or safety of the pupil or to others. However, no pregnant child shall be excluded from the public schools solely on the basis of her pregnancy.

(11) In addition to any other rules which may be adopted pursuant to this section, the Department of Education shall establish by rule procedures for considering and obtaining special education for pregnant children.

COMMENTARY

The Department of Education has no written policy regarding pregnant school-age persons in Oregon's public schools. Although there is no written policy, a standing policy and a set of guidelines do exist. The Department of Education classifies pregnant persons as handicapped individuals under ORS 343.035 and presents their parents, guardian, or surrogate with the following options:

(1) The student may elect to stay in school; or
(2) The student may receive home instruction paid for by the school district and the state; or
(3) The student may enroll in one of the Department of Education's special school programs, which are located in Portland, Eugene, and Salem and offer classes in the regular school subjects, as well as providing pre- and post-natal care for the mother.

If these three options are not acceptable to the student's parents, guardian, or surrogate, the school refers the girl to a private agency that can provide the services that are needed. The Department of Education feels it is best for the girl to remain in some sort of educational program, and the private agencies are used only when the other options have been found to be unacceptable, or when the situation calls for highly specialized treatment or care for the girl.

In some cases, this policy may conflict with the Education of the Handicapped Act (P.L. 94-142), which states that a "handicapped" person must be mainstreamed into the public school system unless it is "demonstrated by the school that the education of the person cannot be achieved satisfactorily."

The American Civil Liberties Union (ACLU) has challenged this policy, saying that under ORS 343.077 the girl has no rights in determining the actions she will take regarding the various programs available to her. Under the statute, the parents, guardian, or surrogate and the school authorities are the only persons who can make decisions concerning the type of special education necessary, and the parents, guardian, or surrogate are the only ones with the rights to notice, examination of relevant records, independent educational evaluation, and appeal.

The proposed amendments to ORS 343.077 would require the Department of Education to adopt written rules regarding its policy for providing special education to pregnant school girls, presumably in accordance with P.L. 94-142, and would extend to the pregnant individual those rights now exercised exclusively by the adults responsible for her.

The statute would state clearly that the girl would have the right to choose the educational program she wished to pursue and could not be excluded from school solely on the basis of her pregnancy.

During the 1977-78 school year, 449 girls made use of the Department of Education's programs. This represented about half of school-aged girls who became pregnant during that school year. The other half obtained abortions, utilized private programs, or simply dropped out of school.

Fiscal Impact: None

Priority III
Policy Statement #5
Problem Statement #1

A BILL FOR AN ACT

Relating to infant and maternal care; and appropriating money.

Be It Enacted by the People of the State of Oregon:

SECTION 1. It is the policy of the State of Oregon to strengthen the family unit and, in particular, to offer services to parents and infants to prevent or ameliorate problems in the parent-child relationship which may result in child abuse, neglect or delinquent behavior. It is further the policy of the State of Oregon that when such problems or potential problems have been identified, a full range of psychological, sociological, medical and economic services shall be made available to the family at the earliest possible time to the end that negative, nonnurturing environments for children be eliminated as far as possible.

SECTION 2. The Director of the Department of Human Resources is directed to establish a Maternal-Infant Services Study Project. The study project staff shall be appointed by, and be responsible to, the director and to a Study Project Committee, appointed by the director and including representatives of appropriate divisions within the department and other relevant state agencies.

SECTION 3. The Maternal-Infant Services Study Project staff shall consist of:

(1) A project director knowledgeable and experienced in the field of early childhood development both at the pre- and post-natal stages;

(2) Two researchers experienced in the field of early childhood development and familiar with available medical and social services in the infant and maternal care field; and

(3) Appropriate clerical staff.

SECTION 4. The function of the Maternal-Infant Services Study Project shall be to report to the Sixty-first Legislative Assembly on existing and potential state efforts in the field of infant and maternal care, including psychological, sociological, medical and economic services. The report shall include, but need not be limited to, the following information:

(1) An analysis of those factors necessary for the creation of a positive, nurturing early maternal-infant relationship;

(2) An analysis of the accuracy of identification of those situations in which nurturing maternal-infant relationships are not likely to occur;

(3) An analysis of the effectiveness, ease of implementation and costs of available techniques for identifying visual, auditory and other sensory defects in the newborn and during early childhood and recommendations concerning the feasibility of requiring screening procedures for these defects in all maternity wards and well-baby clinics;

(4) An analysis of the social consequences of unmet needs of mothers and infants;

(5) The adequacy of existing publicly and privately funded services designed to create and maintain a nurturing relationship;

(6) Alternative models for the provision of such services;

(7) An analysis of the effectiveness of existing and proposed services; and

(8) Availability of existing and potential funding for such services.

SECTION 5. There is hereby appropriated to the Department of Human Resources, for the biennium ending June 30, 1981, out of the General Fund, the sum of $199,000 for the purpose of carrying out the provisions of this Act.

SECTION 6. If _____Bill _____(1979), creating the State Council for Children and Youth, becomes law, sections 2 and 5 of this Act are repealed, and sections 7 and 8 of this Act are enacted in lieu thereof.

SECTION 7. The Director of the State Council for Children and Youth is directed to establish a Maternal-Infant Services Study Project. The study project staff shall be appointed by, and be responsible to, the director and to the state council.

SECTION 8. There is appropriated to the State Council for Children and Youth, for the biennium ending June 30, 1981, out of the General Fund, the sum of $199,000 for the purpose of carrying out the provisions of this Act.

SECTION 10. This Act shall expire and stand repealed on June 30, 1981.

## COMMENTARY

The adjustment that a mother makes to her child in the first year of the child's life is a crucial factor which affects the child for his entire life. Many women experience ambivalent feelings about the birth of a child with the result that the child may feel rejected and unloved.

Children who experience the handicap of maternal alienation do not view the world as a very reliable or rewarding place. If this alienation is followed by early school experiences that are not successful, the child is faced with a continuation of the frustration and feelings of inadequacy that he has experienced in this early home environment. Adult criminal populations are characterized, by and large, by individuals who have had inadequate family situations from the beginning and subsequent school experiences that have reinforced their untrusting view of the world. These experiences are often exacerbated by economic circumstances that further deprive these persons of positive experiences.

How a mother relates to a child is greatly affected by the numbers and kinds of additional life pressures that the woman is facing. If the father is emotionally or financially non-supportive, or is absent from the home, the woman who is giving birth may experience great stress and uncertainty.

The presence of a reliable and knowledgeable person, who can recognize the early signs of alienation and direct the mother to various resources in the community can make a substantial difference for many of these women. Alienation between mother and child is not restricted solely to low-income persons. However, in the middle-and upper-income groups, there are usually strengths built into the support system that enable most children to overcome alienation. Women in lower-income groups, by contrast, are more likely to rely on public health nurses, social work programs, and well-baby clinics, all of which provide avenues to reach this group of mothers.

The primary responsibililty provided in this bill would be to undertake a survey of research in the mother-child relationship, detail the consequences

to society of mother-child alienation, review the state's existing efforts in this area, and suggest alternative methods for funding and delivering services to pregnant women and new mothers in order to achieve the preventive and remedial objectives stated in section 1 of this Act. The Act also provides for a study of the availability, effectiveness, and feasibility of identifying sensory defects in newborn children which may lead to learning disabilities and failure in school.

It is the intent of this bill that the study project be administered by the Director of the Department of Human Resources. However, if the State Council for Children and Youth is created by the Legislature, the study project and the funds for conducting the project should be transferred to the council and administered by the council director. The establishment of a state council is being recommended by the Committee for Children.

Fiscal Impact: $199,000 (appropriated from the General Fund)

Priority III
Policy Statements #4 to #6
Problem Statements #4 to #7 & #20

A BILL FOR AN ACT

Relating to juvenile corrections.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in this Act, unless the context requires otherwise:

(1) "Diversion factors" means elements to be considered in determining whether or not to divert a child from the juvenile justice system, as described in section 2 of this Act, and shall include, but not be limited to:

(a) The alleged offense and its surrounding circumstances;

(b) Age of the child;

(c) Juvenile department, law enforcement agency and other pertinent records;

(d) The child's condition, attitude, behavior and circumstances;

(e) Availability of community resources; and

(f) The safety of the public.

(2) "Diversion person" means a juvenile department counselor or designee of a juvenile department.

(3) "Minor offense" means:

(a) Behavior as described in paragraph (b) or (f) of subsection (1) of ORS 419.476 or paragraph (c) of subsection (1) of ORS 419.476 when the child's behavior is such as to endanger the child's welfare or the welfare of another;

(b) A violation as described in ORS 161.565, except a

violation relating to the use or operation of a motor vehicle or to boating laws or game laws, if such violations are subject to remand under subsection (3) of ORS 419.533; or

(c) A misdemeanor as described in ORS 161.545.

SECTION 2. When a peace officer chooses not to exercise the power of field adjustment, every child taken into custody as the result of having allegedly committed a minor offense shall be taken immediately to a diversion person, if the peace officer is not acting in that capacity. After consideration of diversion factors and in lieu of filing a petition on the child or entering into an informal disposition agreement with the child, the diversion person may divert the child to a public or private program which provides one or more of the following services:

(1) Education counseling;

(2) Vocational training, counseling or job placement;

(3) Social or family counseling;

(4) Drug or alcohol education, evaluation and treatment;

(5) Medical or psychological diagnosis and treatment;

(6) Voluntary short-term out-of-home placement with the consent of the parent, parents or legal guardian of the child;

(7) Recreation; or

(8) Other social services which may be of aid to the child.

SECTION 3. Any diversion made under section 2 of this Act shall be on a voluntary basis. No further action shall be taken as the result of a child's nonparticipation in the program to

which the child was diverted.

SECTION 4. A record shall be maintained by each diversion person with regard to every contact made with the child pursuant to section 2 of this Act which shall include only:

(1) The name of the child;

(2) The alleged offense and description of the circumstances as reported by the person originally taking custody of the child;

(3) The date of contact; and

(4) The referrals made.

SECTION 5. Except for counties with populations of fewer than 12,000 persons, every county shall provide or contract for the services of a diversion person or persons on a 24-hour basis.

SECTION 6. Every law enforcement agency and juvenile department shall develop and adopt written guidelines for the utilization of the procedure described in section 2 of this Act.

SECTION 7. If_____ Bill_____ (1979) (LC 1105) becomes law, the Juvenile Services Commission shall prepare model guidelines for diversion programs and shall prescribe standards for training and certification of diversion persons.

COMMENTARY

This bill would require that children who are accused of status offenses, violations (except those pertaining to traffic, boating, and game in those

counties where such violations are subject to "blanket" remand and are handled in adult court), or misdemeanors must be considered for diversion from the juvenile justice system to a variety of appropriate community resources.

Each county with a population of more than 12,000 persons would be required to provide, or contract for, the services of a diversion person who would be trained and certified in accordance with standards to be adopted by the Juvenile Services Commission. The following counties would be excluded from the provisions of this Act: Gilliam, Grant, Harney, Jefferson, Lake, Morrow, Sherman, Wallowa, and Wheeler.

A list of factors to be considered in making the diversion decision is provided. Diversions would be on a voluntary basis, and no further action would be taken against the child for the alleged offense if the child failed to participate in the program to which he had been diverted.

Law enforcement agencies and juvenile departments in affected counties would be required to adopt written guidelines for diversion. Model guidelines would be developed by the Juvenile Services Commission.

Fiscal Impact: Unknown costs to counties. (It is anticipated that diversion programs could be funded under the Community Juvenile Services Act in participating counties.)

Priority I (5)
Policy Statement #2
Problem Statement #34

A BILL FOR AN ACT

Relating to repeated juvenile alcohol offenses; creating new provisions; amending ORS 471.670; and appropriating money.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) When a child is found to be within the jurisdiction of the juvenile court for, or convicted in a district, municipal or justice court of, a second or subsequent violation of a state liquor law, in addition to any other disposition, the court shall refer the child to an alcohol treatment program, designated by the Mental Health Division.

(2) The alcohol treatment program shall conduct an assessment of the child's needs and a review of the child's participation in any treatment program or education program at least once every 30 days.

(3) Based upon the assessment and review of the child, the alcohol treatment program may:

(a) Prescribe participation in an alcohol education program;

(b) Prescribe participation in a program for the treatment of alcoholism;

(c) Terminate further involvement in the alcohol treatment program; or

(d) Refer the child back to the court making the original referral.

SECTION 2. (1) There is established in the General Fund of the State Treasury an account known as the Mental Health Youth

Alcohol Services Account which is continuously appropriated for use in diagnosing and treating needs of children with alcohol problems or alcoholism. When, pursuant to the provisions of ORS 419.507, as amended by section 3, chapter _____, Oregon Laws 1979 (Enrolled _____ Bill _____), a fine is imposed upon a child as the result of a violation of a state liquor law, the fine shall be transferred to the account. Moneys deposited in the account may be invested in the manner prescribed in ORS 293.701 to 293.776.

(2) The Assistant Director for Mental Health shall adopt rules for the distribution of funds and shall distribute funds from the Mental Health Youth Alcohol Services Account to county mental health programs for providing diagnostic and treatment services for children with alcohol problems or alcoholism.

Section 3. ORS 471.670 is amended to read:

471.670. (1) Except as provided in [subsection] subsections (2) and (3) of this section, all fines imposed by any judge, magistrate or court in the enforcement of the Liquor Control Act shall be forwarded immediately to the county treasurer of the county in which such conviction is had. The county treasurer shall keep the same in a separate fund designated as an enforcement fund. All warrants for any expenditures in the enforcement of that statute, which have been approved by the district attorney of said county, shall be drawn on this fund. All claims shall be verified by the claimants or persons having

knowledge or supervision of the expenditure and shall be audited by the county court in the usual manner before presentation for payment thereof. When the enforcement fund exceeds the amount paid to satisfy the total of all claims made against it during the preceding calendar year, the excess amount shall be paid to the general fund of such county by the county treasurer on June 30 and December 31 of each year.

(2) Any fine imposed or collected by a police or municipal judge or recorder of any city may be retained by the municipality and shall be paid over and become a part of the city's general fund.

(3) Any fine imposed or collected by any juvenile court for a violation of a state liquor law by a child shall be paid to the Mental Health Youth Alcohol Services Account in the General Fund of the State Treasury for use by the Mental Health Division of the Department of Human Resources for use in diagnosing and determining treatment needs of children with alcohol problems or alcoholism.

SECTION 4. If _____ Bill _____ (1979), authorizing a juvenile court to impose fines, does not become law, section 2 of this Act and the amendment to ORS 471.670 by section 3 of this Act are repealed.

SECTION 5. There is hereby appropriated to the Mental Health Division of the Department of Human Resources, for the biennium ending June 30, 1981, out of the General Fund, the sum of $450,000

for carrying out the provisions of this Act.

COMMENTARY

The nature, extent and severity of the youth alcohol problem in Oregon is described in the following commentary to the proposal for the creation of the Committee on Youth and Alcohol Problems. In order to direct youth toward assistance with alcohol problems, this proposed statute provides that repeat juvenile alcohol offenders shall be referred to an alcohol treatment program for assessment and treatment, in addition to any other penalty which may be imposed. Both the juvenile court and an adult court to which a youth might be remanded would have an obligation to make such a referral.

The act further provides for the establishment of an account in the General Fund to receive the proceeds of fines levied by the juvenile court for juvenile alcohol offenses, providing the Task Force's proposal on dispositions which would give the juvenile court the authority to levy fines is enacted by the Legislature. (The Task Force believed that requiring adult courts, to which a child may have been remanded, to transmit fines under this Act would be too difficult administratively.) These proceeds would be made available to the Mental Health Division for transmission to the counties for use in the diagnosis and treatment programs of children with alcohol-related problems. Since it was felt that the fines would not supply enough revenue to carry out the program, the bill also would appropriate $450,000.

Fiscal Impact: $450,000 (appropriated from General Fund and based on Mental Health Division estimate of program costs); minimal revenues from fines.

Priority I (5)
Policy Statement #4
Problem Statement #37A

JOINT RESOLUTION

Be It Resolved by the Legislative Assembly of the State of Oregon:

(1) The Governor is requested to appoint a Committee on Youth and Alcohol Problems, with members representing citizens, youth and professionals in the field of alcohol abuse. The Governor is requested to designate a chairperson for the committee.

(2) The committee shall study the problems of alcohol use and abuse among youth in Oregon and the programs which respond to these problems. The committee shall prepare a written report for the Governor and the Sixty-first Legislative Assembly containing facts, findings and analyses of the problems, and the goals, strategies and recommendations of the committee which will alleviate the problems.

(3) All state agencies shall cooperate with the committee as necessary to fulfill its assignment.

COMMENTARY

Accurate statistics to describe the true extent of alcohol abuse by juveniles in Oregon are not available. Often, the existence of alcohol abuse as a contributing factor may not be evident when a youth comes under the jurisdiction of the court for serious behavior such as burglary or assault. Arrests of juveniles for liquor law violations increased 56% from 1972 to 1975. In 1976, arrests of juveniles for liquor law violations totaled 4,410.

Since possession or consumption of alcohol by

persons under age 21 is prohibited in Oregon, the arrest statistics by themselves do not indicate the numbers of youthful alcoholics or problem drinkers. Alcoholism and alcohol problems are difficult to diagnose among young offenders. However, the Mental Health Division of the State Department of Human Resources has estimated that approximately 4,000 Oregonians aged 12 to 17 are problem drinkers, and approximately 5,700 additional persons aged 18 to 21 are problem drinkers.

A 1976 state-wide survey of high school students by the Governor's Commission on Youth revealed that three out of four teenagers had tried alcohol, and of those who had experimented with liquor, 46 percent drank at least once a week, and 50 percent reported getting drunk frequently. When asked about their activities while drinking, the youths' responses showed that 40 percent had driven while under the influence of alcohol, 73 percent had ridden in a car whose driver was under the influence of alcohol, seven percent had had car accidents either as driver or passenger, and 0.2 percent had killed or injured another person while driving under the influence of liquor. As for lawbreaking while drinking, 14 percent said they had damaged or destroyed property, and 12 percent had gotten into fights.

Although 10 percent admitted to drinking alone, 23 percent said they drank until the bottle was gone, and 11 percent had suffered a loss of memory while drinking, only two percent said they felt they had a problem with alcohol.

A 1978 survey of Eugene high school students, conducted by the University of Oregon Speech Department's Communications Research Center, confirmed that alcohol use had increased among teenagers, based on a comparison with a similar survey taken six years before.

The most recent survey showed that 40 percent of the students had tried alcohol before they were 14 years old, nearly three percent admitted having a problem with alcohol, seven percent said they had been involved in alcohol-related car accidents either as a driver or passenger, and 11 percent said they had committed crimes related to their drinking. A total of 14 percent said they had blood relatives who were or had been classified as alcoholics, and three percent said they

lived with alcoholics at the time of the survey.

Despite the estimates and survey results and the known effects of teenage abuse of alcohol, there are few alcohol evalaution and treatment programs in the state designed specifically for youth. The proposed legislation would create a Committee on Youth and Alcohol Problems which would examine and assess the severity of the present and anticipated problems of youthful alcohol abuse in Oregon and study existing treatment programs for consistency and effectiveness of results. The committee would make policy and program recommendations to the Governor and the 1981 Legislative Assembly for the development of a comprehensive youth alcohol abuse treatment system in Oregon.

The goal of this proposed legislation could be achieved by the designation of an appropriate existing group as the Committee on Youth and Alcohol Problems. The Oregon Council on Alcohol and Drug Problems, established pursuant to ORS 430.100, has a Committee on Alcohol Problems which formed a Task Force on Special Populations in late 1978. Since this task force is studying alcohol problems of minorities, youth, and the elderly, among the special populations, it could be designated, or perform the functions of, the proposed Committee on Youth and Alcohol Problems, especially if its membership were increased to include appropriate representation of youth, lay citizens, and professionals in the field of alcohol abuse. The Mental Health Division provides staff and administrative support for the work of the Council and its committees and task forces; the additional responsibilities for the proposed Committee on Youth and Alcohol Problems could be added to the duties of the division.

Fiscal Impact: None anticipated. (No appropriation has been requested. It is assumed, that if this legislation is enacted, the Ways and Means Committee would assign the task to an appropriate state agency for inclusion in its budget request.)

Priority I (9)
Policy Statement #4
Problem Statement #37A

# PART V

## FACILITIES AND PERSONNEL

Task Force members and staff toured several facilities where children are placed in Oregon, including a shelter care facility, a detention home, jails, the state training schools, and several private institutions with varying degrees of security. They also talked with, and received testimony from, a wide variety of persons who work with children in the juvenile justice system.

The recurring themes heard in these visits and conversations were lack of facilities for the placement of children, lack of appropriate facilities for hard-to-place children, and dissatisfaction with state methods for purchasing care from private providers.

The Task Force believed that, by an infusion of funds at the local level through passage of the proposed Community Juvenile Services Act and the Capital Construction Act, a greater variety of less expensive community-based facilities and services could be offered which would relieve dependence on training schools and existing private agencies, reserving those facilities for the children most in need of this type of intensive care. The Task Force further felt that negotiations now going on between the state and private care providers could resolve the differences on questions of purchase of care. (For further discussion, see section on private care providers in Part II-Oregon's Juvenile Justice System.)

In addition, however, the Task Force agreed on a group of proposals of varying degrees of importance which it believed would be beneficial to the children in the system and the public and private employes who work with these children.

For instance, more than 12,500 juveniles were detained in Oregon in 1977, 73 percent of them in juvenile detention homes and 27 percent in jails. (See Volume II-Statistical Survey.) Of those children detained in jails, almost half (or 13.6 percent of all detained juveniles) were placed in facilities that did not meet the sight and sound separation requirements of the 1959 Oregon

law (ORS 419.575) if adult inmates were present. (For a list of these facilities, see Table 5.)*

Although the law was enacted almost 20 years ago, no state agency has ever been empowered to inspect jails to insure compliance. The Task Force recommends that the Jail Inspection and Misdemeanant Services of the Corrections Division be given this additional duty, with the corrections agency and the Attorney General's office granted the same enforcment powers they now have in relationship to adult jail inmates and facilities.

Despite these proposed enforcement procedures, the Task Force recommends that the use of jails for the detention of juveniles be phased out over the next two-and-a-half years, so that by June 30, 1981, only children accused of violent acts may be put in jail, and then only for 24 hours until they can be transported to a more appropriate placement. Juveniles remanded to adult court could continue to be placed in jail.

Except for the separation requirements, the prohibition against placing a child under the age of 14 in a jail (ORS 419.575), and the minimal health and safety requirements applicable to all group facilities, there are no physical or programmatic standards for juvenile detention facilities in Oregon. The proposed Community Juvenile Services Act would require the Juvenile Services Commission to develop such standards which would apply to all counties whether or not they chose to participate in the Act. To assist in this assignment, the Task Force has proposed a set of detention standards, in the form of administrative rules, to be submitted to the commission. The standards were developed with the assistance of the Association of Oregon Counties.

Investigation by the Task Force indicated that, except in areas where distances and geography precluded such use, detention facilities utilized on a regional basis are most practical. The Task Force recommended to the Oregon Law Enforcement Council that it insure that consideration is given to regional use of juvenile detention facilities by counties receiving LEAA funds, in accordance with federal requirements and state-wide criminal justice planning goals. (See Appendix I.)

