National Coalition of
State Juvenile Justice Advisory Groups

A Unique Partnership For Children

The Seventh Report to the President,
the Congress, and the Administrator
of the Office of Juvenile Justice
and Delinquency Prevention

by

The National Coalition of
State Juvenile Justice Advisory Groups
as required by Section 241(f)(2)(C), (D),
and (E) of the Juvenile Justice and
Delinquency Prevention Act of 1974,
as amended
December, 1991

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PREVIOUS REPORTS OF THE NATIONAL COALITION OF STATE JUVENILE JUSTICE ADVISORY GROUPS

The First Report to the President, the Congress and the Administrator of the Office of Juvenile Justice and Delinquency Prevention

April, 1986

Printed report regarding needed reorganization of the Office of Juvenile Justice and Delinquency Prevention.

Report on the 1986 National State Advisory Group Conference

November, 1986

Typed report on conference findings and recommendations—limited distribution to the President, the Congress, and the Administrator of OJJDP—program document rather than policy recommendations.

An Act of Empowerment

December, 1987

Printed report on the recommendations of the Annual Conference, 1987, dealing with legislative changes in the Act that would enhance the rights of juveniles.

A Delicate Balance

January, 1989

Printed report on the issue of racially differential incarceration in the juvenile justice system, the focus of the 1988 Annual Conference.

Promises To Keep

May, 1990

Printed report on problems associated with conditions of confinement for juveniles, including a re-examination of the basic arguments leading to the Juvenile Justice and Delinquency Prevention Act of 1974.

Looking Back to the Future

December, 1990

Printed report focusing on the sweep of juvenile justice history, including the traditional rehabilitative ideal and the "just desserts" thrust of the 1980s, and a recommitment of the National Coalition to the basic premises of the 1974 Act.

NATIONAL COALITION OF STATE JUVENILE JUSTICE ADVISORY GROUPS

December 1991

TO: The President, the Congress, and the Administrator of the Office of Juvenile Justice and Delinquency Prevention

FROM: Vicki B.E. Neiberg, Chair

I am very pleased to present to you the 1991 Annual Report of the National Coalition of State Juvenile Justice Advisory Groups. This report is the culmination of a two-year process during which the Juvenile Justice and Delinquency Prevention Act was revisited, reviewed, and recommendations for revisions aired.

Through the Juvenile Justice and Delinquency Prevention Act, Congress empowered volunteer citizen advisory groups to respond to the systemic needs of the children and youth who are often ignored, inappropriately treated and/or locked-up, the juvenile offender. The isolation, violence and ugliness of our neighborhoods don't allow for childhood; the challenge for these children is to survive. We are a society that is devouring its young.

Because of the dictates of the Act, juvenile justice reform operates in an extraordinary way—in a unique citizen-government partnership. The 1974 Juvenile Justice and Delinquency Prevention Act was and is reform legislation. Our ability to serve youth in our communities by carrying out the mandates and intentions of the Act is directly

related to the perseverance of Congressional oversight and interest.

This is truly a program that reaches into every nook and cranny of the juvenile justice system. It is time to study the funding level for this effort. Over the last 10 years the budget has been severely cut, sometimes slashed, sometimes whittled and continuously eroded through the inflationary process. Currently, there is an enormous influx of Federal dollars to the states for law enforcement and drug treatment. Very few of these dollars reach the children calling out for help.

It is time to invigorate and strengthen a juvenile justice policy based on knowledge rather than political expediency—one that is consistent with the high ideals embodied in the 1974 legislation. Without your leadership and funding, momentum will be lost.

ACKNOWLEDGMENTS

The State Advisory Group Chairs would like to thank the many people who contributed to this Report: State Advisory Group members, State Juvenile Justice Specialists, and others who participated in the National Coalition Annual Conference in April, 1991, and in the Fall Chairs meeting in September, 1991; the Administrator and Division Directors of the Office of Juvenile Justice and Delinquency Prevention; Community Research Associates; Members of Congress and their staffs; and other friends and experts throughout the country.

We gratefully acknowledge the generous contributions of the many volunteers who donated their time and talents to make this Report possible. In particular, we thank the members of the National Steering Committee for their tireless work in compiling, reviewing, and editing this Report: Vicki Neiberg, Chair; Dr. Robert Hunter, Past Chair; Susan Morris, Chair-Elect; J. C. Cole, Vice Chair-Secretary; Bernardine Hall, Vice Chair-Treasurer; Doreitha Madden, Northeast Coalition Chair; Judy Bredesen, Midwest Coalition Chair; Farrell Lines, Western Coalition Chair; and Donna W. Roberts, Southern Coalition Chair. We would also like to thank the staff of the National Coalition Washington Office: Robert J. Baughman, Executive Director, Pam Allen, Diane Hauer, Phyllis Copeland, Sabrina Davis, and former staff member Tom Hill.