* The statistics on jail detentions and juvenile-adult separation during calendar year 1977 are based on earlier information supplied to the Task Force by the Jail Inspection and Misdemeanant Services of the Corrections Division. This agency has submitted updated information covering FY 1977-78 to the Oregon Law Enforcement Council which will issue a report on the subject in December 1978. The updated list of noncomplying jails may be found in Table 5.

TABLE 5

Oregon Jails Without Sight & Sound Separation
of Juvenile & Adult Inmates-FY 1977-78*

| County | Capacity | Total Detained | City | Capacity | Total Detained |
|---|---|---|---|---|---|
| Clatsop | 32 | 126 | Bend | 8 | 14 |
| Coos | 31 | 216 | Florence | 10 | 61 |
| Deschutes | 29 | 27 | Medford | 12 | 39 |
| Grant | 11 | 26 | Oakridge | 3 | 86 |
| Harney | 20 | 35 | Prineville | 24 | 190 |
| Hood River | 31 | 82 | Redmond | 3 | 104 |
| Jackson | 101 | 20 | | | |
| Jefferson | 20 | 71 | | | |
| Lincoln | 34 | 130 | | | |
| Wasco | 54 | 167 | County & City Total Detained | | 1,394 |

*Source: Jail Inspection and Misdemeanant Services, Corrections Division. These facilities are those in which juveniles were actually detained during FY 1977-78 and which do not meet sight and sound separation requirements when adult inmates are present. Other facilities do not meet these requirements, but records indicate no juveniles were detained during the last fiscal year. A direct comparison between these figures and total detention figures for calendar year 1977 collected by the Task Force cannot be made because the two sets of figures cover different time periods.

That such coordination is not taking place now is clear from an examination of the tri-county metropolitan area. Washington, Clackamas, and Multnomah counties each maintain separate detention facilities and staffing for juveniles. Yet none of these facilities is fully utilized. Clackamas and Washington counties separately maintain facilities for juveniles in their county jails while, at the same time, two wings of Multnomah County's Donald E. Long Home, especially built to house juveniles, remain vacant. In 1977, 1,447 children were detained in jails in Clackamas and Washington counties for a total of 4,529 jail-days. The two vacant wings of the Long Home, if properly staffed, could accommodate this number. This same lack of coordination appears to exist in other areas of the state as well, notably in Central and Southern Oregon.

Regional coordination can be successful as has been demonstrated in the Mid-Willamette area through the cooperative use by Polk and Yamhill counties of the Joseph B. Felton Home in Marion County and in Northeast Oregon at Umatilla County's new regional correctional facility which was paid for, in part, with LEAA funds. This success has been achieved, particularly in Umatilla County, even though transportation problems are more severe than in other more densely populated areas of the state.

A problem brought to the attention of the Task Force was the financial burden on the counties of providing emergency medical care to juveniles in detention. While the Task Force considered transferring the burden of all such costs to the state, in the final analysis the Task Force proposed that the state assume this responsibility only for those juveniles already in the care and custody of CSD, who run away from placement, become ill or injured, and are placed in detention.

The Task Force recommended this approach partly because of frequent opposition to the siting of facilities, from which the state purchases care, because local communities fear the presence of such facilities will require increased local tax expenditures.

The Task Force addressed this problem of local opposition, particularly the resistance to the locating of small group homes in residential neighborhoods, in two other ways. Residential facilities are often excluded from such neighborhoods by restrictive zoning ordinances. The Task Force proposed legislation which would prohibit the exclusion of small residential treatment centers, serving eight or fewer children, from neighborhoods by making them a permissive use within areas zoned for single-family residences. The Task Force has coupled this proposed legislation with a recommendation that the Oregon Land Conservation and Development Commission amend its goals and guidelines to include provision for such residential facilities. The hoped-for effect of these proposals is to make easier the planning and siting of small group-care facilities in appropriate surroundings so that, when children are removed from their homes, they can be cared for adequately in their own communities.

Another problem involving community facilities is the education of the resident children. Extensive testimony received by the Task Force indicated that schools are not adequately providing for the education of children living in community-based programs, particularly child care centers. Many of these children are not academically inclined, are not functioning at their proper grade levels, and may present behavior problems in school. The Attorney General has held that local school districts must provide educational services to the residents of child-caring agencies within their districts. Many school districts, however, abrogate this responsibility by expelling these students at the first sign of difficulty. Recognizing that school districts may need extra resources, the Task Force has recommended that these children receive special education services in the same manner as the state provides special education services to handicapped individuals. The Task Force has coupled this concept with a

requirement that school districts in fact provide an education for these children, outside the regular classroom setting, if necessary, even if the children are expelled. To some extent, it appears that the problem can be alleviated in part by better communications between local school officials and child care center staffs. The Task Force has been assured by representatives of both that this communication is now beginning to occur.

In its examination of the training schools, the Task Force noted an extreme shortage of psychological and psychiatric resources for training school residents. Further examination revealed that there is a shortage of mental health facilities, personnel, and programs for the older child throughout the state. Recognizing the high cost of increasing these services, the Task Force strongly recommended that immediate attention be given to providing mental health resources at the training schools and that support be given to increasing mental health programs for children, particularly adolescents, in the community. The Task Force further recommended that new dedicated funding resources for mental health programs be developed to relieve pressure on General Fund revenues.

In an attempt to begin prevention as early as possible, the Task Force recommended that educational programs on parenting practices, child development, and family relationships be undertaken at the training schools. Many juveniles in the training schools have been abused as small children. Research indicates that abused children often become abusing parents. The Task Force believed that an attempt to interrupt this cycle at the training schools might prove successful in enough cases to make concentrated instruction on these subjects well worthwhile.

The Task Force became concerned quite early with perceived disparities in the programs offered girls and boys at the training schools. The Task Force has made two recommendations in this area. The first is legislation prohibiting discrimination on the basis of race, religion, sex, marital status, or national origin in opportunities afforded residents at the training schools. This legislation would simply extend the provisions of existing law which cover adult correctional institutions.

The second recommendation to state officials directs attention to the issue of sex equity in the specific areas of vocational training, employment opportunities, recreation, and special programs at the training schools. To the extent that increased resources may be necessary to assure equity, the Task Force recommended support of budget requests directed toward these areas.

Recently, CSD has begun moving juveniles on parole from the training schools into cooperating child care centers. While this program eventually may help relieve the population pressures of the training schools, the Task Force believed that it must be accomplished through thorough screening and evaluation of juveniles for the program. Investigation has revealed that at the present time, the assessment and evaluation resources at the training schools are stretched too thin to do an adequate job. The Task Force recommended that close attention be given to insure that adequate evaluation resources are available for this program on a continuing basis.

The Task Force made three other recommendations with regard to personnel in the juvenile justice system. Proposed legislation would resolve ambiguities in existing law and make it clear that CSD caseworkers may remove children from imminently dangerous situations even over the objections of the parents. At the present time, CSD operates under a policy that caseworkers are unable to take such action legally. This legislation would also provide caseworkers, taking custody of a child over parental objections, with immunity from civil or criminal liability, if the caseworkers act in good faith and in accordance with statute.

The second recommendation, also in the form of proposed legislation, would require juvenile court referees to be legally trained. At the present time, there are no specific qualifications for referees, and in some counties juvenile department directors act as referees, creating a conflict of interest in decision-making. The proposed legislation would eliminate the practice after January 1, 1981.

The Task Force, in its final personnel recommendation, encouraged the increased utilization of volunteers in the provision of juvenile services. Testimony before the Task Force indicated that volunteers currently make a significant contribution to both state and private youth-serving agencies. The Task Force believed that an increase in properly utilized and trained volunteer resources could have a significant positive impact on the cost and quality of juvenile services in Oregon.

## PART V

## PROPOSAL SUMMARIES

-- Requirement that after June 30, 1981, no child be placed in a jail unless he has been accused of a violent act; that proposed Juvenile Services Commission set mandatory standards for juvenile detention facilities; and that the Jail Inspections Team be empowered to inspect facilities and enforce standards. p. 163

-- Recommendation of detailed administrative rules for detention standards to be proposed to the Juvenile Services Commission, if it is created. p. 167

-- Requirement that Children's Services Division pay costs of emergency medical care for children in CSD's custody who are placed in detention. p. 171

-- Prohibition against exclusion of residential care facilities for eight or fewer children from single-family residential neighborhoods. p. 173

-- Recommendation that LCDC include residential group care facilities as an essential element in its Goals #10 and #11 dealing with housing and public facilities. p. 175

-- Requirement that school districts provide education, including special education when necessary, to students living in child care centers and to expelled students. p. 179

-- Recommendation that additional psychological staff be provided at the training schools, in lieu of expansion of the Secure Adolescent Treatment Center at Oregon State Hospital; that increased community mental health services be provided for children and adolescents; and that dedicated funding sources be developed to pay for these services. p. 187

-- Recommendation to consider inclusion of preparenting and child development education in the training school curriculum. p. 191

-- Extension of the nondiscrimination provisions of existing law to cover the juvenile training schools, as well as adult correction institutions. p. 193

-- Recommendation that attention and support be given to eliminating inequities based on sex in the training schools. p. 195

-- Recommendation that there be adequate intake personnel in the training schools to make assessment and placement decisions, if

the system of placing children from the training schools in child care centers is to function successfully. p. 197

-- Provision that CSD and juvenile department personnel, acting in good faith, shall have immunity from civil and criminal liability when taking a child into custody. p. 201

-- Requirement that juvenile court referees be legally trained and, after January 1, 1981, not be employed in any other capacity by the county. p. 205

-- Recommendation that the use of volunteers in the juvenile justice system be encouraged and increased. p. 209

A BILL FOR AN ACT

Relating to juvenile detention; creating new provisions; and amending ORS 419.575.

Be It Enacted by the People of the State of Oregon:

Section 1. ORS 419.575 is amended to read:

419.575. (1) The juvenile court of each county shall designate the place or places in the county or at a reasonably short distance outside the county in which children are to be placed in detention or shelter care when taken into temporary custody. A child taken into temporary custody shall be placed in shelter care rather than detention unless the person placing the child in detention has reason to believe that the child will be found to be within the jurisdiction of the court by reason of paragraph (a) or (f) of subsection (1) of ORS 419.476 or the behavior of the child immediately endangers the physical welfare of the child or of another.

(2) No child shall at any time be detained in a police station, jail, prison or other place where adults are detained, except as follows:

(a) A child may be detained in a police station for such period, not exceeding three hours, as may be necessary to obtain the child's name, age, residence and other identifying information.

(b) A child remanded to the court handling criminal actions or to municipal court may be detained in a jail or other place

where adults are detained.

[(c) Where a suitable children's detention facility is available, on order of the court a child 16 years of age or older may nevertheless be placed in a jail or other adult detention facility if the child's conduct or condition is such as to endanger his safety or welfare or that of others in the children's detention facility.]

[(d)] (c) Where a suitable children's detention facility is not available, a child 14 years of age or older may be placed in an adult detention facility.

(3) Notwithstanding the provisions of paragraph (c) of subsection (2) of this section, after June 30, 1981, no child shall be placed in an adult detention facility except:

(a) A child who has been remanded to the court handling criminal actions or to a municipal court, in accordance with subsection (1) of ORS 419.533; or

(b) On order of the court, a child who has been taken into custody for an act involving serious physical injury or the threat, fear or risk of serious physical injury to another, but the child shall not be detained for a period of time exceeding 24 hours.

[(3)] (4) Except for a child detained in jail pursuant to a remand to the court handling criminal actions or to a municipal court, children detained in jail as provided in subsection (2) or (3) of this section shall be placed in a separate room or

ward screened from the sight and sound of the adults being detained therein.

(5) Inspection of juvenile detention facilities, including jails where juveniles are detained, and enforcement of those juvenile detention standards contained in this section or established as provided in section 2 of this 1979 Act, shall be conducted in the same manner as provided in ORS 169.070 and 169.080.

SECTION 2. If Enrolled _____ Bill _____ becomes law, then any facility used for the detention of children, including jails or other places where adults are detained, shall conform to the standards established by the Juvenile Services Commission, pursuant to subsection (3) of section 7, chapter _____, Oregon Laws 1979 (Enrolled _____ Bill _____) (LC 1105).

COMMENTARY

A considerable amount of discussion, testimony and research centered around the use of adult jail facilities for children and the lack of standards for secure juvenile detention facilities. Testimony and research further indicated that at the present time no identifiable person or agency is responsible for enforcing the sight and sound separation requirements of ORS 419.575 which was enacted in 1959. (For a more detained discussion of detained children, see Part V-Facilities & Personnel.)

These proposed amendments to ORS 419.575 would result in the following changes in Oregon law:

1. The provision that a child 16 years of age or older who is disruptive in a juvenile detention

facility could be removed to a jail would be deleted.

2. A child 14 years of age or older could be placed in an adult detention facility, when a suitable children's detention facility is not available, only until June 30, 1981.

3. Following June 30, 1981, no child could be placed in an adult detention facility unless:

(a) The child has been remanded to an adult court; or

(b) The child has been taken into custody for an act involving serious physical injury or the threat, fear or risk of serious physical injury to another, the court has ordered such detention, and the period of detention is limited to 24 hours.

4. Facilities used for the detention of children would have to conform to standards established by the Juvenile Services Commission, which would be created by passage of the Community Juvenile Services Act.

5. Inspection of juvenile detention facilities, including jails where juveniles are detained, would be carried out by the Jail Inspections and Misdemeanant Services of the Corrections Division and enforcement of standards would be the responsibility of the inspections service and the Attorney General in the same manner as is currently done for adult facilities.

6. Sight and sound separation requirements would apply to all situations except when a child has been remanded to an adult court.

The provisions related to the use of shelter care in lieu of detention and the restrictions on detaining a child in a police station would remain unchanged.

Fiscal Impact: $55,000 (for additional duties of the Jail Inspection and Misdemeanant Services. No appropriation requested.) Unknown costs to counties.

Priority I (10)
Problem Statement #60

## RECOMMENDATION

The Governor's Task Force on Juvenile Corrections recommends the adoption of the following standards for facilities used for the detention of children.

## PROPOSED ADMINISTRATIVE RULES

RULE ____. A facility used for the detention of children for longer than three hours shall provide:

(1) Sufficient staff to insure the health, safety, and welfare of all detained children with an officer on continuous duty, and supervision on each floor where children are detained. Staff shall perform auditory monitoring, security control, custody, and personal inspections at least once every 30 minutes. Special cases may warrant and require more intense supervision and inspection. Electronic monitoring equipment may be used for supervision in addition to the personal inspections every 30 minutes.

(2) Adequate provision for the separation of detained children from the sight and sound of adults being detained therein.

(3) A written comprehensive policy with respect to:

(a) Legal confinement authority:

(b) Admission policies;

(c) Telephone calls;

(d) Admission and release medical procedures;

(e) Medication and prescriptions;

(f) Personal property accountability;

(g) Vermin and communicable disease control;

(h) Release processes, including authority to release and identification and return of personal property;

(i) Correspondence and visitations;

(j) Emergencies;

(k) Firearms;

(L) Transportation;

(m) Disciplinary procedures and use of physical restraints;

(n) Qualifications and training of staff;

(o) Educational services;

(p) Working relationships of juvenile department counselors, Children's Services Division caseworkers, law enforcement officers, attorneys, clergy, and volunteers; and

(q) Programs and activities of the center.

(4) Emergency medical and dental care with plans which include:

(a) Periodic review of the facility's medical and dental care plans by a licensed physician to determine the plans' adequacy;

(b) Provision of medical care by the child's personal physician, if any;

(c) The child's access to medical attention;

(d) The security of medication and medical supplies;

(e) A medical and dental record system which includes requests for medical or dental attention, treatment prescribed, prescrip-

tions, special diets, attending physicians, and other services provided; and

(f) First aid supplies and staff first aid training.

(5) Food service which insures that children shall be fed:

(a) At least three meals daily, served at regular times, with no more than 14 hours between the evening and morning meals;

(b) Nutritionally adequate meals according to a plan approved by a registered dietitian;

(c) Special diets when prescribed by a physician; and

(d) Food which is procured, stored, prepared, distributed, and served under sanitary conditions, as defined by the State Health Division Rules as authorized by ORS 624.100.

(6) A clean and healthful environment, including, but not limited to:

(a) Materials to maintain personal hygiene;

(b) Encouragement to bathe daily;

(c) Laundering of washable personal clothing upon admission;

(d) Bedding that shall be clean and fire retardant; and

(e) Clean outer clothing at least twice weekly and clean underclothing daily.

(7) Safety and security in accordance with the State of Oregon Structural Specialty Code and Fire and Life Safety Code.

(8) Written and oral orientation to the programs, services, and regulations of the facility for each newly detained child.

(9) Free exercise of religion consistent with orderly

CONTINUED

2 OF 4

facility operation.

RULE ____. A facility used for the detention of children for less than 3 hours shall provide:

(1) Access to sanitary facilities;

(2) Adequate seating; and

(3) Supervision, including personal inspection at least once every 30 minutes.

COMMENTARY

With the assistance of the Association of Oregon Counties, the Task Force developed a set of proposed detention standards in the form of administrative rules. At present, there are no standards applicable to juvenile detention facilities besides general jail standards and the fire and safety codes for group facilities.

In the proposed Community Juvenile Services Act, the Task Force specified that the state Juvenile Services Commission shall have the responsibility for establishing standards for juvenile detention facilities including, but not limited to, standards for physical facilities, care, programs, and disciplinary procedures. The administrative rules suggested by the Task Force could be adopted by this commission or any other state agency assigned to establish and adopt such rules.

In a separate proposal for the amendment of ORS 419.575, the Task Force proposed giving juvenile detention inspection responsibilities to the Corrections Division's Jail Inspection and Misdemeanant Services with the same powers of enforcement which presently apply to adult detention facilities.

Fiscal Impact: Unknown cost to counties.

Priority II
Problem Statements #36 & #60

A BILL FOR AN ACT

Relating to emergency medical costs of juveniles in detention.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) Notwithstanding ORS 169.140 or any other provision of law, the Children's Services Division shall be responsible for all costs and expenses associated with the provision of emergency medical care for any child in the care and custody of the Children's Services Division who is held in a juvenile detention facility or in a local correctional facility or lockup as defined in ORS 169.005.

(2) Nothing in subsection (1) of this section prevents the Children's Services Division from obtaining reimbursement for such costs and expenses as provided in ORS 419.513.

COMMENTARY

The costs of emergency medical care for children in detention, including children who are in the care and custody of the Children's Services Division, are paid for by the counties (or occasionally by the cities, if children are detained in city lockups). Such expenses can be a substantial burden on the budgets of county juvenile departments and sheriff's offices, particularly those in rural areas where such budgets are modest.

Testimony received by the Task Force indicated that county officials feel that CSD should pay for the emergency medical expenses of those detained children who are CSD's responsibility. The typical case is a child who becomes injured or ill after running away from CSD placement in a foster home, child care facility, or training school and is taken into custody and placed in detention pending return to the placement.

The proposed legislation would transfer emergency medical costs in these circumstances from the counties to the state agency. Included in the proposal is an exemption from the law that requires keepers of jails and lockups to be responsible for the medical care of inmates, so that sheriffs and city officials, as well as juvenile department directors, could bill CSD for these costs. Nothing in the proposed legislation would prevent CSD from seeking reimbursement from a child's parents.

It should be noted that federal funds are generally not available for the payment of medical costs under these circumstances. Funds from Title IV(a) of the Social Security Act (ADC-FC) cannot be used unless the child is living in a type of house or group home specified in the regulations. Social Security Act Title XIX funds are not available for the medical care of inmates of public institutions such as detention facilities or jails.

Fiscal Impact: $87,600 for children in juvenile detention homes. No estimate is available of the cost of providing for those children in the custody of CSD who are held in city or county jails. No appropriation has been requested.

Priority I (6)
Problem Statement #59

A BILL FOR AN ACT

Relating to zoning; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The Legislative Assembly finds and declares that:

(1) It is the policy of this state to encourage and promote the provision of local residential care for the disadvantaged children of this state;

(2) There is a growing need for community-based child-caring agencies to provide quality care and protect the welfare of these children;

(3) It is becoming increasingly difficult to site and establish child-caring agencies and shelter and group care facilities in the communities of this state; and

(4) Restrictions on the siting of such facilities have become a state-wide problem.

SECTION 2. As used in this Act, "agency" means any person or organization providing substitute residential care for children. "Agency" includes but is not limited to:

(1) Child-caring agencies certified by the Children's Services Division under ORS 418.225 to 418.325;

(2) Foster homes as defined in ORS 418.625; and

(3) Youth care centers as defined in ORS 420.855.

SECTION 3. No city or county may enact or enforce ordinances prohibiting the use of single family residential dwellings

located within areas zoned for single family residential use by agencies for the substitute residential care of eight or fewer children. Establishment of such an agency shall be a permitted use within areas zoned for single family residential use.

SECTION 4. Any agency proposing to locate within an area zoned for single family residential use must notify the governing body of the affected city or county in writing at least 60 days before beginning operation in the area.

SECTION 5. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect on its passage.

COMMENTARY

This act creates new provisions designed to remove zoning impediments to the establishment of community-based residential facilities for children. The proposed legislation provides that small residential facilities may be placed in single-family residential neighborhoods as a matter of right. It prohibits cities and counties from enacting or enforcing ordinances which would prohibit the use of dwellings in such neighborhoods for the residential care of eight or fewer children. Private covenants, however, would still be effective in excluding this type of land use. The act also provides for a 60-day notice to communities prior to locating these residential facilities. (For further discussion, see following commentary.)

Fiscal Impact: None

Priority I (8)
Policy Statement #8
Problem Statement #33

## RECOMMENDATION

The Governor's Task Force on Juvenile Corrections recommends to the Oregon Land Conservation and Development Commission and the Legislative Interim Committee on Land Use that:

1. LCDC Goal #10 on housing be amended to include specific provisions for the special needs of Oregon's citizens, including children, who are mentally, emotionally, or socially handicapped, and who require residential care facilities or other special supportive housing arrangements to facilitate their rehabilitation; and

2. LCDC Goal #11 on public facilities and services be amended to include, as a required element in local comprehensive land use plans, the provision of necessary facilities and services to accomodate the needs of mentally, emotionally, or socially handicapped persons, including children, in their own communities.

## COMMENTARY

Testimony before the Task Force has shown that one of the serious problems in the existing juvenile corrections system is the lack of community-based alternative facilities for the care of children who have committed status or criminal offenses, and, in the opinion of the juvenile court, must be removed from their own homes. Particularly difficult to place are those children who have exhibited emotional or mental problems coupled with a history of delinquency.

In many instances, treatment and rehabilitation of persons who exhibit unacceptable behavior or suffer from mental or emotional illnesses are thought to be more effective in community settings than in large centralized institutions.

The Task Force, in its policy statements, advocated that whenever possible children who are removed from their homes should be cared for in, or near, their own communities so that families can participate in the treatment process, and children can be returned to their own homes as soon as possible. Even if children are removed from their communities, the vast majority of them will eventually return home, although as time and distance increase, reintegration

into their communities becomes more difficult.

There is considerable evidence to show that if sufficient community-based resources were available, many of the children now in the overcrowded training schools would not require commitment.

The Task Force's recommended Community Juvenile Services Act and Capital Construction Act would encourage communities to expand their local services and facilities. However, local zoning requirements and community opposition make the siting of additional facilities extremely difficult. Testimony from private care providers in Portland indicates that the license review board procedures for the issuance of conditional use permits for the siting of care facilities makes the locating of additional residential facilities in that city almost impossible. Difficulties have been encountered in other cities as well, including Eugene and Salem.

After a year's effort, the Children' Services Division found it impossible to place a new juvenile camp designed to relieve congestion in MacLaren School, in Deschutes County because of citizen opposition. (The camp is now under construction on state-owned land in Union County, which is not the central location which CSD would have preferred.)

Despite the commonly held belief that communities resist the addition of new group-care facilities, a state-wide public opinion/victimization survey taken during 1978 by the Oregon Law Enforcement Council showed that 67 percent of respondents would support the locating of group homes in their communities for first-time juvenile offenders who have committed property crimes; almost 60 percent would support this type of facility for first-time violent juvenile offenders; and 38 percent indicated support for facilities for first-time juvenile sex offenders.

When the state government establishes a large central institution, it places a particular burden on one community, while removing the other communities from any role or responsibility in the treatment and rehabilitation process. The Task Force believed that local comprehensive land use plans which make provision for residential group-care facilities as a normal part of the housing and service needs of a community

will help to disperse these facilities so they are not particularly burdensome to any one community or neighborhood and will lead to an acceptance of the need for such facilities. (See Appendices J and K.)

Fiscal Impact: None

Priority I (8)
Policy Statement #8
Problem Statement #33

A BILL FOR AN ACT

Relating to education of dependent children; amending ORS 339.185 and 339.250.

Be It Enacted by the People of the State of Oregon:

Section 1. ORS 339.185 is amended to read:

339.185. (1) A dependent child, as defined in ORS 339.165, must be admitted to the public schools of the district in which the child has been placed by the public or private, licensed child-caring agency. Except as provided in ORS 343.960 to 343.980, the school district shall provide or cause to be provided appropriate education to dependent children, including special education services enumerated in subsection (3) of ORS 343.035 and subsection (2) of ORS 343.650. The education may be provided by the school district or by contract with an adjacent school district, an education service district or a private education agency. The instruction may be given in the facilities of such districts or in facilities provided by the education agency or the child-caring agency in which the child resides.

(2) The attending district shall notify the Department of Education as to the number of days of attendance by each child of a resident district by July 15 following the school year. The notification shall be accompanied by a signed affidavit from the agency having legal custody of the child or children, stating the period of time the child has lived in the district providing the educational service.

(3) The department shall compute the costs and shall submit a bill for tuition payment to the resident district. The resident district shall remit payment directly to the attending district upon receipt of the tuition billing.

(4) The attending district shall supply the names of dependent children to the department by March 1 of the year for which billing is to be made. The department shall supply the names of the dependent children to the superintendent of the resident district which is billed for tuition for the dependent children. To maintain confidentiality of the records, the department shall supply the names of the dependent children separate from the billing therefor.

(5) The resident district may appeal its classification as "resident district" to the Superintendent of Public Instruction. The superintendent shall determine the residency of the dependent children in question and his decision is final and not subject to appeal.

(6) The Superintendent of Public Instruction shall determine the amount of tuition based upon the average current expenditure per resident average daily membership state wide. The figure so determined shall be divided by the number of days taught in the attending district submitting the tuition notification. This figure multiplied by the total days' attendance of the individual child in the attending district shall represent the tuition charge to the resident district.

(7) Dependent children, as defined in ORS 339.165, who are also under the jurisdiction of the juvenile court pursuant to subsection (1) of ORS 419.476 shall be entitled to the same special education services as are handicapped children, as defined in ORS 343.035.

(8) School districts providing special education services to dependent children described in subsection (7) of this section shall be reimbursed for those services as provided in ORS 343.281.

Section 2. ORS 339.250 is amended to read:

339.250. (1) Public school pupils shall comply with rules for the governance of such schools, pursue the prescribed course of study, use the prescribed textbooks and submit to the teachers' authority.

(2) The district school board may authorize the discipline, suspension or expulsion of any refractory pupil.

(3) Wilful disobedience, open defiance of a teacher's authority or the use of profane or obscene language is sufficient cause for discipline, suspension or expulsion from school.

(4) Expulsion of a pupil shall not extend beyond the current term or semester unless the semester ends within such a short period of time that the expulsion would be too short to be effective. However, the expulsion shall not extend beyond the second term or semester.

(5) [Following expulsion of a pupil under] When a pupil is expelled pursuant to subsection (2) of this section, a district

school board [may purpose] shall provide alternative programs of instruction or [counseling, or both,] instruction combined with counseling for the pupil.

COMMENTARY

Dependent children, as defined in ORS 339.165, are those children living in public or private child-caring agencies providing care for seven or more children.

At the present time, the responsibility for educating these children is divided as follows:

(1) Residents of the 21 private-agency facilities listed in ORS 343.960 are educated according to a program approved by the State Board of Education paid for by the Children's Services Division. The services are purchased from a local school district and provided in the facilities.

(2) Other dependent children are admitted to the public schools and educated by the school districts in which the children are living. Each providing school district is reimbursed by the school district of the child's original residence according to a formula provided in subsection (6) of ORS 339.185.

However, some of these latter children, particularly those living in child care centers, exhibit behavior problems which lead to expulsion from the public schools. Recently, because more children are being placed in child care centers from the training schools, this problem has been increasing.

There appeared to be three approaches to this problem:

(1) Adding agencies where the problem exists to the list in ORS 343.960 and having CSD fund additional education programs;

(2) Keeping the children in public school or providing alternative educational opportunities with responsibility for their education remaining with the local school district with financial support from the school district of the child's residence and the Department of Education; or

(3) Allowing these dependent children expelled from public schools to remain without educational services.

Option (1) was rejected for three reasons:

(1) The agencies best able to utilize a separate education program are already covered by ORS 343.960

and many of the centers where the problem is now present are not large enough to justify separate programs or have only one or two residents in need of special programs;

(2) Local school districts sometimes appear too ready to expel dependent children, and legislation authorizing additional CSD involvement in this area might lead to an increased abrogation of school-district responsibility; and

(3) The Department of Education should remain responsible for the education of all children in the state.

Option (3) was not discussed and remains open as an alternative should the state be willing to assume a policy of not providing education for disruptive delinquent children who have been removed from their homes.

The Task Force agreed upon option (2) after discussions with representatives of the Department of Education, CSD , and the child care centers. To some extent the problem can be lessened by increased communication between CSD and the local schools so that the latter are more prepared to plan for and handle problem students. CSD employes, appearing before the Task Force, agreed to increase their efforts at communication. Additionally, it was felt that if public schools are to be required to handle these students, it must be recognized that they will need to do so with services over and above those normally required for students. The Task Force felt that this would be an opportune time to move in this direction in view of the fact that schools are also being required by federal law to "mainstream" other handicapped students.

The increased cost of this proposal to the state is difficult to estimate but is probably not as great as it might appear at the outset. Under this proposal, the state would be required to pick up 30 percent of the extra cost of providing special education services to students expelled from the public schools. But at the same time, changes in federal law already require the state to provide extra services if students are designated as "handicapped" under federal regulations. In other words, the increased cost to the state of this Act would be an amount equal to 30 percent of the cost above the normal cost of educating those children who are not "handicapped" as defined by federal regulations.

The other 70 percent, as for other special education costs, would come from the school district where the child is attending school. Some discussion centered

around the concept of making this portion of the cost the responsibility of the school district of the child's residence. This would involve amending ORS 343.305 and 343.307 and might be considered in light of the difficulty which is being experienced in locating group facilities in communities. Whether such a change should apply only to children placed in residential facilities by the state or should apply to all children receiving special education services in districts outside of their resident districts might also be examined.

To a large extent, this proposed legislation is a codification of what the Attorney General has already said is required under existing law and the requirements of federal legislation. In Opinion #7175, dated May 27, 1975, the Attorney General indicated that schools are required to admit students who are living in child care centers within the school district. The Attorney General went on to note that such a child must also be provided an education elsewhere by the school district when the child's attendance at school is dangerous to himself or others by reason of physical or mental illness. Federal law requires that the state provide appropriate public education to handicapped students.

To the extent that children in the child care centers fit within the above description, section 1 of this proposed legislation simply clarifies existing law. This legislation does not identify children in child care centers as handicapped, but merely requires schools to provide special education services, if needed, to children in the child care centers. Many of these children are arguably handicapped under the federal definition of that term, but, in some instances, schools have allowed them to go unserved. As a result, the children in child care centers, while of average intelligence, are often three-to-five years behind their peers academically.

Section 2 of this proposed Act may have broader ramifications, since it requires schools to provide alternative programs for students who are expelled from school. This is necessary if the purposes of section 1 are to be accomplished. As previously mentioned, many of the children in child care centers, and others as well, exhibit behavioral problems which lead to their expulsion from school. In the past, it has been easier and cheaper for schools to simply expel these students than to provide them with special education services.

Fiscal Impact: For education of children in child care centers, the cost could vary greatly depending on the type of instruction provided those children not receiving classroom instruction.

If individualized home instruction used:
State share - $ 95,049
Local share - $221,781

If classrooms in group homes are used:
State share - $25,000 - 139,000
Local share - $59,000 - 325,000

The high estimate for classrooms in group homes is a CSD projection based upon a per pupil cost in private schools; the low estimate is based upon actual experience at the Klamath-Lake County Youth Ranches which now utilize this method.

For education of expelled students:

Cost to state - $162,000 to 270,000
Cost to school districts - $243,000 to 405,000

To the degree that children in child care centers and expelled students may be classified as "handicapped," their education may already be required, and a part of the costs would be paid by federal funds. No appropriation is requested.

Priority I (7)
Policy Statement 1 (b)
Problem Statement #17

## RECOMMENDATION

The Governor's Task Force on Juvenile Corrections recommends increased mental health services for children and adolescents and their families. The Task Force finds an acute need for these services both within the state's juvenile training schools and at the community level. The Task Force recommends:

1. That additional psychological staff be provided at the juvenile training schools to avert the need to increase the capacity of the Secure Adolescent Treatment Center at the Oregon State Hospital.

2. That support be given to increasing mental health programs for children and adolescents at the community level, building upon existing resources where feasible, both to treat mental health problems before more expensive institutionalization is necessary and to enable those who have been institutionalized to return to the community as quickly as possible.

3. That serious consideration and efforts be applied to developing new, dedicated revenue sources for mental health programs to relieve pressure on General Fund revenues.

## COMMENTARY

Testimony before the Task Force indicated that there is an overall shortage of mental health services throughout the state for children and adolescents. The Mental Health Division estimates that there are 80,400 children and adolescents who are in need of mental health services. Of these 61,900 could benefit from outpatient care while 18,500 are in need of some form of day, residential, or hospital treatment. In contrast, the state is providing for the needs of 11,571 children through community programs and 429 in state hospital, day, and residential treatment programs.

While mental health services in general have grown over the past 10 years, the majority of this growth has been directed at serving adults rather than children or adolescents. The growth of outpatient services for adults in the last decade has been three times that for children and adolescents.

While mental health services for children and, especially, for adolescents are lacking in strength

throughout the state, the level of services provided to residents at the training schools at the present time is abysmal. Historically, MacLaren School had one psychologist, two psychologist technicians and three consulting psychiatrists for approximately three hours a week. Hillcrest School had, and continues to have, one full-time psychologist and one consulting psychiatrist for about four hours a week. MacLaren's psychological staff was eliminated from the budget some years ago leaving that institution with one part-time psychologist and two part-time psychiatrists. In its ability to provide diagnostic resources or psychological support services, the program is almost nonexistent.

The director of the training schools has proposed in the 1979-81 budget that the Hillcrest staff be maintained at the current level and that three psychologists be provided at MacLaren, along with training services for its present staff so that they may be able to perform at least basic psychological work-ups and perhaps reduce their need for three additional beds at the Secure Adolescent Treatment Center. The Task Force fully supports this proposal.

While the need for additional mental health services at the training school is critical, the Task Force recognized a broader need for expanding mental health services for children statewide. The Task Force also recognized that expansion of facilities only at the institutional level was neither a programmatically nor cost effective approach to the problem. Institutionalized care is the most expensive type of care to provide. The cost per child in the Secure Adolescent Treatment Center is $4,270 per month. It is believed that by strengthening outpatient and preventive services at the community level, the need for increased institutional services can be minimized. This should be coupled with increased community services for those persons coming from the institutions to facilitate their early release and make available institutional space for those in need of such care. Testimony revealed that the current waiting periods and apparent need for bedspace in addition to the 40 residential and 10 crisis spaces currently available at the Secure Adolescent Treatment Center can be traced ultimately to a lack of sufficient community outpatient services and post-institutional care. Representatives of the Mental Health Division stressed that increasing the amount of institutional services alone was an inadvisable way of proceeding.

The Task Force was made well aware of the high cost of providing quality mental health services and, other than the immediate needs of the training schools, declined to recommend a specific program or dollar amount for increased services statewide. The Task Force did recommend, in view of the high and sustained nature of the costs involved in providing mental health services, that new, dedicated, revenue sources, perhaps in the form of excise taxes be found to relieve pressure on General Fund revenues.

Fiscal Impact: $195,344 for increased staff and services at the training schools. (No appropriation is being requested. The funds are included in CSD's proposed budget.)

Priority II
Policy Statements #4, #5, #6, #9, & #10
Problem Statements #20, #37, #46 to #48, #62, & #63

## RECOMMENDATION

The Governor's Task Force on Juvenile Corrections recommends examination of the educational programs at MacLaren and Hillcrest Schools with a view to expanding or introducing programs of instruction on parenting practices, child development, and interfamilial relationships. If additional funds are needed to employ instructors or purchase materials, it is recommended that Department of Human Resources personnel should report this fact to the Emergency Board by January 1, 1980.

## COMMENTARY

Research indicates that adults tend to employ the same parenting practices which they experienced as children. Many of the students at the state training schools, including 60 percent of the female students at Hillcrest, have been physically or sexually abused at some time during their lives.

In order to help counteract the traumatic effects of early abuse and prevent perpetuation of abusive parenting practices, the Task Force recommends that the training school curriculum include instruction on good parenting practices, including information on early childhood development.

Fiscal Impact: No immediate impact

Priority II
Problem Statements #6 & #7

A BILL FOR AN ACT

Relating to state institutions; amending ORS 179.750.

Be It Enacted by the People of the State of Oregon:

Section 1. ORS 179.750 is amended to read:

179.750. (1) No discrimination shall be made in the admission, accommodation, care, education or treatment of any person in a state institution because of the fact that the person does or does not contribute to the cost of his care and maintenance in whole or in part.

(2) No discrimination shall be made in the provision of educational facilities and services and recreational facilities and services to any person in the state institutions enumerated in subsection (2) of ORS 179.321 or subsection (3) of ORS 420.005 on the basis of race, religion, sex, marital status or national origin of the person. This subsection shall not require combined domiciliary facilities at the state institutions [enumerated in subsection (2) of ORS 179.321] to which it applies.

COMMENTARY

This proposed amendment to ORS 179.750 would extend the provisions concerning nondiscrimination to the state juvenile training schools and camps. The existing law covers only those institutions operated by the Corrections Division.

Fiscal Impact: See following Recommendation

Priority II
Problem Statement #52

## RECOMMENDATION

The Governor's Task Force on Juvenile Corrections reaffirms that all policies, procedures, practices, and resources within the Children's Services Division's Juvenile Corrections Services Section should reflect equity for all students regardless of race, sex, religion, or national origin and, in particular, recommends that attention be given to the issue of equal access for boys and girls to vocational training, employment opportunities, recreational facilities, and special programs in the juvenile training schools.

The Task Force supports requests in CSD's proposed 1979-81 budget which are necessary to provide equality in these areas.

## COMMENTARY

As part of its examination of the juvenile training schools, the Task Force noted that MacLaren School, probably for historical reasons and because of its larger size, affords opportunities to its residents which are not readily available to the residents of Hillcrest School. Because Hillcrest, although now coeducational, still serves the entire female training school population of the state, the differences in the opportunities available there as compared to MacLaren with its all-male population may be perceived as being differences in treatment based on sex. Special attention should be given to achieving equality of opportunity at these institutions.

To re-enforce this recommendation, the Task Force also proposes legislative changes which would guarantee nondiscrimination through the statutes.

Fiscal Impact: $65,000, primarily to provide increased vocational education to girls. (No appropriation is requested, since the funds would be provided in CSD's proposed budget.)

Priority II
Problem Statement #52

## RECOMMENDATION

The Governor's Task Force on Juvenile Corrections recommends that Children's Services Division personnel positions with responsibility for intake and assessment of juveniles at the juvenile training schools be funded and filled as priorities.

## COMMENTARY

In July 1977, the Children's Services Division inaugurated a new program to move some of the juveniles on parole from MacLaren and Hillcrest Schools directly into cooperating child care centers. Some of these juveniles have been in the training schools for several months; other "good-risk" juveniles, with the concurrence of the committing judges, are being moved into child care centers after two or three weeks in the training school intake departments without ever being placed in the general training school populations.

CSD implemented this program to relieve overcrowding at the training schools while still insuring adequate treatment for the juveniles. Previously, juveniles were not usually moved from intake directly back into the community, and almost all students paroled from the schools were returned to their own homes or placed in family foster care or, occasionally, in independent living situations.

The Joint Ways and Means Committee initially authorized CSD to contract for 18 "dedicated" beds in child care centers to carry out this program. In January 1978, the Emergency Board expanded this number to 45.

When the program began, one person was performing the intake screening and assessment for both schools. At the same time that the Emergency Board increased the number of available beds, it also authorized another position to handle the Hillcrest assessments. However, that position was not released from the hiring "freeze," instituted as an economy measure, until September 1978. As a result, the number of assessments completed has not been as high as had been expected, and the amount of time required before assessments and placement could be accomplished has been too long.

The Hillcrest-MacLaren Project Manager reports that processing time has been two to four weeks before placement, when the goal was placement within one week. Since the project began in July 1977, 300 referrals have been received, and 105 placements have been made. Because intake historically increases in the fall, almost all processing had stopped at Hillcrest for lack of personnel at the time the new intake position was finally "unfrozen."

The manager feels that proper assessment is necessary for a satisfactory placement and that assessments done without adequate assistance may affect the runaway rate. Of 88 juveniles placed in child care centers by June 30, 1978, there were 11 who had completed the programs, 35 were still in programs, 30 had run away, and 12 others had been terminated in the programs for other reasons. CSD personnel and child care center directors generally feel that more time is needed to assess the success or failure of this change in the juvenile correctional system. For this reason, the Task Force did not take a position on the new program itself.

Although the program was designed to help reduce the training school populations, the schools are still overcrowded. Proper use of the limited child care center spaces depends upon rapid and adequate assessment and appropriate placement. The bedspaces "dedicated" or reserved for training school students are not available to juveniles placed directly from the community. Therefore, the lack of sufficient numbers of intake and assessment personnel affects both the training school populations and the effective and economic use of the child care centers.

The Task Force believes that prompt and adequate intake and assessment processing are necessary for proper utilization of limited secure facilities and community resources, for rapid and appropriate placement of children who will benefit from community services, and for community protection from improper placement of children.

The Project Assistant position, authorized in January and "unfrozen" in September, is classified as a Program Executive 2. The additional staff person will process all girls being admitted to Hillcrest School, as well as make recommendations on those juveniles already in the Hillcrest population who should be considered for the child care center program.

The biennial cost of this position, including salary and support, is $48,750. If the expenditure of $2,057,802 in the current biennium and the proposed $3,686,688 in the next biennium for this placement program is to be used effectively with the desired results, attention should be given to maintaining adequate staff at the training schools to increase the chances for the program's success.

Fiscal Impact: $48,750 (No appropriation is being requested. The funds are included in CSD's proposed budget.)

Priority II
Policy Statements #2 & #9
Problem Statement #43

A BILL FOR AN ACT

Relating to custody of a juvenile; amending ORS 418.010, 419.569 and 419.571.

Be It Enacted by the People of the State of Oregon:

Section 1. ORS 418.010 is amended to read:

418.010. Except as provided in ORS 419.569, nothing in ORS 418.005 shall be construed as authorizing any state official, agent or representative, in carrying out any of the provisions of that section, to take charge of any child over the objection of either of the parents of such child or of the person standing in loco parentis to such child.

Section 2. ORS 419.569 is amended to read:

419.569. (1) A child may be taken into temporary custody by a peace officer, juvenile department counselor, employe of the Children's Services Division or by any other person authorized by the juvenile court of the county in which the child is found, in the following circumstances:

(a) Where, if the child were an adult, he could be arrested without a warrant; or

(b) Where the child's condition or surroundings reasonably appear to be such as to jeopardize his welfare; or

(c) Where the juvenile court, by order indorsed on the summons as provided in subsection (3) of ORS 419.486 or otherwise, has ordered that the child be taken into temporary custody.

(2) A private person may take a child into temporary custody

in circumstances where, if the child were an adult, the person could arrest the child.

Section 3. ORS 419.571 is amended to read:

419.571. (1) Temporary custody shall not be deemed an arrest so far as the child is concerned. [All peace officers shall keep a record of children taken into temporary custody] Any person taking a child into temporary custody shall keep a record of the action and shall promptly notify the juvenile court or counselor of all children taken into temporary custody.

(2) A peace officer taking a child into temporary custody has all the privileges and immunities of a peace officer making an arrest.

(3) A juvenile department counselor, an employe of the Children's Services Division or any other person authorized by the juvenile court to take a child into temporary custody pursuant to ORS 419.569 and acting in good faith shall have immunity from any civil or criminal liability that might otherwise be imposed.

COMMENTARY

This legislation grew out of concerns expressed by Children's Services Division caseworkers that they were without authority to remove a child from an immenently dangerous home situation over the objection of the child's parents. A letter opinion from the Attorney General (OP 2754, August 31, 1973) indicates that a CSD employe may not take a child into custody over the objections of a parent. This position was reiterated in a letter opinion dated October 4, 1977,

which states: "There is no authority for the division to refuse to release the child to its parent except where the court otherwise orders or where it appears to the court that the welfare of the child or of others may be endangered by the release of the child." (Emphasis in original). The opinion continues: "In any case the court must be involved in any attempt to retain custody in face of the parent's objection."

CSD caseworkers currently believe that they do not have the authority to remove a child from home over parental objections, even when the child is in danger and the removal would be subject to a court hearing within a brief period of time. As a result, caseworkers sometimes call upon law enforcement officers to accompany them when removing a child from home, even when an officer's presence is not actually needed, thus exacerbating an already tense situation.

Section 1 of this bill removes the ambiguity created by the current provisions of ORS 419.569 and 418.010 and makes it clear that a CSD employe may take a child into protective custody over the objection of a parent or guardian under the conditions listed in ORS 419.569. Such custody is then subject to the conditions and requirements of ORS 419.577, which deals with placement of all children taken into temporary custody.

Section 2 amends ORS 419.569 to clarify an ambiguity in that statute with regard to counselors authorized to take a child into temporary custody. Present law apparently authorizes any counselor to take such action. This amendment would make it clear that only juvenile department counselors (along with other authorized persons) have such authority.

Section 3 amends ORS 419.571 to provide immunity from civil and criminal liability for those persons authorized to take a child into temporary custody by ORS 419.569. Such person must act in good faith and upon the grounds listed in ORS 419.569.

Fiscal Impact: None

Priority II
Problem Statement #64

A BILL FOR AN ACT

Relating to juvenile court referees; creating new provisions; and amending ORS 419.581.

Be It Enacted by the People of the State of Oregon:

Section 1. ORS 419.581 is amended to read:

419.581. (1) The judge of the juvenile court may appoint one or more persons as referee of the juvenile court. A referee shall be appointed in every county in which there is no resident juvenile court judge. [A person appointed referee shall be qualified by training and experience in the handling of juvenile matters, shall have such further qualifications as may be prescribed by law and] A referee shall hold office as such at the pleasure of the judge. The judge may fix reasonable compensation for the referee, to be paid by the county.