Special recognition is due to Bob Shepherd, our consultant in the drafting of this Report for whom it was a labor of love; to Tom Godfrey, who served with the Steering Committee in both the development and editing of the Report; and to Joseph Casper, Allison Fleming, Richard Friedman, Jonas Mata, Susan Morris, Vicki Neiberg, Nancy Ross, and Michael E. Saucier, the hard-working and insightful members of the National Coalition's Reauthorization Committee. Irene Abernethy, the Nebraska Chair, has contributed much to the fluency of the **Report**, as she has for a number of years.

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EXECUTIVE SUMMARY

Congress will be considering the reauthorization of the Juvenile Justice and Delinquency Prevention Act (JJDPA) in 1992. This remarkable piece of legislation represents the first federal commitment to juvenile justice reform in America and to those youth who are at risk of delinquent behavior or who have succumbed to the temptations of such behavior. The Act introduced a unique partnership between the Federal Government and the states through the promulgation of Congressional mandates which are implemented through the allocation of resources to State Advisory Groups appointed by governors.

The National Coalition of State Juvenile Justice Advisory Groups urges that Congress and the President recommit themselves to this Act and its goals by reauthorizing the Act and appropriating sufficient funds to carry out the goals of the Act.

The National Coalition recommits itself to the goals of the 1974 Act, as amended, and pledges to increase its efforts to realize those goals. We urge that the Office of Juvenile Justice and Delinquency Prevention do likewise and join with us in a revitalized partnership to remove status offenders from all correctional facilities, to bar forever the use of adult jails and institutions to incarcerate children, to address in a meaningful fashion the disproportionate representation of minorities at all stages of the juvenile justice process, and to significantly attend to the needs of American Indian youth and their juvenile justice

systems. As the trust and cooperation among and between us grows as we successfully implement the mandates of the Act, we will build a foundation from which to undertake the resolution of other equally important problems related to youth crime and the administration of justice.

We want from the President, the Congress, and the Office a renewed commitment to delinquency prevention, to the establishment of meaningful rehabilitative programs in the least restrictive environment, to the provision of effective advocates for all children within the juvenile justice system, and to a realization of the promise of hope for all children in America.

Erik Erikson once said that "the deadliest of all sins is the mutilation of a child's spirit." We want to be the healers of mutilated children and not the unwitting accomplices to mutilation of other children by our inattention or mere rhetoric. Reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974 is one small step in that direction. It is like one pebble thrown into a pond that initially seems to leave behind as evidence only a temporary ripple, but in the long run there is nonetheless a rise in the level of the pond.

Recommendations

To the President:

1 We recommend, in light of the conclusions of this report, that the President affirm the continued and profound relevance of the goals and strategies embodied in the Juvenile Justice and Delinquency Prevention Act, that he support reauthorization of the Act, and that he provide the visible leadership so desperately needed to carry the Act's initiatives successfully forward.

2 We recommend that the President propose to Congress a significant increase in formula grant funds to enable the states and entities to work more effectively in carrying out the mandates of the Act.

To the Congress:

3 We recommend that Congress move expeditiously to reauthorize the Juvenile Justice and Delinquency Prevention Act, to increase the appropriation level to permit the states and territories to achieve the goals of the Act, and to reaffirm its basic goals and strategies.

4 We recommend that Congress take action to address the differential treatment and confinement of juveniles due to gender, socioeconomic status, ethnicity, sexual orientation, race, learning disability or other handicap, and medical condition.

5 We recommend that Congress amend the Act to require that all Federal agencies with jurisdiction over juveniles, whether direct or indirect, be fully subject to the mandates of the Act.

6 We recommend that the Congress re-examine the present pass-through funding formula for Native Americans with an eye toward developing an approach that provides sufficient resources for them to address their unique juvenile justice concerns.

7 We urge that Congress restudy the "valid court order" exception to the mandate for deinstitutionalizing status offenders and further restrict its usage.

8 We urge that Congress appropriate funds to develop standards and guidelines to deal with issues presented by juveniles who are transferred, waived, or certified to adult court or otherwise placed within the jurisdiction of the adult court, especially the issues of detention, the standards for transfer, waiver, or certification to adult court or placement within adult jurisdiction, and of the safety and security of such juveniles when placed in adult facilities and institutions.

9 We recommend that Congress move aggressively to address the problem of inappropriate confinement of juveniles in psychiatric hospitals, secure residential treatment programs, and other forms of secure out-of-home care to ensure such a placement is used only when absolutely necessary, for the shortest duration, and only when it constitutes the least restrictive alternative.

10 We recommend to Congress that states be required to collect data about juvenile placements from psychiatric hospitals and other residential treatment programs and report such to the Office of Juvenile Justice and Delinquency Prevention as part of their regular yearly report.

11 We recommend that Congress authorize research to track those status offenders who can no longer be held in jails or lockups.

To the Administrator of the Office of Juvenile Justice and Delinquency Prevention:

12 We recommend that the Administrator of the Office of Juvenile Justice and Delinquency Prevention augment state formula grant funds with discretionary funds to assist states in developing the data collection, juvenile tracking systems, training, and action strategies needed to assess and eliminate minority overrepresentation in the juvenile justice system.

13 We recommend that the Administrator make a greater use of discretionary funds in achieving full compliance with the mandates of the Act. These funds particularly should be used to address special and unusual problems in the several jurisdictions, such as those presented by geography, including distance and topography.

14 We recommend that the Administrator of the Office of Juvenile Justice and Delinquency Prevention significantly increase interest in and funding for advocacy on behalf of juveniles in court, especially in the areas of training legal counsel and guardians ad litem for juveniles, examination of the incidence of the waiver of counsel by juveniles, and the development of pilot and model programs for delivering effective defense services to juveniles.

15 We recommend that the Administrator of the Office of Juvenile Justice and Delinquency Prevention, in cooperation with the Federal Coordinating Council, propose and initiate a major delinquency prevention demonstration ef-

fort—one that addresses, at least in part, the problems of those youth who are disproportionately represented in the juvenile justice system and are near or below the Federal poverty level.

16 We recommend that the Administrator of the Office of Juvenile Justice and Delinquency Prevention re-examine the Native American youth situation and formulate a more effective and practicable means of providing assistance.

17 We urge that the Administrator of the Office of Juvenile Justice and Delinquency Prevention study the issues presented by the transfer, waiver and certification of juveniles to adult courts or otherwise placed within the jurisdiction of the adult courts and formulate standards and guidelines for use by legislatures, courts, and other participants in the juvenile justice system in addressing transfer issues.

18 We recommend that these subjects of previous suggestions for the Administrator of the Office of Juvenile Justice and Delinquency Prevention continue to receive major attention and support by the Office:

- Jail removal
- Identification and dissemination of information on alternatives to confinement, improving conditions of incarceration for those juveniles requiring such confinement, and new approaches for handling overcrowding, classification, and promising new programs utilized in the states and territories.

A discussion of these recommendations and the rationales behind them may be found on pages 63 through 75 of this Report.

A UNIQUE PARTNERSHIP FOR CHILDREN

Introduction

Johnnie H. covered his face with his hands and cried. "I'm 16, and here I am in the penitentiary," Johnnie said. "That's a lot to think about."

Johnnie is a slightly built teenager with long hair and the first beginnings of a mustache. The 5-foot-4 youth entered the Arkansas state prison's Tucker Unit to serve a 20-year sentence for burglary and theft.

"I was scared," Johnnie said of his first day at the prison. "I was shaking. I kept seeing all those old men. I didn't see anybody my age or my size. I kept saying, 'How am I going to survive?'"

The Juvenile Justice and Delinquency Prevention Act of 1974 is poised for a reauthorization decision in 1992. Congress will have to decide whether to renew this embodiment of the national commitment to justice for America's youth engaged in anti-social and delinquent behavior. The National Coalition of State Juvenile Justice Advisory Groups focused its attention at its Annual Conference held in Washington, D.C., on April 19-24, 1991, on the issues presented by reauthorization, and the conference theme was related to the purposes of the Act—"Juvenile Justice: What Works." Early in the conference an extraordinary meeting of the Board of Directors of the National Coalition—the State Advisory Group Chairs from all the participating states and territories—met in a special business meeting to address the major issues pre-

sented by reauthorization. At that meeting the Board answered a series of questions about the Act and the reauthorization process and did so with remarkable unanimity considering the diversity of the states and territories and the heterogeneous nature of the Board itself. This Report reflects positions taken at that meeting and at the subsequent Board of Directors meeting in Santa Fe, New Mexico, on September 28-29, 1991, as well as information presented at the Annual Conference.

Although anyone familiar with the current status of children in America would assume that today's youth cry out more than ever before for such a national commitment to their needs, it would be wrong to take reauthorization of the Act for granted. The National Coalition certainly does not, and we are prepared to pledge our energies and our resources to seeking a reauthorized Act that will again commit our nation to the worthy cause of justice for all of America's children and youth. We urge all those who would take a stand with us for those youth who are troubled, and troubling, to join us and tell once again the story of these children to a nation perhaps finally ready to listen.

The Juvenile Justice and Delinquency Prevention Act Evolves

A tall, handsome boy enrolled in Providence, Rhode Island's GAP summer program after ninth grade in 1989, and during the first week became a major discipline problem. In the second week the English instructor wanted him removed. Another teacher upon hearing of this problem begged on the boy's behalf for him to remain in the program. The boy's mother is a cocaine addict and prostitute, his older brother already is in trouble with the law, and a younger brother is facing juvenile charges for getting drugs for his mother.