(2) A person appointed referee:

(a) Shall be qualified by training and experience in the handling of juvenile matters;

(b) Except for a referee who conducts only hearings on juvenile motor vehicle offenses, shall be a graduate of an accredited school of law; and

(c) Shall not simultaneously be employed by the county in any other capacity.

[(2)] (3) The judge may direct that any case, or all cases of a class designated by him, shall be processed or heard in the first instance by a referee in the manner provided for the

hearing of cases by the court. Upon conclusion of the hearing in each case the referee shall transmit to the judge his findings, recommendations or order in writing.

[(3)] (4) Where the referee conducts a hearing, the child, his parent, guardian or other person appearing on his behalf and the petitioner, shall be notified of the referee's findings, recommendations or order, together with a notice to the effect that a rehearing shall be had before a judge if requested within 10 days. A rehearing before a judge of the juvenile court may be determined on the same evidence introduced before the referee if a stenographic transcript of the proceedings was kept; provided, however, in any case, additional evidence may be presented.

[(4)] (5) All orders of a referee shall become immediately effective, subject to the right of review provided in this section, and shall continue in full force and effect until vacated or modified upon rehearing by order of a judge of the juvenile court. Any order entered by a referee shall become a final order of the juvenile court upon expiration of 10 days following its entry, unless a rehearing is ordered or requested.

[(5)] (6) The judge of the juvenile court, or in counties having more than one judge of the juvenile court, the presiding judge of the juvenile court may establish requirements that any or all orders of referees must be expressly approved by a judge of the juvenile court before becoming effective.

[(6)] (7) A judge of the juvenile court may, on his own

motion, order a rehearing of any matter heard before a referee.

[(7)] (8) At any time prior to the expiration of 10 days after notice of the order and findings of a referee, a child, his parent, guardian or other person appearing on his behalf or the petitioner may apply to the juvenile court for a rehearing. The application may be directed to all or to any specified part of the order or findings.

[(8)] (9) All rehearings of matters heard before a referee shall be before a judge of the juvenile court and shall be conducted de novo.

SECTION 2. Paragraph (b) of subsection (2) of ORS 419.581, as amended by section 1 of this Act, does not apply to any person whose primary public employment on the effective date of this Act is that of referee of the juvenile court until the person ceases to hold office.

SECTION 3. Paragraph (c) of subsection (2) of ORS 419.581, as amended by section 1 of this Act, is first operative January 1, 1981.

COMMENTARY

In Oregon, juvenile court referees are appointed by, and serve at the pleasure of, the juvenile court judges and hear whatever types of cases the judges may assign. (ORS 419.581) Referees appear to be most commonly used for traffic hearings and for detention hearings, where the decisions are made whether to release children to their parents, place children in shelter care, or continue to hold children in secure detention. However, referees may also hold

adjudicatory, dispositional, and remand hearings.

Orders entered by the referee have the same effect as if entered by a judge, subject only to the right of rehearing before the judge at the request of the child, parent, guardian, or other person acting on the child's behalf or the person filing the petition. In addition, judges on their own motion may rehear matters first heard by referees.

There are no qualifications for a juvenile court referee under existing law except that he or she "shall be qualified by training and experience in the handling of juvenile matters." Current practice allows juvenile court directors to serve as referees, resulting in situations in which the same person who files a petition on a child may later preside at the hearing on the case or decide whether the child should be detained.

The Task Force believed that this practice may violate the spirit, if not the strict legal requirements, of due process and may be perceived as denying the child an impartial trier of the facts. Information supplied by the Association of Oregon Counties indicates that eight counties have juvenile directors serving as referees in cases other than traffic offenses.

The proposed legislation would require that referees, other than those who hear only traffic cases, be legally trained, although there is no requirement that they be licensed to practice law. Section 2 of the Act is a "grandfather clause," which would exempt from this provision a person whose primary public employment was that of referee on the date the Act becomes effective.

The legislation further provides that a person serving as juvenile court referee cannot be employed simultaneously by the county in any other capacity. Section 3 of the Act would postpone the imposition of this requirement until January 1, 1981.

Fiscal Impact: Unknown cost to counties

Priority III
Problem Statement #45

## RECOMMENDATION

In considering the use of volunteers in the juvenile justice system, the Governor's Task Force on Juvenile Corrections:

1. Endorses the growth of volunteer programs in Oregon and encourages communities that do not have volunteer programs to develop such programs in the future;

2. Encourages the development of volunteer training programs to be made available to communities and agencies that use volunteers throughout the state;

3. Recommends that steps should be taken to establish a state volunteer service in juvenile justice to advise and assist in the development of volunteer programs in communities throughout the state;

4. Endorses the Oregon Association for Volunteers in Criminal Justice and encourages the O.A.V.C.J. to continue its development;

5. Believes that volunteers are a cost-effective state resource that should be utilized to help improve juvenile justice and reduce youth crime; and

6. Encourages all state organizations as well as individuals to involve themselves in the juvenile justice system as volunteers.

## COMMENTARY

Members of the Oregon Association for Volunteers in Criminal Justice (O.A.V.C.J.) appeared before the Task Force on June 23, 1978, to describe some of the activities of volunteers and volunteer programs within Oregon's juvenile justice system. Volunteers support, rather than supplant, other human service professionals. Properly trained and utilized, volunteers are able to perform unique functions, such as offering extended individualized contact and transitional services to institutionalized children. A good volunteer program can augment basic staff services.

O.A.V.C.J. found that volunteers contribute substantially to juvenile services programs. During a single month, O.A.V.C.J. calculated that 290 volunteers contributed over 3600 hours of work to six child care

agencies with 812 youngsters in care. In addition to the obvious economic benefits of these additional workers, volunteer participation contributes to increased community education, awareness, and "ownership" of the program.

Volunteer programs exist in many juvenile departments in Oregon, including Multnomah, Marion, Hood River, Josephine, Union, Jackson, and Umatilla counties. More than 100 volunteers contributed over 10,000 total hours of service to Multnomah County Juvenile Court in 1977. The Josephine County Juvenile Department utilized volunteers in many alternative service programs including the Vocational Exploration Program, Minor Offender's Program, recreation, Counselor and Tutor Companions, Outdoor Awareness, and supportive services.

The Task Force felt that volunteers and volunteer programs offer a significant personnel resource to government and private youth-serving agencies. Well-trained volunteers in appropriate roles can increase service availability without major additional costs. The Task Force anticipates that cost-conscious juvenile service programs will plan to increase their services by utilizing volunteers.

In the proposed Community Juvenile Services Act, the Task Force has given the state Juvenile Services Commission a responsibility for assisting state and local agencies in establishing volunteer training programs and utilizing volunteers in juvenile services programs. The proposed commission will be empowered to establish minimum standards for services and minimum professional personnel standards for programs receiving funds under the Community Juvenile Services Act. These standards may include some policies on utilization of volunteers. Participating counties will submit comprehensive juvenile services plans detailing the programs which will implement the standards. The state commission will also collect data on juvenile department staffing and will operate a state-wide evaluation system to monitor the effectiveness of programs provided under the Act. Therefore, if the legislation is enacted, data on the utilization and effectiveness of volunteers in the state should be available for inclusion in the commission's biennial report to the Governor and the Legislative Assembly.

Fiscal Impact: None

Priority III
Policy Statement #5
Problem Statement #20

# PART VI

## JUVENILE COURT PROCEDURES

The Task Force considered the procedures by which a child is brought into the juvenile justice system, or diverted from it, and concluded that, in addition to the obvious necessity for adherence to the requirements of constitutional and statutory law, there should be some degree of uniformity of procedure from county to county, particularly when a child is confronted with a significant loss of choice and freedom, including removal from his home. An important aspect of this is not only the required fundamental fairness, but a perception on the part of the child that he or she is being treated fairly, for in this perception may lie the beginnings of rehabilitation.

The Task Force found numerous ambiguities in the law and varying interpretations of the responsibilities of state and local authorities. These ambiguities and interpretations, besides being frustrating to all concerned, lead to conflicts and delays in treatment which are not beneficial to the child.

While it was beyond the scope of the Task Force's charge to rewrite the procedural sections of the juvenile code, the Task Force found some areas of the law, particularly those dealing with entry into the system and dispositions, so closely tied to identifed aspects of prevention and the provision of services that it felt compelled to suggest some changes and additions to these statutes.

The Task Force agreed to lend its support to legislation, to be introduced at the request of the Joint Interim Committee on the Judiciary, which would provide state reimbursement of county indigent defense costs for persons accused of felonies, including juveniles. Testimony indicated that such defense is now provided in an uneven fashion and with varying interpretations of the defense counsel's role in juvenile court. The proposed legislation, in addition to aiding the counties with the cost of providing such defense, would establish standards for selection of counsel to insure truly adequate representation.

Testimony and research indicated that a large proportion of juvenile department referrals are handled informally in procedures that vary widely from county to county. The Task Force recommends legislation which, while outlining a uniform disposition procedure to be followed, does not limit the discretion

of those involved concerning the actual nature of the disposition. The proposed legislation is designed to insure fairness in the process and a clear understanding between the parties of the requirements, expectations, and duration of the disposition, along with the consequences involved in violating the terms of the agreement.

The Task Force also examined the formal dispositional process and recommends a number of changes in the law. These changes are contained in the proposed Dispositions and Dispositional Procedures Act, which would replace the existing statute, ORS 419.507.

The major change made by this proposed act would be to give juvenile courts the ultimate authority to order specific care, placement, and supervision of a child committed to the care and custody of CSD, as well as setting out specific conditions of probation in appropriate cases. At the present time, the court may not specify the treatment which a juvenile will receive when the child is placed in the care of CSD. The division of authority between the courts and CSD has been an area of conflict since the creation of the state agency. It has led to litigation in the past and is currently leading to a number of confrontations between juvenile judges and CSD officials. The Task Force has proposed a procedure which, while giving the juvenile court judge ultimate authority to specify treatment, sets forth a mechanism for minimizing conflict in this area. In order to protect the interests of all elements of the juvenile justice system, the proposed statute also specifies that the courts could not compel private care providers to accept children for whom they had no room or appropriate program nor require the Legislature to appropriate funds to carry out court orders.

A second major thrust of the proposed act would establish an orderly, uniform, and codified procedure for the modification and revocation of juvenile parole. It is based in part upon Oregon statutes which govern adult parole revocation and in part on U.S. Supreme Court decisions concerning due process standards for adults. The proposed revocation procedure provides for a due process hearing, notice of charges, the right to an attorney, the right to procure testimony, and the right to cross examine adverse witnesses.

The proposed legislation also expands the dispositions available to a juvenile court judge. In addition to the dispositions currently available, this act would empower the juvenile court to levy a fine in the same circumstances in which a fine could be levied against an adult. It was the opinion of the Task Force that there are a number of instances in which fines are the most

appropriate dispositions of juvenile offenses. Judges cited specifically first-time juvenile shoplifting and petit theft cases. This act would also expand the power of the juvenile court to order restitution in cases of bodily injury. The court can now order restitution only for property damage. The current practice of some juvenile courts of ordering community service would be codified, and a mechanism, based on the minimum wage, would be used to identify an appropriate amount of such service.

In a separate proposal, the Task Force has also recommended, as a dispositional option, a limited period of detention in fully serviced juvenile facilities for older juvenile offenders who have committed acts which would be crimes if committed by adults or who have violated conditions of probation imposed as the result of having committed such acts. Testimony received by the Task Force indicated that this option fills a gap in the dispositional alternatives now available to juvenile court judges. On the whole, juvenile offenders are treated more leniently than adult offenders, and the older juvenile with a history of offenses can suddenly find himself or herself facing a substantial sentence in prison with the first offense after reaching 18. Judges have indicated that they want some form of short-term detention available to demonstrate to a juvenile that continued criminal behavior can lead to confinement. Judges also felt that short-term detention, perhaps weekend detention, would be useful in cases of probation violation in order to avoid revocation of probation and commitment to the training school. This is particularly true where probation has been imposed for a serious offense and has been successful except for minor violations, but some action by the court appears to be needed to indicate to the juvenile that the conditions of probation must not be taken lightly. The Task Force felt that, in addition to having a possibly beneficial effect upon the child, short periods of postadjudicatory detention in lieu of revocation might help alleviate the overcrowded conditions at the training schools.

The Task Force did not, however, want this postadjudicatory detention to be served in jails, where children would in most cases be denied education, recreation, and counseling and would, in effect, be serving "dead time." For that reason, the Task Force recommends that this dispositional option be available only where there are fully staffed juvenile detention homes available for this purpose.

The Task Force, as the result of testimony, became concerned with the number of children apparently "lost in the system," remaining in out-of-home placements sometimes for years. While some courts already have procedures calling for automatic review of these cases, a number of children, once placed out-of-home,

never have their placements reviewed either for effectiveness of treatment or appropriatness in view of changed circumstances. Voluntary placements often never come to the attention of the court at all.

The Task Force recommends legislation requiring agencies having custody of a child to file a report on the child, initially within six months of receiving the child and annually thereafter. The court would then hold a hearing to review the child's situation with a view towards taking judicial action, if it appears warranted. The Task Force made this recommendation fully realizing the workload already facing CSD, the private agencies, and the juvenile courts of the state. However, testimony received by the Task Force from a CSD representative, a juvenile department director, and a representative of the Legal Aid Society indicated strong agreement on the necessity for a review process if all children are to be assured of proper care and treatment and an opportunity to grow up with families--either natural or adoptive--of their own.

# PART VI

## PROPOSAL SUMMARIES

-- Support for legislation to be introduced at the request of the Joint Legislative Interim Committee on the Judiciary which would provide 80 percent state payment of indigency defense costs for persons accused of felonies, including juveniles. p. 217

-- Provision of an informal disposition procedure by which a child may be placed on nonjudicial probation through a voluntary agreement with a juvenile department counselor in lieu of a court appearance. p. 219

-- Dispositions and dispositional procedures act which would give the juvenile court authority to order placement, treatment, and conditions of probation when a child is committed to the custody of CSD; would allow the use of fines in juvenile court; and would establish probation and probation revocation procedures. p. 223

-- Provision that a child, found to have committed a crime or to have violated probation after the commission of a crime, may be placed in detention for a period not to exceed 14 days, if a juvenile detention facility is available. p. 247

-- Requirement that case of any child removed from home by the court or through voluntary placement be reviewed by the court within six months and annually thereafter. p. 251

## RECOMMENDATION

The Governor's Task Force on Juvenile Corrections recommends to the Governor and the Legislative Assembly support of House Bill _____, to be introduced at the request of the Joint Interim Committee on the Judiciary, as it pertains to state reimbursement of county indigent defense costs for juveniles accused of acts which would be felonies if committed by adults.

## COMMENTARY

The Supreme Court held in In re Gault, 387 U.S. 1 (1967), that there is no essential difference in the right to counsel between an adult criminal trial and a juvenile delinquency proceeding which may result in a loss of liberty. The cost of providing such counsel to indigent juveniles is now paid by the counties along with other costs associated with adjudicatory and dispositional hearings and appeals.

Testimony before the Joint Interim Committee on the Judiciary has indicated that the quality of the indigent defense for juveniles and adults at the present time varies greatly from county to county with no statewide standards or consistent method of selecting counsel for defendants.

The proposed legislation would reimburse counties for 80 percent of the costs of providing counsel for indigents, both adults and juveniles, accused of felonious acts. The proposed legislation also addresses the problem of standards by establishing a committee in each judicial district consisting of judges, lawyers, and lay persons which would promulgate standards for indigent defense counsel by type of case. Reimbursement by the state would be contingent upon adoption of these standards and adherence to them when appointing indigent defense counsel.

Fiscal Impact: The projected cost to the state of assuming 80 percent of the indigent defense costs for both juveniles and adults for the first six months of 1981 is estimated by the Legislative Fiscal Office to be $3,264,064. If the program were continued for a full biennium, the projected cost would be slightly more than $13 million. These costs are in addition to the one-time cost of the local committees, estimated to be $27,000, and the state administrative expense of an additional clerical position in the State Court Administrator's Office.

Priority I (6)

A BILL FOR AN ACT

Relating to informal disposition agreements for juveniles.

Be It Enacted by the People of the State of Oregon:

SECTION 1. An informal disposition agreement may be entered into when a child has been referred to a county juvenile department, and a juvenile department counselor has probable cause to believe that the child may be found to be within the jurisdiction of the juvenile court for one or more of the acts specified in paragraph (a), (b) or (f) of subsection (1) of ORS 419.476 or paragraph (c) of subsection (1) of ORS 419.476 when the child's own behavior is such as to endanger the child's welfare or the welfare of others.

SECTION 2. (1) An informal disposition agreement is a voluntary contract between a child described in section 1 of this Act and a juvenile department counselor whereby the child agrees to fulfill certain conditions in exchange for not having a petition filed against the child.

(2) An informal disposition agreement may require restitution to be made for damage or injury, participation in or referral to counseling, a period of community service, drug or alcohol education or treatment, vocational training or any other legal activity which in the opinion of the counselor would be beneficial to the child.

SECTION 3. An informal disposition agreement shall:

(1) Be completed within a period of time not to exceed

six months;

(2) Be voluntarily entered into by both parties;

(3) Be revokable by the child at any time;

(4) Be revokable by the juvenile department counselor in the event the counselor has reasonable cause to believe the child has failed to carry out the terms of the informal disposition agreement or has committed a subsequent offense;

(5) Not be used as evidence against the child at any adjudicatory or dispositional hearing;

(6) Not require admission of guilt or be used as evidence of guilt;

(7) Be executed in writing and expressed in language understandable to the persons involved;

(8) Be signed by the juvenile department counselor, the child, the child's parent or parents or legal guardian, and the child's counsel, if any; and

(9) Become part of the child's juvenile department record.

SECTION 4. If an informal disposition agreement is revoked pursuant to subsection (3) or (4) of section 3 of this Act, the juvenile department counselor shall file a petition with the juvenile court, and an adjudicatory hearing shall be held.

SECTION 5. Notwithstanding the provisions of section 4 of this Act, if the juvenile department counselor has reasonable cause to believe that the child has failed to carry out the terms of the informal disposition agreement or has committed a

subsequent offense, in lieu of revoking the agreement, the counselor may modify the terms of the agreement and extend the period of the agreement for an additional six months from the date on which the modification was made with the consent of the child and the child's counsel, if any.

SECTION 6. The juvenile department counselor shall inform the child and the child's parents or guardian of the child's right to counsel and to court-appointed counsel, if the child is indigent. The right to counsel shall attach prior to the child's entering into an informal disposition agreement.

## COMMENTARY

### Summary

More than half of all referrals to juvenile departments in Oregon are handled informally, but these informal disposition arrangements, which do not involve court intervention, vary widely from county to county. Such informal "probation" may last for several months with various restrictions placed on the child's activities and associations. This proposed legislation would make the informal disposition procedure more uniform and protect the interests of all parties by specifying the informal disposition process.

Section 1 indicates that an informal disposition may be utilized when there is probable cause to believe that a child's acts or behavior would bring the child within the jurisdiction of the juvenile court for a criminal or status offense.

Sections 2 and 3 specify that such informal arrangements, which do not involve a court appearance, shall be made with the consent of the child, shall be in writing, and shall be completed within a specified time not to exceed six months. The child may revoke the agreement at any time, if the child

feels a juvenile court hearing would be beneficial. The juvenile department counselor may revoke only if the child fails to carry out the terms of the agreement or is believed to have committed a subsequent offense. Section 4 provides that, if revocation occurs, a petition shall be filed and an adjudicatory hearing held.

Section 5 provides for modification of the agreement and extension of its effective duration at the discretion of the juvenile department counselor and with the consent of the child.

Section 6 provides for a right to counsel prior to the child's entering into an agreement. Both the child and the child's parents or guardian would be informed of this right.

Relationship to Existing Law

Paragraph (a) of subsection (2) of ORS 419.482 provides that following a referral to juvenile court and a preliminary inquiry, some person, presumably a juvenile department counselor, may "[m]ake such informal recommendations to the child and his parent or person having his custody as are appropriate in the circumstances." The statutes do not provide for any procedures or limitation on the duration of the informal arrangements, nor do they specify the rights or responsibilities of the counselor or the child.

Fiscal Impact: None

Priority II
Problem Statement #35

A BILL FOR AN ACT

Relating to juvenile court dispositions; creating new provisions; amending ORS 418.015; and repealing ORS 419.507.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 419.507 is repealed and sections 2 and 3 of this Act are enacted in lieu thereof.

SECTION 2. As used in this 1979 Act, unless the context requires otherwise:

(1) "Child care center" means a residential facility for the care and supervision of children that meets the certification requirements under ORS 418.225 and is annually certified under the provisions of ORS 418.240.

(2) "Probation" means the application by the juvenile court of terms and restrictions with respect to a child found to be within the jurisdiction of the court for an act committed by the child.

(3) "Probation with suspended commitment" means the revocable conditional release by the juvenile court, in lieu of commitment to a juvenile training school, of a child found within the jurisdiction of the court for an act which would be a crime if committed by an adult.

(4) "Protective supervision" means the application by the juvenile court of terms and conditions with respect to a child found to be within the jurisdiction of the court because of the actions or inactions of a parent, guardian or other person

having custody of the child that are such as to endanger the child's welfare.

(5) "Youth care center" has the meaning given in subsection (4) of ORS 420.855.

SECTION 3. (1) A child found to be within the jurisdiction of the court on one or more of the grounds specified in subsection (1) of ORS 419.476 may be made a ward of the court. Where a child has been found to be within the court's jurisdiction and when the court determines it would be in the best interest and welfare of the child, the court may:

(a) Place the child under protective supervision administered by the Children's Services Division or in the legal custody of the division, if the child has been found to be within the jurisdiction of the court pursuant to paragraph (d) or (e) of subsection (1) of ORS 419.476, or paragraph (c) of subsection (1) of ORS 419.476 when the actions of another endanger the child's welfare.

(b) Place the child on probation under the supervision of the county juvenile department or the Children's Services Division, if the child has been found to be within the jurisdiction of the court pursuant to paragraph (a), (b) or (f) of subsection (1) of ORS 419.476 or paragraph (c) of subsection (1) of ORS 419.476 when the child's own behavior is such as to endanger the child's welfare or the welfare of others.

(c) Place the child on probation with suspended commitment

to a state juvenile training school under the supervision of the county juvenile department or the Children's Services Division, if the child has been found to be within the jurisdiction of the court pursuant to paragraph (a) of subsection (1) of ORS 419.476.

(d) Place the child in the legal custody of Children's Services Division for placement in a state juvenile training school as provided in ORS 419.509.

(e) Order a fine in lieu of other dispositions in those instances where a fine could be imposed upon an adult. The amount of a fine so ordered shall not exceed the amount which could be imposed upon an adult in like circumstances.

(f) Order restitution for property taken, damaged or destroyed or for injuries caused by the child.

(g) In lieu of a fine or restitution, order the child to perform an appropriate type of community service with the length of time of such service based on an amount not less than the prevailing hourly minimum wage to provide a value equivalent to the fine or restitution that would have been imposed.

(h) If the juvenile court proceeds as provided in ORS 419.537 to 419.541, order such fine, forfeiture or compulsory attendance at appropriate remedial training courses as may be imposed upon an adult for the same violation or infraction.

(i) In the circumstances set forth in ORS 419.533, remand the child to the appropriate court handling criminal actions or to municipal court.