As a solution to the discipline problem, it was suggested that the youth be given leadership responsibilities during field trips and group academic projects. It worked. The summer was successful, and he has maintained the required academic level ever since. His attitude is that of a win-

ner—always helpful and enthusiastic, despite the fact his home situation remains the same.

The Act Is Given Birth—1974

The Juvenile Justice and Delinquency Prevention Act came into existence in 1974, the culmination of a three-year effort by Senator Birch Bayh and others "to provide for the desperately needed Federal leadership and coordination of the resources necessary to develop and implement at the state and local community level effective programs for the prevention and treatment of juvenile delinquency." (Bayh, 1974) Its passage resulted from a bipartisan effort to establish a Federal role in, and commitment to, programs designed to assist youth at risk of delinquent behavior in avoiding such acts and the development of a juvenile justice system that effectively and humanely addresses the needs of those young people who engage in antisocial activities. The Act was the first significant Federal initiative in the juvenile justice and delinquency prevention field.

The legislation began with a statement of Congressional findings:

(a) The Congress hereby finds that—

(1) juveniles account for almost half the arrests for serious crimes in the United States today;

(2) understaffed, overcrowded juvenile courts, probation services, and correctional facilities are not able to provide individualized justice or effective help;

(3) present juvenile courts, foster and protective care programs, and shelter facilities are inadequate to meet the needs of the countless, abandoned, and dependent children, who, because of this failure to provide effective services, may become delinquents;

(4) existing programs have not adequately responded to the particular problems of the increasing numbers of young people who are addicted to or who abuse drugs, particularly nonopiate or polydrug abusers;

(5) juvenile delinquency can be prevented through programs designed to keep students in elementary and secondary schools through the prevention of unwarranted and arbitrary suspensions and expulsions;

(6) States and local communities which experience directly the devastating failures of the juvenile justice system do not presently have sufficient technical expertise or adequate resources to deal comprehensively with the problems of juvenile delinquency; and

(7) existing Federal programs have not provided the direction, coordination, resources, and leadership required to meet the crisis of delinquency.

(b) Congress finds further that the high incidence of delinquency in the United States today results in enormous annual cost and immeasurable loss of human life, personal security, and wasted human resources and that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent delinquency. (Section 101, Public Law 93-415, 88 Statutes at Large 1109-1110, codified at 42 United States Code § 5601)

These findings were formulated after hearings that were conducted with 34 witnesses presenting testimony over four days in 1972 and after an additional 36 witnesses testified over five days in 1973.

Congress then identified the purposes of the Act which were predicated on the findings from these hearings:

(a) It is the purpose of this Act—

(1) to provide for the thorough and prompt evaluation of all federally assisted juvenile delinquency programs;

(2) to provide technical assistance to public and private agencies, institutions, and individuals in developing and implementing juvenile delinquency programs;

(3) to establish training programs for persons, including professionals, paraprofessionals, and volunteers, who work with delinquents or potential delinquents or whose work or activities relate to juvenile delinquency programs;

(4) to establish a centralized research effort on the problems of juvenile delinquency, including an information clearinghouse to disseminate the findings of such research and all data related to juvenile delinquency;

(5) to develop and encourage the implementation of national standards for the administration of juvenile justice, including recommendations for administrative, budgetary, and legislative action at the Federal, State, and local level to facilitate the adoption of such standards;

(6) to assist States and local communities with resources to develop and implement programs to keep students in elementary and secondary schools and to prevent unwarranted and arbitrary suspensions and expulsions; and

(7) to establish a Federal assistance program to deal with the problems of runaway youth.

(b) It is therefore the further declared policy of Congress to provide the necessary resources, leadership, and coordination (1) to develop and implement effective methods of preventing and reducing juvenile delinquency; (2) to develop and conduct effective programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives to institutionalization; (3) to improve the quality of juvenile justice in the United States; and (4) to increase the capacity of State and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention and rehabilitation programs and to provide research, evaluation, and training services in the field of juvenile delinquency prevention. (Section 102, Public Law 93-415, 88 Statutes at Large 1110-1111, codified at 42 United States Code § 5602)

With the exception of a few amendments to these findings and purpose statements during subsequent reauthorization deliberations, the validity of the initial conclusions remains as great today as it was seventeen years ago. As the Senate Judiciary Committee Report accompanying the original bill to the floor stated, its central purpose was to provide **"Federal leadership and coordination of the resources necessary to develop and implement at the State and local community level effective programs for the prevention and treatment of juvenile delinquency."** (Senate Report, 1974)