(j) If there is an interstate compact or agreement or an informal arrangement with another state permitting the child to reside in another state while on probation or under protective supervision, or to be placed in an institution or with an agency in another state, place the child on probation or under protective supervision in such other state, or, subject to ORS 419.509, place the child in an institution in such other state in accordance with the compact, agreement or arrangement.

(2) Nothing in paragraph (b) or (c) of subsection (1) of this section is intended to relieve county juvenile departments of the responsibility for supervision of children on probation in those cases where out-of-home placement has not been ordered by the juvenile court.

(3) When probation or protective supervision is utilized as a disposition, its terms shall be in writing and explained to both the child for whose benefit it is imposed and the child's parents or guardian. The court may:

(a) Direct that the child remain in the custody of the child's parents or other person with whom the child is living;

(b) Direct that the child be placed in the legal custody of some relative or some person maintaining a foster home approved by the court; or

(c) Place the child in the legal custody of the Children's Services Division for placement in a state-approved foster home, a child care center, a youth care center or other private child-caring agency authorized to accept the child.

(4) The court may specify particular requirements to be observed during the probation or protective supervision consistent with recognized juvenile court practice, including, but not limited to:

(a) Restrictions on visitation by the child's parents.

(b) Restrictions on the child's associates, occupation and activities.

(c) Restrictions on and requirements to be observed by the person having the child's legal custody.

(d) Requirements for visitation by and consultation with a juvenile counselor or other suitable counselor.

(5) The juvenile court shall retain wardship and the Children's Services Division shall retain legal custody of the child committed to it regardless of the physical placement of the child by the Children's Services Division.

(6) Commitment of a child to the Children's Services Division does not terminate the court's continuing jurisdiction to protect the rights of the child or the child's parents or guardian.

SECTION 4. Sections 5 and 6 of this Act are added to and made a part of ORS 419.472 to 419.590.

SECTION 5. (1) When, pursuant to section 3 of this 1979 Act, the court has ordered probation or probation with suspended commitment as a disposition and the court believes that the child has violated the terms of probation, it may order that the

child be taken into temporary custody. Within a reasonable time if the child is not taken into custody and within two judicial days if the child is taken into custody, the court shall conduct a hearing to determine if the violation occurred. The determination must be proved by a preponderance of the evidence. If it is proved, the court shall determine whether there are substantial reasons which justify or mitigate the violation including a determination of whether the child appears otherwise to be benefiting from the existing disposition. The hearing may be postponed for good cause upon request of any party. The child, with the advice of counsel, may waive the hearing or stipulate to a hearing of lesser formality than that provided in this section. In either case, disposition shall be as provided in subsection (5) of this section.

(2) Within a reasonable time prior to the hearing, the court shall provide the child, the parent, if possible, the legal custodian and the guardian, if any, with written notice which shall contain the following information:

(a) A concise statement of each alleged violation and the supportive evidence relevant thereto;

(b) The child's right to a hearing and the time, place and purpose of the hearing;

(c) The fact that the disposition may be changed if it is found that a violation occurred and there are no substantial reasons which mitigate or justify such violation or otherwise

make such a change inappropriate;

(d) The name of persons who have given adverse information upon which the alleged violation is based and the right of the child to have such person present at the hearing for the purposes of confrontation and cross-examination;

(e) The child's right to present letters, documents, affidavits or persons with relevant information at the hearing;

(f) The child's right to subpena witnesses in the same manner as provided in ORS 136.555 to 136.603; and

(g) The child's right to be represented by counsel and, if indigent, to have counsel appointed.

(3) The child shall disclose the names of persons whom the child intends to call as witnesses and shall furnish copies of any letter, documents or affidavits within the child's possession or control that the child intends to offer in evidence at the hearing.

(4) At the hearing, the child shall have the right:

(a) To present evidence on his behalf, which shall include the right to present letters, documents, affidavits or persons with relevant information regarding the alleged violations, and, in particular, to offer evidence in mitigation of the alleged violation which may suggest that the violation does not warrant a change in the disposition or the child is benefiting from the existing disposition;

(b) To confront witnesses against him;

(c) To examine information or documents which form the basis of the alleged violation; and

(d) To be represented by counsel and, if indigent, to have counsel appointed.

(5) Within a reasonable time after the hearing, the court shall decide whether to amend the dispositional order. When the decision is made, the court shall furnish the child with a written decision made with respect to the child's continued probation, including the reasons for such decision. If a violation is not proved, the child shall be returned to release status under the same or modified conditions. If a violation is proved, the court may take one of the following actions:

(a) Order a continuation of the existing disposition or order a new disposition consistent with section 3 of this 1979 Act, except that the new disposition shall be confined to one which could have been imposed by the court as a result of the act which resulted in the original dispositional order; or

(b) In the case of a child on probation under suspended commitment, revoke the probation and order that the child be delivered to the Children's Services Division for placement in a juvenile training school.

SECTION 6. Placement of a child in the legal custody of the Children's Services Division pursuant to paragraph (a), (b) or (c) of subsection (1) of section 3 of this 1979 Act shall be in the following manner:

(1) The court may make a recommendation concerning the care, placement and supervision of the child or may ask the Children's Services Division to make such a recommendation in the form of a treatment plan. The recommendation must be received by the court within 14 days of the date on which the child has been found to be within the jurisdiction of the court pursuant to an adjudicatory hearing unless the court orders an extension of this time period for good cause shown.

(2) If the court and the Children's Services Division agree on the care, placement and supervision of the child, the court shall place the child in the legal custody of the Children's Services Division for action in accordance with a written court order setting forth the terms of the agreement.

(3) If the court and the Children's Services Division do not agree on care, placement and supervision of the child, the court shall order a hearing on the matter at which time the Children's Services Division shall set forth the rationale for its recommendations and may make alternative recommendations.

(4) If, pursuant to the hearing provided in subsection (3) of this section, the court and the Children's Services Division reach an agreement concerning the care, placement and treatment of the child, the court shall place the child in the legal custody of the Children's Services Division for action in accordance with a written court order setting forth the terms of the agreement.

(5) If, pursuant to the hearing provided in subsecion (3)

of this section, the court and the Children's Services Division are unable to reach an agreement concerning the care, placement and supervision of the child, the court may place the child in the legal custody of the Children's Services Division with a written court order specifying the care, placement and supervision which the child is to receive from the Children's Services Division, and the Children's Services Division shall take action in accordance with the court order.

(6) Court orders issued pursuant to subsection (2), (4) or (5) of this section may include conditions of probation in appropriate cases.

(7) Court-ordered placement of a child in a specific residential youth care center, child care center or other private child-caring agency shall be dependent upon the availability of space in the center or agency and the center's or agency's acceptance of the child.

(8) Nothing in this section shall be construed as requiring the Legislative Assembly or the Emergency Board to appropriate, allocate or transfer any funds as a result of a court order concerning the care, placement or supervision of a child.

(9) The Children's Services Division shall report to the court concerning the progress of a child committed to the division's legal custody six months after assuming custody and annually thereafter. The court may also at any time request such reports. No change in any care, placement or treatment contained

in a court order entered pursuant to this section, except unconditional release or parole from a juvenile training school, shall be made by the Children's Services Division except on authorization by the court.

(10) No child placed in the legal custody of the Children's Services Division shall be placed in the Oregon State Penitentiary or the Oregon State Correctional Institution or the Oregon Women's Correctional Center.

(11) Physical delivery of a child placed in the legal custody of the Children's Services Division shall be at the time and place fixed by the rules of the division, except as those rules may conflict with orders of the juvenile court.

Section 7. ORS 418.015 is amended to read:

418.015. (1) The Children's Services Division may, in its discretion, accept custody of children and may provide care, support and protective services for children who are dependent, neglected, mentally or physically disabled or who for other reasons are in need of public service.

(2) The Children's Services Division shall accept any child placed in its custody by a court under, but not limited to ORS chapter 419, and shall provide such services for the child as the division finds to be necessary. However, the division must provide the care, placement and supervision of a child that the juvenile court orders if the child is committed to the legal custody of the division pursuant to section 6 of this 1979 Act.

## COMMENTARY

As exemplified in several appellate court decisions, the rights and responsibilities of the juvenile court and the Children's Services Division in respect to a child committed by the court to CSD's care and custody have been ambiguous and subject to varying interpretations since the state agency was created in 1971.

CSD has the responsibility for placing the child for out-of-home care and planning treatment for the child, but the court retains jurisdiction over the child and is responsible for protecting the rights of the child and the parents.

Some juvenile court judges assume that a juvenile offender remains on probation even after the child has been committed to the custody of CSD, while other judges believe that the court's direct involvement with the child ends upon commitment. CSD, while it has a parole supervision function for children leaving the training schools, does not regard itself as a probation-supervision agency.

Probation is ordered--and revoked--every day in the juvenile courts of the state, but there are no uniform procedures for carrying out these important functions which may result in a loss of liberty for the child.

The Task Force chose to redraft the dispositions section of the Juvenile Code to achieve the following purposes:

1. To establish three types of dispositional alternatives--protective supervision, probation, and probation with suspended commitment--with the type of disposition based on the court's findings concerning a particular child's conduct or condition.

2. To establish an orderly and uniform procedure by which the court may modify or revoke juvenile probation.

3. To give the juvenile court authority to order specific care, placement, and supervision of a child committed to the custody of the Children's Services Division.

4. To specify that the Children's Services Division shall supervise children on probation if the juvenile court so orders.

SECTION 1

ORS 419.507, the existing statute dealing with juvenile court dispositions, would be repealed, and this proposed bill would be enacted in its place.

SECTION 2

Summary

Section 2 provides definitions for this Act. In particular, "probation" is defined as court-ordered restrictions upon a child who has been found to have committed an offense. "Probation with suspended commitment" would be reserved for those children who have been found to have committed offenses that would be crimes if committed by adults and would be used, as it is used in practice now, in lieu of commitment to a training school. "Protective supervision" would describe the court supervision of dependent and neglected children.

Relationship to Existing Law

The words, "probation" and "protective supervision," are used in subsection (1) of ORS 419.507, but are not defined. This proposed section would give the terms precise definitions and would add "probation with suspended commitment."

The definitions for "child care center" and "youth care center" appear in existing law as subsections (5) and (6) or ORS 419.507.

SECTION 3, SUBSECTION 1

Summary

Paragraphs (a), (b), and (c) of subsection (1) of this section essentially repeat the definitions contained in section 2 with precise cross-references to the jurisdictional statute, ORS 419.476.

Paragraph (a) would authorize the juvenile court to establish protective supervision over a child who

is dependent for care and support on a public or private child-caring agency or has been abandoned, neglected, or abused by his parent or other person having his custody, or has been found in circumstances which endanger his welfare, if such circumstances have been brought about by a person other than the child. The Children's Services Division would administer the protective supervision of the child, either in his own home or in out-of-home placement, in accordance with current practice.

Paragraph (b) specifies that a child who has been found to be a criminal offender or a status offender may be placed on probation by the juvenile court, again in accordance with existing practice. Such probation could be supervised either by the Children's Services Division or the county juvenile department staff. Included in this category of children would be those who have been found to have committed an act which would be a crime or a violation of law or ordinance if committed by an adult or who are beyond parental control or who have run away from home or whose own behavior endanger their welfare.

Paragraph (c) would codify the practice of many juvenile courts of releasing a child conditionally on suspended commitment to a training school. Children in this category would be limited to those who have been found to have committed acts for which adults could be imprisoned.

Other dispositional options included in this subsection include: commitment to the training school, fines, forfeiture, compulsory attendance at remedial training courses, restitution, community service, remand to adult court, and out-of-state placement.

Relationship to Existing Law

Except that the words, "probation" and "protective supervision," are used in ORS 419.507, paragraphs (a), (b), and (c) have no counterpart in existing law.

Paragraph (d) simply lists the dispositional alternative now available to the court to send certain children to the juvenile training schools and makes cross reference to ORS 419.509 where the restrictions on such placement are set forth.

Paragraph (e) is new and would empower the juvenile court to levy fines in those cases where an adult could be fined. The juvenile fines shall not exceed those which could be levied against an adult.

Paragraph (f) expands the existing authorization of the juvenile court to order restitution, now contained in subsection (1) of ORS 419.507, to include payments for bodily injury. Restitution is now confined to "property taken, damaged or destroyed" by a child.

Paragraph (g) codifies the current practice of ordering community services. In this proposal, such service would be imposed in lieu of a fine or order of restitution, and the period of community service would be computed in accordance with an amount of money which would be no less than the prevailing hourly minimum wage.

Paragraph (h) is essentially a restatement of dispositional options contained in ORS 419.541. Paragraph (i), concerning remand to adult court, is a restatement of subsection (4) of ORS 419.507, and paragraph (j) is a restatement of subsection (3) of the same statute.

SECTION 3, SUBSECTION 2

This subsection expresses the intention that juvenile departments, in accordance with current practice, shall have primary responsibility for the supervision of children on probation in their own homes.

SECTION 3, SUBSECTION 3

Summary

This subsection requires that the dispositional order of the court be in writing and that its terms be explained to the child and the child's parent or guardian. It further specifies that the court may place the child in his own home, in the home of a relative or in a foster home, or in a child care center, youth care center, or other private agency.

Relationship to Existing Law

The first sentence of this subsection, requiring written court orders, is new. The remainder of the subsection is now contained in subsection (1) of ORS

419.507 and dates from the 1959 revision of the Juvenile Code. However, the reference to the Children's Services Division has been inserted, because, since the creation of CSD in 1971, courts have seldom made out-of-home placements directly, except occasionally in the homes of relatives. Instead, placement is made through the division which has the federal and state funds to pay for such care.

SECTION 3, SUBSECTION 4

Summary

This subsection states that the court may specify certain requirements for the child and the person having custody of the child and may further specify parental rights of visitation.

Relationship to Existing Law

The contents of this subsection are now contained in subsection (1) of ORS 419.507. However, in contrast to existing law, the requirements of this subsection would apply to CSD, as well as the juvenile department staff and others caring for the child, under the terms of this proposed legislation. (See Commentary under subsections (5) and (6) for discussion of visitation rights.)

SECTION 3, SUBSECTIONS 5 and 6

Summary

These subsections allow the juvenile court to retain wardship over a child who is committed to Children's Services Division and to continue to protect the rights of the child and the child's parents or guardian.

Relationship to Existing Law

Subsections (3) and (4) are exact restatements of subsection (7) and paragraph (f) of subsection (2) of ORS 419.507.

The existing paragraph (f) was adopted by the Legislature in 1973 in response to the Court of Appeals decision in State ex rel Juv. Dept. v. Richardson, 13 Or App 259, 508 P2d 476, Sup Ct review improvidently granted, 267 Or 374, 517 P2d 270 (1973), which held

that the juvenile court had no authority to order visitations between children and their parents after the children had been committed to Children's Services Division. By the time the Oregon Supreme Court reviewed the decision, the Legislature had acted and, the court said, had made it clear that the juvenile court has the right to make the final decision concerning visitation rights.

In Children's Services Division v. Weaver, 19 Or App 574, 528 P2d 556 (1974), the Court of Appeals relied on the Richardson decision to affirm the juvenile court's authority to protect all rights similar to visitation which facilitate the child's and family's enjoyment of membership in a permanent home while the child is still young.

SECTION 5

Summary

This section provides a hearings procedure for a child who is alleged to have violated the conditions of probation or probation with suspended commitment.

Subsection (1) empowers the court to order a child on probation to be taken into temporary custody for alleged violation of a condition of probation. Within two judicial days if the child is taken into custody, and within a reasonable time if the child is not detained the court shall conduct a hearing to determine: (a) if the child has violated a condition of probation, and (b) if the child has, whether there are any substantial reasons which justify or mitigate the violation, whether the child is otherwise benefiting from the existing disposition, and whether the disposition should be changed.

Subsection (2) lists the information which must be furnished in writing to the child and other named persons before the hearing. Subsection (3) specifies that the child has reciprocal obligations to disclose witnesses and evidence. Subsection (4) lists the child's rights at the hearing.

Subsection (5) requires the court to make a determination concerning changing the dispositional order within a reasonable time after the hearing and furnish the child with a written copy of the decision

and the reasons for the decision. If a violation has been proved, the court may order a continuation of the existing disposition or a new disposition. The new disposition must be confined to one which the court could have imposed for the original offense. In other words, a status offender, found to have violated probation, cannot be sent to a training school for that violation since he could not have been placed in secure custody for his original offense. A child who is on probation with suspended commitment, however, can have his probation revoked and be ordered to a training school.

Relationship to Existing Law

This section is based in part on the statutes which govern adult parole revocation, ORS 144.315 et seq., and in part on the revocation procedures specified in Morrissey v. Brewer, 408 US 471, 92 S Ct 2593, 33 L Ed 2d 484 (1972), and Gagnon v. Scarpelli, 411 US 778, 93 S.Ct 1756, 36 L Ed 2d 656 (1973). Such procedures were made applicable to parolees from juvenile training schools in Oregon by the Court of Appeals in Morgan v. MacLaren School, 23 Or App 546, 543 P2d 304 (1975). Because Gagnon applied the rights of adult parolees to adult probationers, Gagnon and Morgan may be read to imply the application of juvenile parolees' rights to juveniles who are on probation with suspended commitment. This proposed section makes the right to a hearing applicable to all juvenile probationers, whether or not it would be possible to send them to a training school, since the consequences of probation violation may include removal from home and placement in a more secure setting.

The present statutes make no reference to revocation of probation, although probation itself is authorized. A footnote in State ex rel Juv. Dept. v. Damrill, 14 Or App 481, 513 P2d 1210 (1973), indicates that revocation hearings are now conducted pursuant to subsections (1) and (2) of ORS 419.529, concerning a court's powers to modify or set aside its order.

The judicial philosophy of Morgan, which applied the rights of adult parolees to juveniles, may serve as a basis for this section. Morgan established the applicability of the "Morrissey requirements" where

the individual faced with the loss of "conditional liberty" is a juvenile.

The "Morrissey requirements" as they are modified and applied to this section are as follows:

1. The right to a hearing to determine whether there is a probable cause to believe the probationer has committed acts which would constitute a violation of probation conditions and, if the violation exists, whether a change in disposition is appropriate.

2. The right to written notice prior to the hearing which states:

(a) That the hearing will take place in order to determine violation of conditions and disposition thereupon;

(b) The violations which have been alleged;

(c) That the probationer may appear at the hearing and speak in his own behalf;

(d) That the probationer, if indigent, has a right to court-appointed attorney;

(e) That the probationer may bring letters, documents,or individuals who can give relevant information; and

(f) That upon the probationer's request, persons who have given adverse information on which revocation is to be based shall be made available for questioning in the probationer's presence.

3. The right to exercise the rights specified above at the time of the hearing.

4. The right to receive a written copy of the court's decision with respect to violation and disposition, including the reasons for the decision.

The "Morrissey requirement" of "a written statement by the factfinders as to the evidence relied on" was deleted by the Task Force.

SECTION 6

Summary

This section states that when a child is being placed under protective supervision or on probation with suspended commitment in the custody of the Children's Services Division, the court may make recommendations for the care, placement, and supervision of the child, or the court may request Children's Services Division to make such recommendations in the form of a treatment plan. This plan must be received by the court within 14 days of the date on which the child was found to be within the jurisdiction of the court, unless the court allows an extension of this time period for good cause.

If the court and Children's Services Division agree on a treatment plan, the court shall incorporate the terms of the agreement in the written court order. If the court and CSD do not agree, a hearing shall be held at which CSD may set forth its reasons for the recommendations or offer alternative suggestions for care and placement.

If, following the hearing, the court and CSD still disagree, the court may, at its discretion, order CSD to carry out the court's preferences for care, treatment, and placement.

Subsection (6) specifies that, in a case where a child has been found to be within the jurisdiction of the juvenile court for a criminal or status offense, the court may include in its order of commitment to CSD conditions of probation which the child would be expected to observe. This probation would be supervised by the CSD caseworker in the course of carrying out the court's order.

Subsections (7) and (8) make clear that a private care provider would not be required to accept a specific child, nor would the Legislature be required to appropriate funds, as the result of a court order concerning the care of a child.

Subsection (9) would require CSD to report to the court on the progress of the child after the child had been in CSD's custody for six months and

annually thereafter, or submit reports more often, if the court so orders. It further specifies that no change can be made in the child's care, placement, or treatment except with court permission. However, parole or release from a training school would remain an administrative procedure.

Subsection (10) continues the prohibition against the placement of a child, who has been adjudicated in juvenile court, in an adult correctional facility. Subsection (11) says CSD shall take physical custody of a child at the time and place fixed by the division's rules, except as the rules may conflict with court orders.

Relationship to Existing Law

Section 6 is a reversal of the present statutory provisions for court placement of a child with CSD. Under ORS 419.507, when the juvenile court places a child in the legal custody of CSD, the division shall determine care and placement of the child, although the agency is required to take court recommendations into consideration.

Under paragraph (f) of subsection (2) of ORS 419.507, the court retains jurisdiction in matters pertaining to the rights of the child and the child's parents or guardians. Visitation and similar rights relating to the maintenance of family relationships are included. (See review of case law under Section 3 of this Act.)

In State ex rel Juv. Dept. v. L., 24 Or App 257, 546 P2d 153 (1976), the Court of Appeals indicated that the juvenile court plays a supervisory role in seeing that a child placed in the custody of CSD actually receives responsive treatment. However, if, in the opinion of the court, treatment is not adequate, the court's only recourse under existing law is to terminate the division's custody of the child. Since most counties do not have funds for special care and out-of-home placement of children, this alternative of ending CSD custody is usually not a realistic one.

This proposed section would give the court

the authority to order care and treatment in the case of a disagreement with CSD.

In those cases where the juvenile court judge orders treatment different from that recommended by CSD, funds received by the state under Title IV(a) of the Social Security Act could not be used to pay for out-of-home placement of the child. According to the Department of Health, Education and Welfare, Oregon would lose funds only in those individual cases where:

1. The child is eligible for Aid to Dependent Children-Foster Care funds;

2. The juvenile court and CSD are unable to agree upon a treatment plan; and

3. The juvenile court orders placement and treatment contrary to that recommended by CSD.

An informal survey of Oregon juvenile court judges by the Task Force staff indicates that in only a very few cases would the courts and CSD be unable to reach an agreement. It is estimated that the dollar loss to the state would be negligible.

Paragraph (e) of subsection (2) of ORS 419.507 requires CSD to prepare a treatment plan for submission to the court within 14 days after assuming custody of a child who "is in need of medical care or other special treatment." Subsection (1) of the proposed section would extend this requirement to all children committed by the courts. The 14-day time limit could be extended by the court for good cause.

Subsection (6), specifying that the court may set conditions of probation when committing a child to CSD, would resolve the long-standing dispute over whether subsection (1) of ORS 419.507, which authorizes the court to place a child on probation, and subsection (2) of the same statute, which provides for commitment to CSD, should be read as inclusive or exclusive sections of the law.

Subsection (7) would preserve the existing right of private care providers to choose the children they will serve, and subsection (8) is in

accordance with the decision in L., supra, which said the court could not command CSD to request additional money from the Legislature to implement a treatment plan.

The same paragraph of existing law requires CSD to report to the court annually on these special cases. Subsection (9) of the proposal extends this reporting requirement to all children placed with CSD by the courts and requires that the first report be submitted to the court at the end of six months.

Subsections (10) and (11) of the proposed Act preserve a portion of the wording of paragraph (b) of subsection (2) of ORS 419.507. However, subsection (8) has been modified to reflect the proposed change which would give supremacy to juvenile court orders.