The Juvenile Justice and Delinquency Prevention Act of 1974, as originally enacted, had several very important features. First, it introduced a strong Federal presence to the juvenile justice arena by committing resources and establishing a legislative commitment to certain goals and policies. Second, it recognized the immense value in placing the primary responsibility for implementing those goals and

policies at the state and local community level through a formula grant program administered by State Advisory Groups. Third, it created the Office of Juvenile Justice and Delinquency Prevention to institutionalize the Federal presence. Fourth, it committed the Federal Government to the goals of removing status offenders and non-offenders from secure institutions and separating juvenile offenders from adults in institutional settings. (Deinstitutionalization of Status Offenders—DSO) Fifth, it established a discretionary grant process through the Special Emphasis and Treatment Program to make awards directly to public and private non-profit agencies to help develop creative techniques and strategies for realizing the Act's purposes. Sixth, it encouraged the development of national standards to assist in reforming the juvenile justice system. Seventh, the Act embodied the goal of coordinating Federal programs in the areas of delinquency prevention and juvenile justice.

Obviously, the Act constituted a great deal more than the seven highlighted characteristics, but it was built largely upon these pillars, with the most important ones being the identification of national goals for the rehabilitation and reform of juvenile justice and the designation of a Federal-state partnership for the implementation of those goals. The formula grant program placed the implementation emphasis on the states and, through the State Advisory Groups, on local communities. Separation of juveniles from adults in all institutions was to occur almost immediately, while a two-year period was allowed for the deinstitutionalization of status offenders.

"The support for the Act on both sides of the aisle was evident."

The only dispute of any moment in the legislative journey of the Act to passage was over the locus of the Office, with the House of Representatives and Senator Bayh favoring the Department of Health, Education and Welfare and the majority on the Senate Judiciary Committee advocating the Law Enforcement Assistance Administration (LEAA) in the Justice Department. The Senate view prevailed, and the legislation as it emerged from the Conference Committee passed the House and the Senate by overwhelming numbers. The support for the Act on both sides of the aisle was evident. During the first two years under the Act, 1975 and 1976, the appropriations doubled from $25 million to $50 million.

The First Amendments—1976

The first amendments to the Act were adopted in 1976 in Public Law 94-273, but those initial amendments were all technical in nature and effected no real, substantive changes in the Act. The principal changes were in the dates for the filing of various annual reports. There was another significant leap in the resources provided by Congress as the appropriation for 1977 increased to $75 million.

The Initial Substantive Revisions—1977

The amendments of 1977 were quite different in both nature and effect from the insubstantial changes in the previous year. The 1977 legislation constituted the first true reauthorization of the Act, and it featured the same sort of strong bipartisan support that characterized the original enactment of JJDPA. The 1977 amendments accomplished the following: (1) upgraded the head of OJJDP from an "Assistant Administrator" under LEAA to an "Associate Administrator," thus recognizing the greater importance of the Office; (2) added a focus on the primary prevention of delinquency as a substitute for the earlier designation of youth in danger of becoming delinquent; (3) provided for the funding of "advocacy" activities; (4) specifically identified learning disabled children involved in the juvenile justice system as among those youth needing special attention; (5) addressed the importance of business community involvement and acknowledged youth employment as an issue; (6) identified a need for model legislation in the juvenile justice arena and strengthened the provisions relating to the development of national standards; (7) inserted "Indian tribes" as recipients of grants; (8) created new authority in Title III to serve homeless youth; (9) added three youth members to the State Advisory Groups, and specified that at least three advisory group members must be persons who are, or who have been, under the jurisdiction of the juvenile court; and (10) recognized the importance of the role of the states and territories in the development of programs by increasing the minimum allotments to these jurisdictions and enhancing the functions defined for state advisory groups. There was thus a further strengthening of the basic thrust of the Act, with no reduction in the Federal commitment to the causes of reducing delinquency and reforming juvenile justice.

The three years under the 1977 reauthorization were the years of relative affluence, as the Congressional appropriations for 1978, 1979 and 1980 amounted to $100 million in each fiscal year.

A New Mandate and Some Reappraisal—1980

The reauthorization and amendment process of 1980 represented a watershed in the refinement of the Act. For the first time there was a re-examination of the basis premises of the Act, as Congress acknowledged the role of alcohol abuse, in addition to other forms of substance abuse, in contributing to the problems of youth, and a new emphasis "on the problem of juveniles who commit serious crimes" was added to the findings and to the operative sections of the legislation as well. Congress also expressed a reservation about one of the Act's original mandates for the first time, enacting the "valid court order" exception to the requirement that states remove status offenders and non-offenders from secure facilities, thus permitting incarceration in such an institution if an adjudicated status offender violates a court dispositional order. On the other hand, the role of the Office of Juvenile Justice and Delinquency Prevention was further strengthened by its administrative separation from LEAA and its placement under the general authority of the Attorney General to give Federal juvenile justice programs a greater level of priority and visibility, while making the Office more accountable to the Congress. The head of the Office became the Administrator of OJJDP, rather than an Assistant or Associate Administrator of LEAA. The 1980 amendments also changed the method of distributing funding under the Runaway Youth Act.

". . . the most significant action taken during the 1980 reauthorization . . . was the addition of jail removal as a new mandate under the Act."

By far the most significant action taken during the 1980 reauthorization, however, was the addition of jail removal as a new mandate under the Act. Within five years from December of 1980, all states and territories participating in the Act must have removed all juveniles from detention or confinement in adult jails and lockups. Exceptions to this prohibition against the use of adult facilities would be permitted for areas "characterized by low population density" and for "temporary detention in such adult facilities of juveniles accused of serious crimes against persons," subject to certain described limitations and pursuant to regulations promulgated by the Administrator.

Other significant amendments during the 1980 reauthorization included some changes in the definitions section of the Act, the specifica-

tion of training assistance as a role for the Office, the redesignation of the members of the Coordinating Council on Juvenile Justice and Delinquency Prevention and a broadening of its responsibilities to include reporting to Congress, a redefinition of the functions of the National Advisory Committee for Juvenile Justice and Delinquency Prevention, the addition of locally elected officials to the category of persons represented on State Advisory Groups and a change in the age boundary and percentage of youth members of such groups, a new emphasis on community-based programs and facilities, a heightened focus on schools, school violence and gang activities, and a more precise definition of the meaning of "substantial compliance" with the Act and description of the consequences of non-compliance.

The appropriations between 1980 and the next reauthorization in 1984 amounted to $97,069,000 in 1981, $70 million for both 1982 and 1983, and $70,155,000 in 1984. The period of "belt tightening" began just as the mandates were being expanded.

The Partnership Strengthened, A National Perspective—1984

The reauthorization process in 1984 resulted in a number of amendments, many of which were technical in nature. The findings were amended to reflect that the juvenile percentage of arrests for serious crime had dropped from "almost half" in 1974 to less than one-third in 1983.

The major thrusts of the 1984 reauthorization amendments were the following: an enhanced emphasis on strengthening and maintaining the family unit, inserting Title IV, the Missing Children's Assistance Act, adding a focus on missing children elsewhere in the Act, moving dependent and neglected children out of the juvenile justice system, abolishing the National Advisory Committee on Juvenile Justice and Delinquency Prevention, introducing improvements in the Special Emphasis program and in the provisions governing the review of grant applications, adding more language relative to juvenile gang activities, and focusing more on juveniles being processed in the criminal justice system.

The 1984 amendments also defined, for the first time, the meaning of a "valid court order," the violation of which might expose a status offender to secure detention or incarceration, and redefined the exceptions to the mandate for jail removal. The composition of the state

advisory groups was changed slightly again, and there was the first real legislative recognition of the National Coalition as "an eligible organization composed of member representatives of the State advisory groups. . . ."

Once again, the funding levels fluctuated during the period up to the next reauthorization, but less was allocated at the end of the period than at any time since 1976. The appropriation for 1985 was $70,240,000; the amount for 1986 was $67,260,000; $70,182,000 was appropriated for 1987; and the allocation dropped again, to $66,692,000, in 1988.

The National Coalition's Influence Is Manifested—1988

1988 brought about more change in the shape and substance of the Act. Some of the change was in process-oriented areas. The Administrator of the Office was required to develop and publish an annual program plan, the mandate of the Coordinating Council on Juvenile Justice and Delinquency Prevention was expanded, the Office was required to submit an annual report to the President and the Congress, and the Administrator was directed to provide more technical assistance to the states, local governments, and local private agencies to facilitate compliance with the Act. The minimum formula grant allocation to each of the states and territories was increased for the first time since 1977, and a further increase was built in if future appropriations exceed $75 million (excluding certain specified appropriations). A new emphasis was added on Native American tribes and Alaskan native organizations, and a "pass-through" funding scheme was imposed on the formula grant program to assist in this area. A greater focus was placed on the newly named "National Programs," the discretionary grant component of the Act; the allocation formula for funds to support each part of the Act was changed; a greater emphasis was placed on juvenile gang prevention and treatment; and national communication systems were mandated for runaway and homeless youth and for missing children. A new focus was placed in the Special Emphasis grant section on the awarding of grants regarding youth advocacy, to include services which improve legal representation of youth, especially in light of the limited effect that Constitutional decisions have had on the guarantee of such repre-

"A new emphasis was added on Native American tribes and Alaskan native organizations . . ."

sentation. The amendments recommitted the Congress to the jail removal mandate, and the time limitations and conditions for compliance were extended somewhat.

A fourth mandate was added to the Act, largely at the request of the National Coalition. The 1988 reauthorization bill directed a new focus throughout the Act on the disproportionate representation of minority youth in detention facilities, secure correctional facilities, and adult jails and lockups, as well as at other points in the juvenile justice process. The states were required to address efforts to reduce minority overrepresentation in their plans, the Office was directed to focus on minority disproportion in its grant activities, and the National Institute for Juvenile Justice and Delinquency Prevention was mandated to support research on the issue.