SECTION 7

Section 7 amends ORS 418.015. This existing statute says that CSD shall provide services "as the division finds to be necessary" to a child placed with CSD by the court. The amendment would require CSD to provide specific care, placement and supervision if the court so ordered.

Fiscal Impact: Negligible loss of federal funds

Priority II
Policy Statement #12
Problem Statements #56, #58, #64, #65, & #75

A BILL FOR AN ACT

Relating to juvenile corrections.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 4 of this Act are added to and made a part of ORS 419.472 to 419.590.

SECTION 2. Subject to section 4 of this 1979 Act, a child age 14 or over may be placed in a detention facility for children for a specific period of time not to exceed 14 days in addition to time already spent in such a facility when:

(1) The child has been found to be within the jurisdiction of the juvenile court by reason of having committed an act which would be a crime if committed by an adult; or

(2) The child described in subsection (1) of this section has been found to have violated a condition of probation.

SECTION 3. No child shall be placed in a detention facility for children as authorized by section 2 of this 1979 Act unless the facility:

(1) Provides a separate room or ward for children screened from the sight and sound of adults being detained therein, as provided in subsection (3) of ORS 419.575;

(2) Is staffed by juvenile department employes; and

(3) Provides education, recreation and counseling services.

SECTION 4. A child may be placed in a detention facility for children as authorized by section 2 of this 1979 Act only as the result of a court hearing where the court determines that such

placement would be in the child's best interest.

## COMMENTARY

Testimony before the Task Force indicated frustration on the part of judges and child care professionals at the lack of any punitive dispositional alternatives, short of commitment to the training school, especially for older juveniles involved in criminal activity. Cited by a number of persons was the seemingly unrealistic approach of "no punishment for repeat offenders until 18 and then a penitentiary sentence for the first crime committed as an adult."

Also of concern to a number of judges is the lack of dispositional alternatives for probation violations, especially where an otherwise successful period of probation for a serious offense is broken by a relatively minor probation violation. Judges indicated that some resource short of probation revocation needed to be available which would allow probation to be continued under the same conditions as previously but which would also indicate to the probationer that the conditions of probation were to be taken seriously.

At a time when the training schools are becoming seriously overcrowded, the Task Force felt that a carefully delineated use of detention for postadjudicatory control of juveniles might discourage commitments to the training schools and encourage maintenance of juveniles on probation in their own communities.

In addition to the dispositional options available in ORS 419.507, this proposed act would allow detention for up to two weeks in those cases where older juveniles have been found to have committed acts which would be crimes (not violations or infractions) if committed by adults or have violated conditions of probation imposed as the result of having done such acts.

To be used as a backup to probation, the term "probation" should appear in the original dispositional order. These provisions would provide added flexibility in the handling of probation violations, enabling a judge to order something short of revocation where this appears advisable.

Since the Task Force did not feel that this period in detention should be "dead time" when a child might fall behind in school, the act specifies that facilities used for this type of detention would have to provide sight and sound separation from adult prisoners, be staffed by juvenile department employes, and provide services in the areas of education, recreation, and counseling. This would allow the use of juvenile detention homes, but preclude the use of most jails for postadjudicatory detention.

Fiscal Impact: Unknown cost to counties.

Priority III
Policy Statement #8
Problem Statement #61

A BILL FOR AN ACT

Relating to juvenile court jurisdiction.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) Any public or private agency having guardianship or legal custody of a child shall file reports on the child with the juvenile court which entered the original order concerning the child or, where no such order exists, with the juvenile court of the county of the child's residence in the following circumstances:

(a) Where the child has been placed with the agency as the result of a court order and remains under agency care for six consecutive months;

(b) Where the child has been surrendered for adoption and the agency has not physically placed the child for adoption or initiated adoption proceedings within six months of receiving the child; or

(c) Where the child has been surrendered or released for special, temporary or continued care pursuant to ORS 418.270 or 418.285 and remains under agency care for six consecutive months.

(2) The reports required by subsection (1) of this section shall be filed by the agency at the end of the initial six-month period and annually thereafter. The agency shall file reports more frequently if the court so orders.

(3) Upon receiving the report required in subsection (1) of this section, the court shall hold a hearing to review the

child's condition and circumstances and to determine if the court should assume or continue jurisdiction over the child or order modifications in the care, placement and supervision of the child.

(4) The court shall send a copy of the report required in subsection (1) of this section and notice of the hearing required in subsection (3) of this section to the parents of the child. The notice shall contain the information that the parents may request modifications in the care, placement and supervision of the child at the hearing.

(5) A child who is placed by a parent or legal guardian for special, temporary or continued care with a private agency and who is fully supported by the parent or legal guardian with no expenditure of public funds shall not be subject to the provisions of this section.

## COMMENTARY

### Summary

The need for this addition to the statutes arises out of concern for the significant number of children who have become "lost in the system," remaining in foster care for years. The proposed legislation establishes a method for bringing these children to the attention of the juvenile court so that their cases may be reviewed periodically, and the court can offer encouragement and assistance in returning the children to their homes or planning other permanent placement for them.

Subsection (1) requires a public or private agency to report to the court if a child, voluntarily

placed by the parents with the agency for temporary care, remains in such care for six months, or a child, given up for adoption by the parents, has no prospects for adoption within six months. The subsection also requires a report on a child which has been placed with an agency by court order.

Subsection (2) specifies that the reports shall be filed with the court at the end of the first six-months' period and annually thereafter. Subsection (3) requires the court to hold a hearing after receiving a report to determine whether the court should establish or continue jurisdiction over the child or take other appropriate action.

Subsection (4) requires the court to send a copy of the report and notice of the hearing to the parents along with the information that the parents may request modifications in care and placement of the child at the hearing.

Subsection (5) exempts from the provisions of the act any child who is placed by the parents or guardian with a private agency and is fully supported by the parents or guardian.

Relationship to Existing Law

There is no statute comparable to this act in the existing law, although presumably the juvenile court could find jurisdiction over a child who has been voluntarily placed under paragraph (d) of subsection (1) of ORS 419.476, which authorizes jurisdiction of a child being cared for by a public or private agency which needs the services of the court in planning for the child. However, there is now no mandatory system for bringing these children to the attention of the court, nor is there any required annual review by the court of children whom the court has committed to out-of-home placement or released for adoption.

Fiscal Impact: Unknown cost to the counties and public and private agencies

Priority I (10)
Policy Statement #9
Problem Statement #21

# PART VII

## MISCELLANEOUS

The Governor's Task Force on Juvenile Corrections made four additional recommendations which do not lend themselves to categorization within previously discussed subject areas.

The Task Force recommends legislation creating an independent ombudsman's office to investigate the actions of governmental agencies in relationship with children, resolve problems, and recommend changes in policies, procedures, and laws. The ombudsman's office proposed by the Task Force differs substantially from the various "ombudsman" offices currently functioning as a part of executive agencies. The proposed ombudsman is appointed by, and responsible only to, the Legislature to whom it reports annually. The proposed ombudsman's office has broad and strongly framed investigative powers to carry out its assigned duties although the ombudsman would have only the powers of persuasion and conciliation to change executive policies. The recommendation came in response to recurrent complaints by members of the public who frequently became confused and frustrated when dealing with governmental agencies, particularly when their children or grandchildren are involved.

The Task Force recommends that Oregon continue its participation in the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. The Task Force makes this recommendation in light of new guidelines issued by LEAA which make the conditions of participation somewhat less onerous than did previous federal requirements. Through participation Oregon should receive in excess of $600,000 per year in needed resources for juvenile programs.

The Task Force recommends that the Governor of Oregon raise as an issue at the next opportunity the apparent lack of compliance on the part of other states with regard to the Interstate Compact on Juveniles section relating to reimbursement of transportation costs for the return of juveniles to their home states. At the present time Oregon reimburses other states for the return of Oregon juveniles in accordance with the Interstate Compact, but investigation and testimony reveal that some other states do not reimburse Oregon. This results in an increasing drain on Oregon revenue. The Compact has been signed by all 50 states.

The Task Force also recommends that Oregon negotiate a

supplemental agreement to the Interstate Compact so that the costs of detaining juveniles prior to transportation home are also reimbursed by the juveniles' home states.

Before outlining the final recommendation, it should be noted that the Task Force identified at least four major problem areas for which it was unable to make concrete recommendations. The Task Force considered these areas to be of particular consequence, and the members' inability to make recommendations on them should be viewed more as a function of the problems' complexities and the need for further examination than any lack of concern for the issues.

The need for a state-wide system to collect data on juvenile justice and corrections in Oregon was identified by all three subcommittees as a problem area of major proportions. At the present time, no such data collection is done on a uniform and mandatory basis. Oregon's juvenile service planning is literally being done in the dark. Such basic information as the number of juveniles which are committed to the care and custody of CSD because of their having committed criminal acts is not available. The amount which the state is paying for the care and treatment of juvenile offenders, as opposed to dependent children, is not known except for the small minority of children who are committed to the training schools.

Even those statistics reported by counties to CSD are difficult to use because variations in definitions make the data hard to compile and compare and, since some counties do not report, the data are never complete. Not all county juvenile departments even collect data. Research revealed at least one county that has not collected the data which are supposedly required of the state by the federal government to receive federal funds. Other counties utilize excellent computerized data collection systems. The Oregon Juvenile Directors' Association has tried to resolve these problems in the past, and CSD is currently working on improvements to its information system. The need for a uniform data collection system capable of providing basic information is well-recognized, and further work in this area is needed to develop a program to meet Oregon's needs. The Task Force has included, among the duties of the proposed Juvenile Services Commission, the establishment of a uniform system, but the problems of how that is to be accomplished and who is to pay for it have not been resolved.

The Task Force also found that Oregon lacks coordinated and consistent policies when dealing with issues and problems having an effect on the children of this state. It became apparent to the Task Force that there is no consistent policy objective

pursued by state, local, and private agencies in dealing with children. In fact, it sometimes appears as if different agency policies and laws work at cross purposes as, for example, when an early school-leaving age and emancipation are provided while child labor laws and regulations remain as barriers to self-sufficiency. The Task Force believed that it is important to insure that the various facets of the state, local, and private sectors coordinate their activities more closely and recommends the formation of state-wide planning and coordination groups to aid in this endeavor.

The Task Force reviewed the proposal of the Committee for Children designed to accomplish this task through the creation of a State Council for Children and Youth. While it was in agreement with the Committee's objectives, the Task Force specifically declined to support its proposal primarily because of its suggested administrative organization.

The fourth area of concern involved a lack of evaluation of the programs from which the state purchases care. Money has not been available to conduct the sort of longitudinal studies that might demonstrate the effectiveness of one program and the failure of another. Such long-term assessments are expensive, and funds have had to be devoted to the most immediate need--care of children in the state's custody. The Task Force, in suggesting the creation of new programs or the expansion of existing ones, attempted to include an evaluation component in each, but the problems of assessing the many programs of private care providers remained unresolved.

As its final recommendation, the Task Force proposed a joint resolution for the consideration of the Legislative Assembly, requesting the Governor to proclaim 1979 as "Oregon's Year of the Child" and suggesting the state's participation in the United Nations' International Year of the Child.

While only symbolic in nature, it is the hope of the Task Force that the activities that could be organized around Oregon's participation in the International Year would focus the attention of lawmakers, policymakers, and other citizens on the unsolved problems facing the state's juvenile justice and child-care systems and bring about a rededication to Oregon's long-standing policy of protecting and nurturing its most important natural resource--its children.

# PART VII

## PROPOSAL SUMMARIES

A BILL FOR AN ACT

Relating to an Ombudsman for Children; and appropriating money.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in this Act:

(1) "Administrative act" means any action, omission, decision, recommendation, practice or procedure of an agency affecting the rights, privileges or well-being of persons under the age of 18 years or the parents or guardians of such persons.

(2) "Agency" means any state agency, any agency of a political subdivision of the state and any private child-caring agency providing services under contract with the state, but does not include the Legislative Assembly or municipal and state courts.

(3) "Ombudsman" means an Ombudsman for Children.

SECTION 2. (1) There is established the office of Ombudsman for Children.

(2) In January of each odd-numbered year, the President of the Senate and the Speaker of the House of Representatives shall nominate a person or persons for the office of ombudsman. The number of nominees shall not exceed four.

(3) Prior to February 1 of each odd-numbered year, the Legislative Assembly, by a majority vote of each house in joint session, shall appoint an ombudsman who shall serve for a term of two years.

(4) The Legislative Assembly, by two-thirds vote of the

members in joint session, may remove or suspend the ombudsman from office, but only for neglect of duty, misconduct or disability.

(5) An ombudsman may be reappointed but may not serve for more than three terms.

(6) No person may serve as ombudsman within two years of the last day on which the person served as a member of the Legislative Assembly or while the person is a candidate for or holds any other state office or while he is engaged in any other occupation for reward or profit.

(7) The salary of the ombudsman shall be established within range 31 of the Legislative Salary Plan. The compensation of the ombudsman shall not be diminished during his term of office, unless by general law applying to all salaried employes of the Legislative Assembly.

SECTION 3. (1) The ombudsman shall appoint a first assistant and such other officers and employes as may be necessary to carry out this Act. Notwithstanding the provisions of ORS chapter 240, all employes, including the first assistant, shall be hired by and serve at the pleasure of the ombudsman. In determining the salary of each such employe, the ombudsman shall consult with the Personnel Division and shall follow as closely as possible the recommendations of the division. The first assistant's salary shall not exceed 95 percent of the salary of the ombudsman. The ombudsman and the staff shall be entitled to participate in any state employe benefit plans.

(2) The ombudsman may delegate to the staff any of the duties of the office, except those specified in subsections (1) and (3) of section 9 of this Act. During the ombudsman's absence from the state or temporary inability to exercise the powers and duties of office, such powers and duties shall be exercised by the first assistant.

(3) If the ombudsman dies, resigns, becomes ineligible to serve or is removed or suspended from office, the first assistant shall become the acting ombudsman until a new ombudsman is appointed to a full term.

SECTION 4. The ombudsman shall have jurisdiction to investigate, on complaint or on the ombudsman's own motion, any administrative act of an agency which the ombudsman considers to be an appropriate subject for investigation under the provisions of section 7 of this Act and to recommend an appropriate remedy.

SECTION 5. Subject to the provisions of this Act, the ombudsman shall adopt rules for receiving and processing complaints, conducting investigations and reporting findings. However, the ombudsman shall not collect fees for the submission or investigation of complaints.

SECTION 6. (1) Upon receipt of a complaint, if the ombudsman decides not to investigate, the ombudsman shall inform the complainant of that decision and state the reasons.

(2) If the ombudsman decides to investigate a complaint, the ombudsman shall notify the complainant and the affected agency

or agencies of the intention to investigate.

(3) Before giving an opinion or recommendation that is critical of an agency or person, the ombudsman shall consult with that agency or person.

SECTION 7. Appropriate subjects for investigation by the ombudsman shall include, but not be limited to, those administrative acts which may be:

(1) Contrary to law;

(2) Unreasonable, unfair, oppressive or unnecessarily discriminatory, even though in accordance with law;

(3) Based on a mistake of fact;

(4) Based on improper or irrelevent grounds;

(5) Unaccompanied by an adequate statement of reasons:

(6) Performed in an inefficient, irresponsible or dilatory manner; or

(7) Otherwise erroneous.

SECTION 8. In conducting an investigation, the ombudsman may:

(1) Make inquiries and obtain information in accordance with rules adopted by the ombudsman;

(2) Enter without notice to inspect the premises of an agency;

(3) Hold private hearings;

(4) Compel at a specified time and place, by subpena, the appearance and sworn testimony of any person who the ombudsman

has reasonable cause to believe may be able to give information relating to the matter under investigation, and compel any person to produce documents, papers or objects related to the investigation, subject to the privileges of witnesses in the courts of the state; and

(5) Bring suit in an appropriate state court to enforce these powers.

SECTION 9. Following an investigation, the ombudsman:

(1) Shall report to the affected agency or agencies the ombudsman's opinion and recommendations which may include the following:

(a) A matter should be further considered by the agency;

(b) An administrative act should be modified or cancelled;

(c) A statute or administrative rule on which an administrative act is based should be altered or repealed;

(d) Reasons should be given for an administrative act; or

(e) Other appropriate remedial action should be taken.

(2) May request the agency to notify the ombudsman, within a specified time, of any action taken on the recommendations;

(3) May present the ombudsman's opinion and recommendations, along with any reply from the agency, to the Governor, the Legislative Assembly, the public, the press or any of these, after a reasonable time has elapsed;

(4) Shall notify the complainant of the actions taken by the ombudsman and the agency, after a reasonable time has elapsed; and

# CONTINUED

# 3 OF 4

(5) Shall refer the matter to the appropriate authorities, if the ombudsman has reasonable cause to believe that there has been a breach of duty or misconduct by any officer or employe of an agency.

SECTION 10. The ombudsman shall submit to the Legislative Assembly and the public an annual report discussing the activities carried out under this Act.

SECTION 11. (1) The ombudsman shall maintain secrecy in respect to all matters and the identities of the complainants and witnesses coming before the ombudsman except in so far as disclosures may be necessary to enable the ombudsman to carry out the duties of office and to support recommendations.

(2) No proceeding or decision of the ombudsman shall be reviewed in any court, unless it contravenes the provisions of this Act.

(3) The ombudsman and the ombudsman's staff shall not testify in any court with respect to matters coming to their attention in the exercise or purported exercise of their official duties except as may be necessary to enforce the provisions of this Act.

SECTION 12. A letter to the ombudsman from a child held in the legal or physical custody of an agency shall be forwarded immediately, unopened, to the ombudsman.

SECTION 13. A person who wilfully hinders the lawful actions of the ombudsman or the ombudsman's staff or wilfully refuses to

comply with their lawful demands commits a violation punishable by a fine of not more than $1,000. A public employe found guilty of such violation shall have the fact noted in the person's personnel record.

SECTION 14. There is appropriated to the office of Ombudsman for Children, for the biennium ending June 30, 1981, out of the General Fund, the sum of $210,927 for the purposes of carrying out the provisions of this Act.

COMMENTARY

The concept of an independent ombudsman appointed by the legislative branch of government was developed in the Scandinavian countries. As of June, 1977, the states of Alaska, Hawaii, Iowa, and Nebraska had enacted ombudsman legislation embodying this concept. Similar legislative language was endorsed in 1969 and 1971 by the Amercian Bar Association House of Delegates and in 1972 by the Oregon State Bar.

Several ombudsman offices are functioning in the Executive Department of the State of Oregon. The Governor has appointed both a state ombudsman and an ombudsman for corrections. The Children's Services Division of the Department of Human Resources has an ombudsman. These officers serve as communication links between citizens and their governmental agencies, often answering complaints and investigating grievances.

The Ombudsman for Children proposed here would establish an independent officer, appointed by the Legislative Assembly, with potentially more freedom to investigate the actions of executive agencies. Also, the Ombudsman for Children would be empowered to investigate administrative acts of all state agencies, agencies of political subdivisions, and private agencies under contract to the state. Thus, the legislative ombudsman would have broader responsibilities than serving as "watchdog" to a single agency or division.

An ombudsman would be selected each biennium by majority vote of each house of the Legislative Assembly in joint session. The ombudsman could appoint a first assistant and other staff members. Based upon citizen complaints or on the ombudsman's own initiative, the ombudsman could investigate any administrative act of an agency which might be illegal, unfair, unreasonable, based on mistaken facts or improper grounds, unjustified, irresponsible, or otherwise erroneous. In conducting investigations, the ombudsman could gather information, enter an agency without notice, hold hearings, and exercise subpena powers. Following an investigation, the ombudsman would be required to issue a report of findings and recommendations. The ombudsman would use powers of persuasion and reason to resolve any problems that are investigated. The ombudsman would not have legal powers to force compliance with any recommendations.

The salary of the ombudsman would be established within range 31 of the Legislative Salary Plan. At the present time, this salary ranges from $2018 to $2577 per month. The salary of the first assistant would not exceed 95 percent of the salary of the ombudsman.

The ombudsman would prepare an annual report, describing the actions and recommendations of the office, to be presented to the Legislative Assembly, the public, and the press.

This proposed Act is patterned after the ombudsman legislation which was enacted in Hawaii in 1967. The jurisdiction of the Ombudsman for Children would be limited, however, to the actions of those agencies involved in delivery of services to children.

Fiscal Impact: $210,927

Priority III
Policy Statement #6

## RECOMMENDATION

The Governor's Task Force on Juvenile Corrections recommends to the Governor and the Legislative Assembly that Oregon continue to participate in the federal Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

## COMMENTARY

Continued participation in the JJDP Act means that Oregon will receive from $1,294,000 to $1,750,000 in the next biennium, 66 percent of which will be passed through to the local level for the improvement of juvenile justice and delinquency prevention services, with emphasis on prevention, diversion, and deinstitutionalization. The Task Force believes that Oregon cannot at this time afford to turn down these funds, and that new guidelines, adopted by the Law Enforcement Assistance Administration in July 1978, will make it easier for the state to comply with the provisions of the Act.

The previous guidelines placed severe restrictions on the commingling of status offenders and other juveniles accused of committing, or found to have committed, crimes. This raised doubts about the permissible placements of status offenders in many of the state's child care facilities. The new guidelines eliminated most of the commingling restrictions.

The Juvenile Justice and Delinquency Prevention Act was passed by the Congress in 1974. It makes available to the states formula grants based on each state's relative proportion of persons under the age of 18. (The Office of Juvenile Justice and Delinquency Prevention--OJJDP--also makes special emphasis grants on a discretionary basis to public and private agencies, institutions, and individuals.)

Oregon filed its initial application or plan for a formula grant in August 1975. At that point, the time limitations noted below began to run. None of these funds was used until June 1976, when the Emergency Board authorized the Oregon Law Enforcement Council, the state planning agency administering the JJDP Act funds, to expend some of the planning funds from the grant. The Emergency Board instructed OLEC to make a study of the feasibility of Oregon's full participation in the Act

and to report back to the 1977 Legislature. OLEC submitted the study, recommending participation, to the appropriate Ways and Means subcommittee. The subcommittee, through approval of the OLEC budget, voted to authorize Oregon's participation, having made the following findings:

"1. That the projected costs of implementing the Act to the state and its jurisdictions, assuming a 'worst case' example will not exceed $1.6 million while revenues are projected to approximate $2 million during 1977-79.

"2. That Oregon is in compliance with federal program standards which specify a 'good faith' effort.

"3. That counties which do not elect to receive funding made available under the provisions of the Act do not have to adhere to the requirements of the Act.

"4. That federal sanctions will not be imposed on the state for a non-participating county's decision to not comply with the federal program requirements."

The subcommittee authorized Oregon's participation in the Act subject to the following conditions:

"1. That any instrument negotiated with the Federal Government shall indicate that authorization to receive federal monies is rescinded if any of the findings stated above become invalid.

"2. That no requirements will be imposed on counties not electing to receive federal monies during 1977-79.

"3. That all monies available to the state under the provisions of the Act, exclusive of administrative expenses including those of the Task Force on Juvenile Corrections, shall be allocated to local governments during 1977-79. [The Act requires that two-thirds of funds, excluding costs of the advisory committee, be passed through to the local level. The amendments specify that private local agencies may apply for funds if they have first applied to their local governments and been refused funding.]

"4. That the state, by electing to participate in the Act, will not assume ongoing program costs at the local level if federal monies decline or disappear in future years."