"The 1988 reauthorization bill directed a new focus throughout the Act on the disproportionate representation of minority youth . . ."

Congress directed that three special studies and reports be initiated shortly after passage of the reauthorization amendments. One was a study of the operation of the "valid court order" exception to the prohibition against secure confinement of status offenders, the second was a study of conditions in juvenile detention and correctional facilities, and the third was on the handling of Indian and Alaskan native juveniles under tribal or village justice systems.

The National Coalition once again saw an expansion of its duties and responsibilities and an enhancement of the support required of OJJDP. The Administrator was required to provide technical and financial assistance to the Coalition and to assist the group in (1) conducting an annual conference; (2) disseminating information and techniques; (3) reviewing Federal policies regarding juvenile justice and delinquency prevention; (4) advising the Administrator concerning the operations of the Office; and (5) advising the President and the Congress with respect to state perspectives on the Office and on Federal policy in the juvenile justice and delinquency prevention areas. The 1989 appropriation remained level from 1988, at $66,692,000.

Filling the Gaps—1989 and 1990

Minor amendments were made to the Act in 1989 and in 1990. In 1989 the Secretary of Health and Human Services was directed to

submit reports on the status and accomplishments of runaway and homeless youth centers and on transitional living youth projects to the Committee on Education and Labor of the House and the Senate Judiciary Committee, rather than generally to Congress. The 1990 amendment required missing child cases to be reported by Federal, state, and local law enforcement agencies to the National Crime Information Center of the Department of Justice. The 1990 appropriation was $73,014,000 and a total of $75,300,000 is appropriated for 1991, the second straight year of increases, but still significantly less than that appropriated between 1978 and 1981, and about the same as the appropriation for 1977.

What Next?—1992

The reauthorization process in 1992 can be another milestone in the history of the Juvenile Justice and Delinquency Prevention Act. It is an opportunity for the promises of the past seventeen years to be kept and for the myths surrounding juvenile justice and delinquency prevention to be shattered. The re-establishment of a Juvenile Justice Subcommittee in the Senate Judiciary Committee offers even more promise for a closer Congressional examination of the basic premises of the Act and the implementation and results of the almost two decades since its enactment. The reauthorization process can also provide a focus on the provision of justice for juveniles in the twenty-five years since the Supreme Court's landmark decision in *In re Gault*, 387 U.S. 1 (1967). 1992 can be a new beginning, a new and better road to be travelled, or it can be a dead end street. The National Coalition is determined that it will be the former, and we are pledged to work to that end.

"1992 can be a new beginning, a new and better road to be travelled, or it can be a dead end street."

The National Coalition believes that Congress needs to re-examine the means of securing compliance with the mandates of the Act. We wish to have all our states and territories as active participants in the Act, but we also want the mandates of the Act to be fully and expeditiously realized. The sole categories for jurisdictions participating in the Act should be "compliance" and "non-compliance." We also need to develop new methods for securing compliance with the mandates of the Act. The most effective inducement to compliance would be provided by sufficient funding to encourage states to comply in order to keep those funds. The amounts now provided to the states

often are not an adequate inducement to cause them to expend the money and take the dramatic steps to comply with the Act. When Congress appropriated $50 million fifteen years ago, in 1976, to support the narrower mandates of the initial Act, those dollars had about $160 million of buying power by 1991 standards. Ten years ago the appropriation was slightly over $97 million, but the current buying power of those 1981 dollars would be more than $210 million. Even the $67,260,000 of five years ago would purchase almost $100 million worth of services in today's market. The problems have become more complex, and yet the resources allocated to address the problems have shrunk significantly in real terms. Congress should consider establishing an appropriation base at least equal to the present real value of the 1981 appropriation amount.

"The problems have become more complex, and yet the resources allocated to address the problems have shrunk significantly in real terms."

A complementary method would be to develop a self-executing formula to keep states in the Act as long as possible but one which would not continue to reward those jurisdictions who remain out of compliance by continuing grants under the Act. One approach would be to allow each state participating in the Act to receive a basic formula grant sufficient to provide administrative support for the State Advisory Group and to continue the state's active participation in the National Coalition where the state would still be exposed to the positive influences of its peers. If a state went out of compliance on one mandate of the Act, that state would have one year from the time of that determination to come back into compliance without any loss of funds, but all funds received, beyond the minimum administrative funds, would have to be used in bringing the state into compliance. Each state would have the present three years eligibility for waiver on jail removal. At the end of three years on waiver status, or a year out of compliance, a state's entitlement to formula grant money would be reduced in proportion to the number of mandates with which the state is out of compliance.