Further, the subcommittee "directed the agency [OLEC] and the Task Force on Juvenile Corrections to closely monitor implementation of this program in relation to the above conditions and report any significant changes to the legislative review agency and the appropriate interim or substantive committee."

Under the Act in its original form, states had two years from the date on which they first accepted the federal funds during which to come into full compliance with the provisions of the federal law, including a prohibition on the use of secure facilities for detaining status offenders. Amendments to the law adopted in 1977 increased this time period to three years for "substantial compliance," defined as 75 percent deinstitutionalization of status offenders, and an additional two years to come into full compliance. Oregon will be expected to come into full compliance by August 1980.

Status offenders held in detention for less than 24 hours do not need to be counted when the state files its compliance reports with the federal agency. Oregon law allows status offenders to be held in detention for 72 hours. (ORS 419.577)

Research conducted by the Task Force staff indicates that Oregon decreased the number of status offenders detained by about 25 percent between 1975 and the end of 1977. However, in most instances, the counties were not able to report the number of status offenders held less than 24 hours. A more detailed study by OLEC staff members of the 1978 detention figures will indicate how close Oregon is to being in "substantial compliance" with the requirement that status offenders be removed from detention.

The federal law also prohibits "regular contact" between juvenile and adult inmates in detention or correctional facilities. Since 1959, Oregon law (ORS 419.575) has required sight and sound separation of any child placed in an adult detention facility. However, several county and city jails are not in conformance with this law when both juvenile and adult prisoners are present.

As for the postadjudicatory placement of status offenders, the federal law prohibits placement in any facility which is secure and where the children's

freedom to come and go is restricted by locked doors or other restraints. Since September 1975, Oregon has not allowed status offenders to be placed in the state training schools. However, status offenders are sometimes placed in private child-care facilities in Oregon which are as secure as the training schools.

The Children's Services Division has estimated that, under the new guidelines, the cost to the state of complying with the JJDP Act is approximately $523,320 per biennium. This estimate is based upon a perceived increase in the use of shelter care due to the JJDP Act 24-hour limitation on the length of time a status offender may be held in secure detention. In arriving at the estimate, CSD assumed that all status offenders now held in detention would require shelter care and that 60 percent of these children would require the more expensive and long-term shelter evaluation. Further, CSD assumed that all children would require two additional days of shelter care. Critics of this estimate believe that the guidelines may result in transfers to CSD for shelter care more quickly (within 24 hours) but that the actual number of placements will not necessarily increase nor will it be necessary in all cases to retain the children in shelter care for an extra two days.

Each of the three subcommittees of the Task Force considered the question of Oregon's continued participation in the Act separately in the light of their particular assignments and the testimony they had heard, and each of the subcommittees voted in favor of continued participation.

A number of Task Force members in voting to recommend that Oregon continue to participate in the Act, did so with substantial reservations, and a number of Task Force members abstained from voting on this issue for the same reasons. These reservations centered primarily around the following areas:

1. The JJDP Act's prohibition against holding status offenders, even though believed to be dangerous to themselves or others, in a secure facility;

2. Uncertainty over the JJDP Act's effect on the use of mental health facilities;

3. A perceived loss of flexibility and judicial discretion under the JJDP Act;

4. The added administrative costs and impact of dealing with multiple bureaucracies; and

5. Disagreement over the actual intent of the JJDP Act and the advisability of proceeding in the philosophical direction underlying its provisions.

The strongest reservations were expressed by those persons representing state government agencies dealing with children, the judiciary, and juvenile departments. Support for the act came primarily from private social service agency representatives and lay citizens who strongly support the deinstitutionalization concept and feel that deinstitutionalization will give impetus to the development of more voluntary, non-secure community-based facilities and services.

Formula grant funds which have been or will be available to Oregon under the JJDP Act are as follows:

| | Total | State Planning | Local Planning | Task Force | Local Programs |
|---|---|---|---|---|---|
| FY1975 | $200,000 | $30,000 | -0- | $36,666 | $133,334 |
| FY1976 | $258,000 | $21,900 | $16,800 | $64,100 | $155,200 |
| FY1977 | $460,000 | $39,000 | $30,000 | $81,541 | $309,459 |
| FY1978 | $637,000 | $63,800 | $43,000 | -0- | $530,200 |
| FY1979* (est) | $644,000 | $37,850 | $21,700 | -0- | $584,450 |

Fiscal Impact: $523,320 (CSD estimate) offset by an estimated $1.2 million in federal funds.

Priority III
Policy Statements #2 & #10
Problem Statements #30, #50, & #73

*As the Task Force completed its work, the Oregon Law Enforcement Council, state planning agency for JJDP Act funds, was informed by the OJJDP that Oregon could not expend its FY 1979 funds until the state had submitted a detailed plan for deinstitutionalization.

## RECOMMENDATIONS

The Governor's Task Force on Juvenile Corrections makes the following recommendations to the Governor:

1. That the Governor raise as an issue at the next opportunity the apparent lack of compliance by states with regard to the Interstate Compact on Juveniles section relating to the reimbursement of transportation costs for the return of juveniles to their home states and attempt to insure that the Compact will be complied with in the future; and

2. That the Governor negotiate a supplemental agreement to the Interstate Compact on Juveniles which would provide for reimbursement to agencies for the costs of detaining juveniles from out-of-state pending their transport home.

## COMMENTARY

The Interstate Compact on Juveniles, ORS 417.030 in Article IV(b), provides that a state subscribing to the Compact shall reimburse other states for the costs incurred in returning its resident juveniles, but indications from the counties and the Compact Administrator's office are that the Compact is not always honored, although all 50 states have adopted it. California, for instance, will pay the transportation costs for the return of a juvenile only if that child is already under the care and custody of the California Youth Authority. When the juvenile's resident state will not pay, Oregon incurs the expense for returning the child home.

A second related problem concerns charges for the detention of juveniles from out-of-state who are picked up in Oregon and are awaiting transportation home. Often transport is delayed while the home state agency locates the juvenile's family or an appropriate shelter placement. The costs of detaining an out-of-state juvenile are not covered by the Interstate Compact on Juveniles, and Oregon counties often must absorb these costs themselves. This situation is aggravated by the fact that Oregon is an attractive place for juveniles from all over the United States.

To remedy this latter problem, the Task Force recommends that the Governor, through Oregon's Interstate Compact Administrator, negotiate supplemental agreements

with other states, particularly the neighboring states, as provided in ORS 417.050, which would provide for reimbursement to the counties of the costs of detaining out-of-state juveniles. Such agreements would require Oregon counties to reimburse other states for the costs of detaining Oregon juveniles from those counties. (See Appendix L.)

Fiscal Impact: Estimated $4,900 increase in revenue to Oregon.

Priority II
Problem Statement #20

JOINT RESOLUTION

Whereas the United Nations has proclaimed 1979 to be the International Year of the Child; and

Whereas President Jimmy Carter has appointed the U.S. National Commission on the International Year of the Child; and

Whereas it is the policy of the State of Oregon to strengthen family life and to insure protection of all children; now, therefore,

Be It Resolved by the Legislative Assembly of the State of Oregon:

The Legislative Assembly requests that:

(1) The Governor proclaim 1979 to be "Oregon's Year of the Child."

(2) The State of Oregon participate in official activities of the International Year of the Child.

(3) The Governor designate a group within the state to serve as liaison to the U.S. National Commission on the International Year of the Child.

COMMENTARY

This resolution requests the state's participation in activities of the International Year of the Child, sponsored by the United Nations and the United States National Commission and further requests the Governor to designate 1979 as "Oregon's Year of the Child" to emphasize the importance of children in the state.

Both public and private resources, including schools, governmental agencies, recreational facilities,

libraries, and youth-serving organizations, are directed toward fulfilling the needs of children, yet not all children experience a safe or nurturing environment. The Oregon Legislative Assembly has declared that "It is the policy of the State of Oregon to strengthen family life and to ensure the protection of all children." (ORS 418.485). Passage of this resolution would provide a visible expression of this policy and encourage the 1979 Legislative Assembly to remember the needs of children during its legislative deliberations.

Fiscal Impact: None (It is anticipated that the Governor's Commission on Youth or some other existing group would be designated to serve as liaison without additional expense.)

Priority III

# APPENDICES

## C-Engrossed

# Senate Joint Resolution 54

Ordered by the House June 29
(Including Amendments by Senate May 4 and by House June 6 and June 29)

Sponsored by Senators HEARD, E. BROWNE, Representatives KATZ, KULONGOSKI

### SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Directs [*Law Enforcement Council*] **Governor** to appoint Task Force on Juvenile Corrections to study juvenile corrections problems, causes of juvenile delinquency and ways to eliminate or minimize those causes and problems involving placement of nondelinquent juveniles. Requests council to fund task force. Requires task force to submit written report to [*council*] **Governor** and to Sixtieth Legislative Assembly.

NOTE: Matter in **bold face** in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted; complete new sections begin with **SECTION.**

SENATE JOINT RESOLUTION 54

**Be It Resolved by the Legislative Assembly of the State of Oregon:**

(1) From a list of nominees, including those proposed by the Law Enforcement Council, the Governor shall appoint a Task Force on Juvenile Corrections. The task force shall consist of persons representing the Oregon Legislative Assembly, juvenile court judges, directors of juvenile departments, county commissioners, law enforcement agencies, public schools, state and private child-caring agencies, and lay citizens interested in juvenile corrections.

(2) The Governor shall appoint the chairperson of the task force.

(3) The task force may select associate members from persons qualified to advise and assist in the task force studies.

(4) The task force shall study problems in juvenile corrections and ways to eliminate or minimize those problems. The task force may also consider the causes of juvenile delinquency and the placement of nondelinquent juveniles. The task force shall submit a written report to the Governor and to the Sixtieth Legislative Assembly containing a digest of facts found by the task force and its recommendations with respect to any proposed legislative measures considered necessary as a result of its studies.

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APPENDIX B

GOVERNOR'S CEREMONIAL OFFICE

# GOVERNOR BOB STRAUB'S CHARGE TO THE TASK FORCE ON JUVENILE CORRECTIONS

THE PROBLEMS OF JUVENILE CRIME AND JUVENILE CORRECTIONS RANK HIGH ON THE LIST OF CONCERNS OF CITIZENS OF OUR STATE AND NATION.

YOU WHO HAVE ACCEPTED MY CALL TO SERVE ON THIS TASK FORCE ON JUVENILE CORRECTIONS HAVE ACCEPTED A DIFFICULT CHALLENGE.

THE STUDY OF JUVENILE CRIMINAL BEHAVIOR IS MARKED BY CONTROVERSY, STRONG EMOTION AND CONTRADICTORY OR INADEQUATE FACTUAL INFORMATION.

-WHAT CAUSES DELINQUENCY?

-WHO IS ULTIMATELY RESPONSIBLE FOR YOUTHFUL OFFENDERS?

-SHOULD SOCIETY RESPOND TO JUVENILE DELINQUENCY IN THE SAME MANNER THAT IT RESPONDS TO ADULT CRIME?

-HOW MUCH OF OUR LIMITED PUBLIC RESOURCES SHOULD WE ALLOCATE TO THIS PROBLEM?

THESE AND SIMILAR QUESTIONS CAUSE MUCH DISCUSSION AND DISAGREEMENT AMONG LEGISLATORS, SYSTEM EXPERTS AND LAY CITIZENS. BUT ALL AGREE THAT THE PROBLEM IS SIGNIFICANT AND THAT SOMETHING MUST BE DONE.

WE KNOW THAT JUVENILES...AGE 10-17...ACCOUNT FOR MORE THAN HALF OF ALL THE ARRESTS FOR SERIOUS CRIMES IN OREGON.

WE KNOW THAT MOST OF THE OFFENDERS IN OUR ADULT INSTITUTIONS HAVE RECORDS OF JUVENILE ARRESTS.

WE KNOW THAT REFERRALS TO OUR JUVENILE COURTS AND COMMITMENTS TO THE STATE JUVENILE FACILITIES HAVE BEEN INCREASING.

WE KNOW THAT OREGON'S REFERRALS TO THE JUVENILE COURTS ARE OVER THREE TIMES THE NATIONAL RATE, AND OREGON'S DETENTION RATE IS ABOUT THREE TIMES HIGHER THAN RECOMMENDED NATIONAL STANDARDS. THIS SUGGESTS WE MAY BE OVER BURDENING OUR JUVENILE JUSTICE SYSTEM.

WE KNOW THAT THE JUVENILE JUSTICE SYSTEM IS A COMPLEX SYSTEM COMPOSED OF MANY ACTORS REPRESENTING LAW ENFORCEMENT, THE JUDICIARY, CORRECTIONS, MEDICINE AND COUNSELING, EDUCATION, MENTAL HEALTH, AND MANY OTHERS. THE SYSTEM OPERATES FROM A VARIETY OF MOTIVES, INCLUDING ECONOMIC, POLITICAL, SOCIAL, MORAL AND SO ON. PERHAPS NO SINGLE PERSON OR AGENCY UNDERSTANDS THE ENTIRE OPERATIONAL COMPLEXITY OF THIS SYSTEM.

WE KNOW THAT THE STUDIES AND RECOMMENDATIONS OF THE GOVERNOR'S TASK FORCE ON CORRECTIONS DURING 1975-1976 SUGGESTED THAT A THOROUGH EXAMINATION OF THE JUVENILE JUSTICE SYSTEM IS NECESSARY AS A FOUNDATION FOR CONSTRUCTING RATIONAL POLICY FOR ADULT CORRECTIONS.

WE KNOW THAT THE WOMEN AND MEN WHO WORK IN OUR JUVENILE JUSTICE SYSTEM ARE DEDICATED AND SINCERE, BUT WE MUST SUPPORT THEIR INDIVIDUAL EFFORTS WITH A FRAMEWORK OF CONSISTENT PUBLIC POLICY AND ADEQUATE PROGRAM RESOURCES.

THIS, THEN, IS YOUR TASK: <u>TO EXAMINE OUR EXISTING SYSTEM AND DESIGN POLICY RECOMMENDATIONS AND PROGRAM ALTERNATIVES FOR THE FUTURE</u>.

YOU MUST STUDY THREE COMPLEX AREAS:

-AT THE FRONT END OF THE SYSTEM, WHAT ARE THE CAUSES OF DELINQUENCY, HOW CAN IT BE PREVENTED OR MINIMIZED, AND HOW ARE YOUTHFUL OFFENDERS BROUGHT INTO THE SYSTEM?

-AT THE LEVEL OF PUBLIC RESPONSE, WHAT ARE THE MOST RESPONSIBLE USES OF OUR INSTITUTIONS, TRAINING SCHOOLS AND DETENTION FACILITIES?

-AT THE LEVEL OF PLANNING FOR THE FUTURE, WHAT ALTERNATIVES TO INSTITUTIONALIZATION CAN WE DEVELOP THAT WILL BE EFFECTIVE AND COST-EFFICIENT FOR RESPONDING TO JUVENILE DELINQUENCY?

TO ACHIEVE SUCCESS IN THIS EFFORT, COOPERATION AMONG ADMINISTRATIVE, LEGISLATIVE, AND CITIZEN GROUPS WILL BE NECESSARY. THE OREGON LEGISLATURE HAS ESTABLISHED A BASIS FOR COOPERATION BY ENACTING SJR 54 TO ESTABLISH THIS TASK FORCE. YOU WHO HAVE BEEN SELECTED AS TASK FORCE MEMBERS REPRESENT MANY POINTS OF VIEW AND MANY FACETS OF THE JUVENILE JUSTICE SYSTEM. ADDITIONAL ASSOCIATE MEMBERS WILL BE SELECTED TO ENSURE A COMPREHENSIVE PERSPECTIVE.

I EXPECT FULL COOPERATION FROM ALL SEGMENTS OF THE SYSTEM. THE PROJECT CANNOT SUCCEED WITHOUT SUCH COOPERATION.

BY OCTOBER 1978, YOU SHOULD HAVE A REPORT OF FINDINGS AND RECOMMENDATIONS. YOUR RECOMMENDATIONS WILL BE INCORPORATED INTO THE LEGISLATIVE PROPOSALS PRESENTED TO THE 60TH LEGISLATIVE ASSEMBLY.

THE REPORT MUST EXAMINE THE CURRENT POLICIES FOR JUVENILE AND COUNTY COURTS, JUVENILE INSTITUTIONS, THE HANDLING OF STATUS OFFENDERS, AND FOR REDUCING OR PREVENTING JUVENILE CRIMINAL BEHAVIOR. THE REPORT MUST EVALUATE OTHER STATE'S SOLUTIONS, SUCH AS MINNESOTA'S COMMUNITY CORRECTIONS SYSTEM FOR JUVENILES AND WASHINGTON'S NEW DETERMINATE SENTENCING LAW. THE REPORT MUST CONTAIN YOUR ASSESSMENT OF THE APPROPRIATE DEGREE OF GOVERNMENT INTERVENTION ACCEPTABLE IN OUR STATE.

THE TASK IS DIFFICULT AND THE TIME IS SHORT. IT WILL NOT BE EASY TO ACHIEVE CONSENSUS OR AGREEMENT. BUT OREGON'S FUTURE DIRECTIONS IN JUVENILE CORRECTIONS POLICY DEPENDS UPON YOUR THOROUGH EXAMINATION OF THESE COMPLEX QUESTIONS NOW.

THANK YOU.

###

# APPENDIX C

## GOVERNOR'S TASK FORCE ON JUVENILE CORRECTIONS
James M. Brown, Chairperson
Subcommittee Members

### Subcommittee 1

Tom Marsh, Chairperson
Muriel Goldman
Brenda Green
Ted Kulongoski
Betsy Welch

### Associate Members

Brad Benziger
Claudia Burton
Tom English
Heather Himmelsbach
Eleanor Nasby
Jan Wyers

### Subcommittee 2

Laverne Pierce, Chairperson
Guy Hancock
Clayton Klein
Tom Moan
Harold Ogburn

### Associate Members

Jess Armas
Dr. Gerald Blake
Jewel Goddard
Kathleen Nachtigal
Andria Parker
Clifford W. Trow

### Subcommittee 3

Tony Meeker, Chairperson
Vera Katz
Judge D.O. Nelson
Darrell Pepper
Judge William Wells

### Associate Members

Warren Barnes
Fr. William Hamilton
Judge Gregory Milnes
Ted Molinari
Richard Peterson
Andy Rodrigues

APPENDIX D

Task Force Study Topics and Subcommittees

SJR 54 established that the Task Force shall study problems in juvenile corrections and ways to eliminate or minimize those problems. It may also consider the causes of juvenile delinquency and the placement of non-delinquent juveniles (status offenders). It will submit a report and recommendations to the Governor and to the next legislature.

The Task Force will coordinate its efforts with those of other juvenile justice groups including Oregon Law Enforcement Council, Juvenile Justice Advisory Committee, Interim Judiciary Committee, Governor's Youth Commission, Children's Services Division, and similar boards, committees or agencies. It will cooperate with public and private youth-serving agencies to collect data and system information.

The Task Force study will focus upon the operations and policies of Oregon's juvenile justice system, the causes of delinquency and intake into the system, and alternative programs for handling juvenile clients. The Task Force will not attempt a comprehensive revision of Oregon's Juvenile Code.

To conduct its research, the Task Force will be formed into three subcommittees, each with an assigned research associate and selected associate members.

Subcommittee #1 will study the entry process (who enters the system and why), including the causes and prevention of delinquency; early identification of delinquency; early intervention; the role of education in prevention and rehabilitation; youth employment; the statistical descriptions of juvenile offenders and juvenile crime; and projections of population growth and client load.

Subcommittee #2 will focus on intake procedures and decision-making; diversion; alternatives to institutionalization through use of shelter care and community-based corrections programs; effect of federal guidelines to JJDP Act on use of detention, group homes, youth care centers, shelter evaluation centers, etc. (in consultation with Subcommittee #3); juvenile probation; policies and practices of, and coordination among, state, local, public, and private youth-serving agencies; federal, state and local funding sources and policies; and the need for an integrated client information system and needs assessment to supply data on service gaps (in consultation with other subcommittees).

Subcommittee #3 will consider the policies and operations of secure custody institutions, including jails, detention homes, and training schools and camps; adequacy and equal access to academic and vocational education in institutions; the operation of law enforcement agencies and juvenile courts; standards for dispositional decisions and consideration of dispositional alternatives; the postdispositional authority of the courts and CSD; methods of dealing with the serious juvenile criminal offender; standards and procedures for juvenile parole; procedures for commitment of a child under the jurisdiction of the juvenile court to a secure mental health facility; the training and qualifications of employees who deal with juveniles; and the effect of the JJDP Act on use of facilities (in consultation with Subcommittee #2).

Each subcommittee will examine the costs of the present system and proposed alternatives, the need for evaluation systems for existing and proposed programs, and both theoretical and actual programs endorsed by other states.

Recommendations from each subcommittee will be considered by the full Task Force to be adopted, prioritized, and compiled into the final report.

# APPENDIX E

## PROVIDERS OF PRIVATE CARE
## PURCHASED BY CSD*

| AGENCY | ACTING OUT ADOLESCENTS | SPECIALIZED FOSTER CARE | EMOTIONALLY DISTURBED | MENTALLY RETARDED | PHYSICALLY HANDICAPPED | UNWED MOTHERS | ADOPTIONS | POPULATION SERVED | CONTRACTED ADP | MONTHLY COST PER CHILD ** |
|---|---|---|---|---|---|---|---|---|---|---|
| REGION I | | | | | | | | | | |
| ALBERTINA KERR | | X | | | | | | HANDICAPPED CHILDREN UNDER 12 YRS NEEDING FOSTER CARE | 13 | $ 350 |
| LOUISE HOME | X | | X | | | | | ACTING OUT DELINQUENT GIRLS OVER 12 YRS | 27 | 1,040 |
| MAX TUCKER | | | X | | | | | EMOTIONALLY DISTURBED BOYS 9-13 NEEDING SECURE & HIGHLY STRUCTURED FACILITY | 8 | 2,410 |
| INTER. COTTAGE | | | X | | | | | TRANSITIONAL FACILITY FOR BOYS STABLILIZED IN MAX TUCKER PROGRAM | 12 | 1,640 |
| BOYS & GIRLS AID | X | X | X | X | X | X | X | SPECIALIZED FOSTER CARE | 28 | 780 |
| CARROLL HOUSE | X | | | | | | | COMMUNITY BASED, RESIDENTIAL CARE FOR ACTING OUT,DELINQUENT GIRLS 12-18 YRS | 8 | 920 |
| CATHOLIC SERVICES | X | X | X | X | X | X | X | SPECIALIZED FOSTER CARE, GROUP HOME | 48 | 650 |
| EDGEFIELD LODGE | | | | | | | | SEVERELY DISTRUBED, ACTING OUT CHILDREN REQUIRING DAY TREATMENT OR RESIDENTIAL CARE, AGE 2-11 | | |
| RESIDENTIAL CARE | | | X | | | | | FIVE DAY RESIDENTIAL; REQUIRES COMMUNITY RESIDENCE TWO DAYS | 14 | 1,660 |
| DAY TREATMENT | | | X | | | | | CHILDREN ARE TRANSPORTED TO FACILITY FOR THE DAY | 28 | 840 |
| COMMUNITY SERVICES | | | X | | | | | CHILDREN REMAIN IN OWN HOME AND AGENCY STAFF WORK WITH PARENTS AND CHILD IN THEIR OWN HOME | 35 | 420 |
| OUTFRONT HOUSE | X | | | | | | | PROFESSIONAL GROUP HOME | 8 | 910 |
| PARRY CENTER | | | X | | | | | CHILDREN FROM 6-18 NEEDING GROUP CARE & TREATMENT FOR EMOTIONAL DISTURBANCE | 50 | 1,520 |
| SALVATION ARMY WHITE SHIELD HOME | | | | | | | | UNWED MOTHERS REQUIRING CONFIDENTIAL MATERNITY CARE: TEMPORARY CARE & TRAINING FOR MOTHERS AND INFANT AFTER DELIVERY | | |
| PRE-NATAL CARE | | | | | | X | | UNWED MOTHERS REQUIRING CONFIDENTIAL MATERNITY CARE | 16 | 720 |
| MOTHER/CHILD | | | | | | X | | TEMPORARY CARE AND TRAINING OF MOTHERS AND INFANTS AFTER DELIVERY | 14 | 990 |
| THE INN HOME FOR BOYS | X | | | | | | | ACTING OUT, DELINQUENT ADOLESCENT BOYS 12-17 YRS | 8 | 960 |
| VILLA ST. ROSE | X | | X | | | | | ACTING OUT GIRLS 12 YRS & OLDER REQUIRING RESIDENTIAL CARE/TREATMENT | 64 | 1,070 |
| WAVERLY CHILDRENS HM. | | | | | | | | CHILDREN UNDER 12 YRS NEEDING SHORT TERM EMERGENCY CARE: TRAINABLE MENTALLY RETARDED: EMOTIONALLY DISTURBED | | |
| TMR/ | | | | X | | | | RESIDENTIAL CARE & TREATMENT FOR TRAINABLE MENTALLY RETARDED UNDER 12 | 34 | 1,440 |
| EMOTIONALLY DIST. | | | X | | | | | RESIDENTIAL CARE FOR EMOTIONALLY DISTURBED UNDER 12 | 16 | 1,050 |
| YAUN CHILD CARE CTRS. | X | | | | | | | COMMUNITY BASED,RESIDENTIAL CARE FOR ACTING OUT,DELINQUENT CHILDREN 12-17 | 18 | 950 |
| YOUTH FOR CHRIST | X | | | | | | | COMMUNITY BASED,RESIDENTIAL CARE FOR ACTING OUT,DELINQUENT CHILDREN 12-18 | 23 | 920 |
| REGION II | | | | | | | | | | |
| ALBANY CHILD CARE CTR | X | | | | | | | COMMUNITY BASED,RESIDENTIAL CARE FOR ACTIN OUT,DELINQUENT, ADOLESCENT BOYS 12-15 | 8 | 1,120 |
| CHILDREN'S FARM HOME | X | | X | | | | | CHILDREN 10 YRS & OLDER NEEDING RESIDENTIAL CARE/TREATMENT | 57 | 1,150 |
| HAWTHORNE MANOR | X | | | | | | | COMMUNITY BASED, RESIDENTIAL CARE FOR ACTING OUT, ADOLESCENT, DELINQUENT BOYS 15-18 | 15 | 890 |
| PHOENIX HOUSE | X | | | | | | | COMMUNITY BASED,RESIDENTIAL CARE FOR ACTING OUT,DELINQUENT, ADOLESCENT GIRLS 12-18 | 10 | 530 |
| REGION III | | | | | | | | | | |
| CHEHALEM HOUSE | X | | | X | | | | COMMUNITY BASED,RESIDENTIAL CARE FOR ACTING OUT,ADOLESCENT CHILDREN WHO ARE MILDLY RETARDED AND REQUIRE GROUP CARE & TRAINING | 8 | 1,120 |
| MID-VALLEY ADOLESCENT TREATMENT CTR | X | | X | | | | | COMMUNITY BASED, RESIDENTIAL CARE FOR ACTING OUT, ADOLESCENT BOYS NEEDING GROUP CARE & TREATMENT | 16 | 1,120 |
| RAINBOW LODGE | X | | | | | | | COMMUNITY BASED,RESIDENTIAL CARE FOR ACTING OUT,DELINQUENT, ADOLESCENT BOYS 14-17 | 11 | 960 |
| TEACHING RESEARCH | | | | X | X | | | TRAINABLE MENTALLY RETARDED CHILDRIN 6-17 SERVED IN GROUP HOMES | 10 | 910 |

# APPENDIX E
(continued)

| AGENCY | ACTING OUT ADOLESCENTS | SPECIALIZED FOSTER CARE | EMOTIONALLY DISTURBED | MENTALLY RETARDED | PHYSICALLY HANDICAPPED | UNWED MOTHERS | ADOPTIONS | POPULATION SERVED | CONTRACTED ADP | MONTHLY COST PER CHILD ** |
|---|---|---|---|---|---|---|---|---|---|---|
| TRI-CO. GIRLS CENTER | X | | | | | | | COMMUNITY BASED, RESIDENTIAL CARE FOR ACTING OUT, DELINQUENT, ADOLESCENT GIRLS 13-17 | 10 | 1,180 |
| REGION IV | | | | | | | | | | |
| CATHOLIC CHARITIES OF LANE CO. (Villa Gerard) | | | | | X | | | UNWED MOTHERS REQUIRING CONFIDENTIAL MATERNITY CARE | 5 | 710 |
| LANE CO. YOUTH CARE | X | | | | | | | COMMUNITY BASED, RESIDENTIAL CARE FOR ACTING OUT, DELINQUENT, ADOLESCENT CHILDREN 14-18 | 25 | 960 |
| REGION V | | | | | | | | | | |
| ASHLAND CHILD CARE C. | X | | | | | | | COMMUNITY BASED, RESIDENTIAL CARE FOR ACTING OUT, DELINQUENT, ADOLESCENT GIRLS 13-17 | 7 | 1,130 |
| BELLONI RANCH | X | | | | | | | COMMUNITY BASED, RESIDENTIAL CARE FOR ACTING OUT, DELINQUENT, ADOLESCENTS | 19 | 1,160 |
| STAR GULCH RANCH | X | | | | | | | COMMUNITY BASED, RESIDENTIAL CARE FOR ACTING OUT, DELINQUENT CHILDREN 12-17 | 19 | 860 |
| PLOWSHARE SCHOOL | | X | | | | | | EMOTIONALLY DISTURBED CHILDREN REQUIRING DAY TREATMENT | 5 | 750 |
| REGION VI | | | | | | | | | | |
| J-BAR-J BOYS RANCH | X | | | | | | | COMMUNITY BASED, RESIDENTIAL CARE FOR ACTING OUT, DELINQUENT, ADOLESCENT BOYS 13-18 | 18 | 970 |
| KLAMATH-LAKE CO. YOUTH RANCHES | X | | | | | | | COMMUNITY BASED, RESIDENTIAL CARE FOR ACTING OUT, DELINQUENT ADOLESCENT, BOYS 14-17 | 7<br>18 | 970<br>1,090 |
| MEADOWLARK MANOR | X | | | | | | | COMMUNITY BASED, RESIDENTIAL CARE FOR ACTING OUT, DELINQUENT, ADOLESCENT GIRLS 13-17 | 12 | 870 |
| THE NEXT DOOR | X | | | | | | | COMMUNITY BASED, RESIDENTIAL CARE FOR ACTING OUT, DELINQUENT, ADOLESCENT BOYS 12-18 | 10 | 950 |
| REGION VII | | | | | | | | | | |
| UMATILLA CO. BOYS RNCH | X | | | | | | | COMMUNITY BASED, RESIDENTIAL CARE FOR ACTING OUT, DELINQUENT, ADOLESCENT BOYS 13-18 | 17 | 970 |
| REGION VIII | | | | | | | | | | |
| CORDERO YOUTH CARE C. | X | | | | | | | COMMUNITY BASED, RESIDENTIAL CARE FOR ACTING OUT, DELINQUENT BOYS 14-17 | 17 | 1,000 |
| CHRISTIE SCHOOL | X | X | | | | | | ACTING OUT & EMOTIONALLY DISTURBED GIRLS REQUIRING GROUP CARE & TREATMENT 9-13 | 29 | 1,310 |
| FRONTIER HOUSE | X | | | | | | | COMMUNITY BASED, RESIDENTIAL CARE FOR ACTING OUT, DELINQUENT BOYS 14-17 | 13 | 990 |
| PARROTT CREEK RANCH | X | | | | | | | COMMUNITY BASED, RESIDENTIAL CARE FOR ACTING OUT, DELINQUENT BOYS 14-18 | 30 | 1,060 |
| ST. MARY'S HOME FOR BOYS | X | X | | | | | | ACTING OUT & EMOTIONALLY DISTURBED BOYS REQUIRING GROUP CARE TREATMENT 8-17 | 42 | 1,130 |

REGION I -MULTNOMAH
REGION II -CLATSOP, TALLAMOOK, LINCOLN, BENTON, LINN
REGION III -MARION, POLK, YAMHILL
REGION IV -LANE
REGION V -JACKSON, JOSEPHINE, DOUGLAS, COOS CURRY
REGION VI -HOOD RIVER, WASCO, SHERMAN, JEFFERSON DESCHUTES, CROOK, KLAMATH, LAKE
REGION VII -GILLIAM, MORROW, UMATILLA, UNION, WALLOWA, BAKER, GRANT, WHEELER, MALHEUR, HARNEY
REGION VIII -WASHINGTON, CLACKAMAS, COLUMBIA

* Source: Children's Services Division
** Based on 1978-79 Fund Allowances
(Average monthly obligation divided by contracted ADP. Where average monthly obligation was not available, contract obligation divided by contract term was used) Rounded off to nearest $10. This represents the cost to the state of purchasing the care indicated.

# CHILD STUDY & TREATMENT CENTERS*

| | | |
|---|---|---|
| LINCOLN DAY TREATMENT CENTER | DAY TREATMENT FOR CHILDREN AGE 3-12 | ADP 15 |
| POYAMA LAND | DAY TREATMENT FOR CHILDREN AGE 3-12 | ADP 14 |
| THE CHILD CENTER<br>DAY TREATMENT<br>RESIDENTIAL | <br>DAY TREATMENT FOR CHILDREN AGE 3-12<br>RESIDENTIAL TREATMENT FOR CHILDREN AGE 3-12 | <br>ADP 14<br>ADP 6 |
| PACIFIC CHILD CENTER | DAY AND RESIDENTIAL TREATMENT FOR CHILDREN AGE 3-12 | ADP 9 |
| SO. OREGON CHILD STUDY & TREATMENT CENTER | DAY TREATMENT FOR CHILDREN AGE 3-12 | ADP 11 |
| CASCADE TREATMENT CENTER | DAY AND RESIDENTIAL TREATMENT FOR CHILDREN AGE 3-12 | ADP 10 |
| MID-COLUMBIA CHILDREN'S CENTER | DAY TREATMENT FOR CHILDREN AGE 3-12 | ADP 9 |
| GRANDE RONDE CHILD CENTER | RESIDENTIAL & DAY TREATMENT FOR CHILDREN AGE 3-12 | ADP 8 |

*CSD contracts from the Mental Health Division for the care of emotionally disturbed children in these treatment centers. The cost of care in these facilities averages $1,320 per month.

# APPENDIX F

The following persons testified before Subcommittee #1 and provided expert advice on causes and prevention of delinquency:

## Early Identification

Dr. Robert Bagwell, consultant, Mental Health Division, Salem

Dr. Otto Kraushaar, Salem obstetrician

Susan Koepping, consultant, Portland Public Schools

Barbara Pope, Special Education, MacLaren School

## Family Structure and Parent Effectiveness

Dr. Stan Cohen, professor, University of Oregon Health Sciences Center

Dr. Penny Garrison, physician, Children's Neuro-Psychiatric Unit, Good Samaritan Hospital, Portland

Joanne Miksis, faculty member, Churchill High School, Eugene

## Labeling Theory

Dr. Kenneth Polk, professor of sociology, University of Oregon

Dr. David Wrench, professor of social psychology, Portland State University

## Role of the Public School in Prevention

Dr. Dennis Fahey, director, Division of Special Education and Rehabilitation, Oregon College of Education

Dr. Jeanette Hamby, Washington County Education Service District

Paul Lambertson, counselor-consultant, Clackamas County Education Service District

William Knudson, faculty member, Klamath Union High School

Claude Morgan, child development specialist, Oregon Department of Education

Carolyn Sheldon, child development specialist, Portland Public Schools

Program Implementation

Dr. James G. Kelly, professor, Department of Psychology, University of Oregon

William Moshofsky, vice-president, Georgia Pacific Corporation; member, Greater Portland Work-Education Council

Youth Employment

Dr. Gerald Blake, professor, School of Urban Affairs, Portland State University

Norman Malbin, director, Greater Portland Work-Education Council

Alan Miller, Polk County Commissioner

John Pendergrass, Portland Youth Services Administration

Auditory and Visual Testing

Dr. Victor Menashe, director, Crippled Children's Division, University of Oregon Health Sciences Center

Raymond Myers, specialist on the visually handicapped, State Department of Education

Dr. Rhesa Penn, Jr., manager, Maternal & Child Health Section, Health Division

APPENDIX F
(continued)

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ROBERT W STRAUB
GOVERNOR

# Governor's Task Force on Juvenile Corrections

Funded by a grant from Oregon Law Enforcement Council

ROOM S422, STATE CAPITOL, SALEM, OREGON 97310 PHONE (503) 378-5521

May 30, 1978

State Board of Education
942 Lancaster Drive N.E.
Salem, Oregon 97310

Dear Board Members:

On May 19, 1978, the Governor's Task Force on Juvenile Corrections voted unanimously to recommend to the State Board of Education that the requested 2.6 million dollar budget for the Child Development Specialist Program be approved.

Please find enclosed a tentative draft of the statute relating to the Child Development Specialist program. This draft, submitted by Subcommittee #1, will be before the Task Force on June 23, 1978 for consideration.

Sincerely,

James M. Brown

James M. Brown, Chairperson
Governor's Task Force
on Juvenile Corrections

ROBERT W. STRAUB
GOVERNOR

OFFICE OF THE GOVERNOR
STATE CAPITOL
SALEM 97310

October 10, 1978

Honorable Joseph Califano, Jr.
Secretary
Department of Health, Education
and Welfare
330 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Mr. Secretary:

The overall purpose of Title IV of the Social Security Act is declared to be that of "encouraging the care of independent children in their own homes or in the homes of relatives...with whom they are living to help maintain and strengthen family life...." (42 USC §601)

On the other hand, Title IV also requires that to use federal funds to pay for foster care a child must be removed from the home as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child. (42 USC §608 (1))

This requirement precludes the use of federal funds in those cases where the parents voluntarily place a child in foster care. None of the juvenile authorities with whom I have talked advocate the voluntary placement of a child in foster care indefinitely without some intervention by the court to assure that the child is not "lost in the system." However, the availability of voluntary foster care on a temporary basis for families in crisis is recognized as useful in preventing abuse and neglect and encouraging families to make use of available social services to the end that the family structure may be restored. Early intervention by the court is not necessary in many cases, wastes precious judicial time, and may damage family relationships at a time when social workers are attempting to offer those services that will reunite the family.

It seems incongruous that a federal statute whose purpose is to strengthen the family also requires a procedure that may be destructive to the family.

It is my understanding that H.B. 7200, introduced in the current session of the Congress, would have repealed that section of the Social Security Act requiring court-ordered removal of a child from his or her home, but it is also my understanding that this legislation will not be considered further during this session.

The Oregon Governor's Task Force on Juvenile Corrections, which has been studying ways in which we can preserve the family and prevent the entry of increasing numbers of children into the juvenile justice system, has urged that I recommend to you and to the Oregon Congressional delegation that in the next session every effort be made to amend the Social Security Act so that federal foster care funds may be used for the temporary, voluntary out-of-home placement of children.

Sincerely,

Governor

RWS/js

cc: President Jimmy Carter
Oregon Congressional Delegation

ROBERT W. STRAUB
GOVERNOR

# Governor's Task Force on Juvenile Corrections

Funded by a grant from Oregon Law Enforcement Council

ROOM S422, STATE CAPITOL, SALEM, OREGON 97310 PHONE (503) 378-5521

July 6, 1978

James Redden, Chairperson
Oregon Law Enforcement Council
100 State Office Building
Salem, Oregon 97310

Dear Mr. Redden:

Among the many problems being uncovered as the Governor's Task Force on Juvenile Corrections examines the juvenile justice system are a number which can be addressed most effectively on an internal basis without the necessity for new legislation. One of these is in the area of coordination of services by the counties.

The attached recommendation to the Oregon Law Enforcement Council, and its commentary, were unanimously approved by the full Task Force at its last meeting. On behalf of the Task Force, I urge you to bring this matter to the attention of the Oregon Law Enforcement Council at its next meeting.

Thank you for your consideration of this recommendation.

Sincerely,

James M. Brown
Chairperson

jmb:a
cc: Keith Stubblefield

ROBERT W STRAUB
GOVERNOR

# Governor's Task Force on Juvenile Corrections

Funded by a grant from Oregon Law Enforcement Council

ROOM S422, STATE CAPITOL, SALEM, OREGON 97310 PHONE (503) 378-5521

July 5, 1978

John Mosser, Chairperson
Land Conversation & Development Commission
Standard Plaza Building
1100 S.W. 6th Ave., Rm. 1505
Portland, Oregon 97204

Dear Chairperson Mosser:

Members of the Governor's Task Force on Juvenile Corrections have been concerned that zoning regulations may exclude residential treatment facilities which may be helpful and necessary for the rehabilitation of young persons with behavioral and other problems. Exiling all such young persons to state-operated institutions in Salem may be neither an effective nor an economical course of action, but it may become the only choice if adequate community-based facilities are not encouraged in local land use plans.

The Task Force has therefore adopted recommendations that residential care facilities be specifically included in the LCDC goals and guidelines pertaining to housing (#10) and public facilities and services (#11). Enclosed is a copy of the recommendations and commentary approved by the Task Force.

We would appreciate being informed about any LCDC consideration and action on these recommendations.

Sincerely,

James Brown
Chairperson
Governor's Task Force on
Juvenile Corrections

cc: Karen Ritchie, LCDC

Enclosure

APPENDIX K

ROBERT W STRAUB
GOVERNOR

# Governor's Task Force on Juvenile Corrections

Funded by a grant from Oregon Law Enforcement Council

ROOM S422, STATE CAPITOL, SALEM, OREGON 97310 PHONE (503) 378-5521

October 26, 1978

TO: Joint Legislative Committee on Land Use

FROM: Lee Penny, Project Director
Governor's Task Force on Juvenile Corrections

RE: Recommendations concerning LCDC Goals 10 and 11

As the result of testimony and research during the past year, the Governor's Task Force on Juvenile Corrections makes the following recommendations:

1- That LCDC Goal #10 on housing be amended to include specific provisions for the special needs of Oregon's citizens, including children, who are mentally, emotionally, or socially handicapped, and who require residential care facilities or other special supportive housing arrangements to facilitate their rehabilitation; and

2- That LCDC Goal #11 on public facilities and services be amended to include, as a required element in local comprehensive land use plans, the provision of necessary facilities and services to accomodate the needs of mentally, emotionally, and socially handicapped persons in their own communities.

Testimony before the Task Force has shown that one of the serious problems in the existing juvenile corrections system is the lack of community-based alternative facilities for the care

of children who have committed status or criminal offenses, and, in the opinion of the juvenile court, must be removed from their own homes. Particularly difficult to place are those children who have exhibited emotional or mental problems coupled with a history of delinquency.

In many instances, treatment and rehabilitation of persons who exhibit unacceptable behavior or suffer from mental or emotional illnesses are thought to be more effective in community settings than in large centralized institutions.

The Task Force, in its policy statements, has advocated that whenever possible children who are removed from their homes should be cared for in, or near, their own communities so that families can participate in the treatment process, and children can be returned to their own homes as soon as possible. Even if children are removed from their communities, the vast majority of them will eventually return home, although as time and distance increase, reintegration into their communities becomes more difficult.

The juvenile training school population has more than doubled in the last three years, and the commitment rate is continuing to climb. There is considerable evidence to show that if sufficient community-based resources were available, many of these children would not require commitment.

The Task Force is recommending a Community Juvenile Services Act and a Capital Construction Act to encourage counties to expand their local services and facilities.

APPENDIX K
(continued)

However, local zoning requirements and community opposition make the siting of additional facilities extremely difficult. Testimony from private care providers in Portland indicates that the license review board procedures for the issuance of conditional use permits for the siting of care facilities makes the locating of additional residential facilities in that city almost impossible. Difficulties have been encountered in other cities as well, including Eugene and Salem.

After a year's effort, the Children's Services Division found it impossible to place a new juvenile camp designed to relieve congestion in MacLaren School, in Deschutes County because of citizen oppos'tion. (The camp is now under construction on state-owned land in Union County, which is not the central location which CSD would have preferred.)

Despite the commonly held belief that communities resist the addition of new group-care facilities, a state-wide public opinion/victimization survey taken during 1978 by the Oregon Law Enforcement Council showed that 67 percent of respondents would support the locating of group homes in their communities for first-time juvenile offenders who have committed property crimes; almost 60 percent would support this type of facility for first-time violent juvenile offenders; and 38 percent indicated support for facilities for first-time juvenile sex offenders.

When the state government establishes a large central institution, it places a particular burden on one community, while removing the other communities from any role or responsibility in the treatment and rehabilitation process. The Task Force believes

that local comprehensive land use plans which make provision for residential group-care facilities as a normal part of the housing and service needs of a community will help to disperse these facilities so they are not particularly burdensome to any one community or neighborhood and will lead to an acceptance of the need for such facilities.

APPENDIX L

ROBERT W. STRAUB
GOVERNOR

OFFICE OF THE GOVERNOR
STATE CAPITOL
SALEM 97310

June 19, 1978

Stephen B. Farber, Director
National Governors' Conference
Hall of the States
444 North Capitol
Washington, D.C. 20001

Dear Steve:

Among the many problems under study by the Oregon Governor's Task Force on Juvenile Corrections are two which have interstate ramifications. I hope that these problems can be addressed by the Commission on Criminal Justice and Public Protection at the next National Governors' Conference.

The first issue concerns costs of the interstate transportation of juveniles being returned to their home states. The Interstate Compact on Juveniles (which all 50 states have adopted) provides in Article IV(b) that a state subscribing to the Compact shall reimburse other states for the costs of returning its resident juveniles. Indications from our counties and from Oregon's Compact Administrator's office are that this provision of the Interstate Compact is not always honored. California, for instance, will pay the transportation costs for the return of a juvenile only if that child is already under the care and custody of the California Youth Authority. Florida answers requests for reimbursement for returning juveniles with a note indicating that they are not funded for such payments. For Oregon, this problem only amounts to a few thousand dollars a year in unreimbursed expenses but it is a problem which can be easily remedied.

The second related problem concerns charges for the detention of juveniles who are awaiting transportation home. Often return is delayed while the juvenile's home state agency tries to locate the juvenile's family or an appropriate shelter placement. The costs of detaining out-of-state juveniles are not currently covered by the Interstate Compact on Juveniles, and local agencies must often absorb these costs. This situation is aggravated for us by the fact that Oregon is an attractive place for juveniles from all over the United States.

Areas of the state which appear to be most attractive, such as our coastal counties, are often least able to accommodate these expenses within their budgets. I suggest consideration of extending the Interstate Compact on Juveniles to cover the costs of detaining juveniles from out of state pending their return home.

The costs of detaining and returning children fall heavily on local government. Hopefully, this burden can be moderated by more complete interstate cooperation.

Sincerely,

Governor

RWS/js

END