The Impact of the Act's Goals and Mandates on Juvenile Justice

Felicia was fifteen years old when she was referred by a Juvenile Probation Officer on C.H.I.N.S. (status offense) charges to South Alabama Youth Services (SAYS) Girls' Group Attention Home. When she entered the Home she was defiant and incorrigible and could not get along with her mother or sisters, causing frequent disturbances with other family members. She was in the SAYS Home on three different occasions.

During her stays at the Home "she thrived better... with its structure and the help and guidance of Mrs. Edna Trammel than anywhere else." She completed high school with a B average and entered an oratorical contest, winning a two-week trip to Washington, New York, and Canada. She subsequently spoke at the Alabama "Life As A Teen" Conference about her experiences and the positive influence of the SAYS Home.

Deinstitutionalization of Status Offenders

Status offenders are those youth who engage in behaviors that would not be crimes if committed by adults, such as breaking curfew, running away from home, truancy, and alcohol violations in some states. Thus, the behaviors are proscribed by the state simply because of the offender's "status" as a minor. One of the original goals of the 1974 Act was the removal of all such noncriminal juvenile offenders, as well as non-offenders such as abused or neglected children, from secure detention and correctional facilities in favor of referral to community-based services. Historically, most states lumped both status offenders and delinquents into a single category and processed them similarly through the juvenile courts. Judges were thus adjudicating juveniles as delinquent regardless of whether they were runaways or rapists, truants or thieves, incorrigible or murderers. The delinquent label applied regardless of the seriousness of the offense, with the result that status offenders and delinquents were housed in the same secure detention or correctional facilities. Indeed, studies in some states showed that status offenders served lengthier sentences than delinquents who committed crimes because they were "more difficult to treat."

In the twenty years since the movement to deinstitutionalize status offenders began in earnest, we have made considerable progress. As with other mandates of the Act, some states have been more successful than others. But most have joined the effort to remove status offenders from incarceration by using some form of diversion processing and non-secure program alternatives in the community. In 1967, the President's Crime Commission strongly advocated diversion from the juvenile justice system as a new and appropriate method of handling status offenders and minor delinquent offenders. The Commission urged that these youths be diverted from the system into community-based treatment programs. (President's Commission, 1967) The Juvenile Justice and Delinquency Prevention Act provided additional support for diversion in 1974, and during the seventies, it enjoyed considerable political and financial favor. Youth Service Bureaus, funded by the Department of Justice, emerged across the country. Eventually, most of the Federal funding was eliminated and the community-based bureaus were replaced or supplemented by diversion programs operated by juvenile justice agencies. Contrary to the intentions of its creators, diversion came to be controlled increasingly by law enforcement rather than by the broader community.

In the mid-seventies, the "nothing works" movement hit the diversion community as hard as it hit rehabilitative programs. And, although subsequent studies indicated that many diversion programs did work, the critiques by Martinson and others were consistent with the changing political climate and gained considerable acceptance among those who were advocating that society needed to "get tough." (Martinson, 1974) These movements, along with severe cuts in financial resources, brought about the demise of many community-based diversion programs. Nonetheless, thanks to the continued efforts of the National Coalition and its constituents and Federal monies granted states through OJJDP, diversion programming and community-based alternatives to incarcerating status offenders persisted. Today, many excellent diversion programs continue to offer hope and alternatives to institutions to juvenile status offenders. We need to recommit ourselves to the development of effective programs for status offenders that are meaningful alternatives to institutionalization in either juvenile correctional or secure psychiatric facilities.

"We need to recommit ourselves to the development of effective programs for status offenders that are meaningful alternatives to institutionalization."

The degree of progress in removing status offenders from institutions varies considerably from state to state and even among cities and counties. **Oklahoma**, for example, has closed most of its juvenile institutions and achieved *de minimus* compliance with regard to deinstitutionalizing status offenders. It has replaced the institutions with a statewide "continuum of care" that provides alternatives to incarceration, including in-home detention, shelter care, attendant care, court shelter homes, and detention facilities. On the other hand, **Kentucky,** despite the efforts of many child advocates, still allows secure detention of status offenders. **Nebraska** has made more progress. While it has not yet succeeded in passing DSO legislation, it reports few violations due to the cooperation of judges, prosecutors, and sheriffs. At the other end of the continuum are states like **Maine, South Carolina,** and **Virginia,** each of which made statutory code revisions in the seventies to comply with deinstitutionalization, and status offenders left the institutions.

Much has been achieved nationally. From 1975-1982 juvenile courts handled eight percent fewer cases overall, in large part due to a 37 percent reduction in status offender cases. In 1975, 40 percent of all status offender cases involved secure detention; by 1982, the figure fell to 12 percent. (Bureau of Justice Statistics, 1988) By 1987, it had fallen even farther to 11 percent. (OJJDP, 1988) As of 1988, the latest year for which statistics are available, 51 states and territories are in full compliance with the Act's requirement of removing status offenders from secure incarceration, including four states which are at *de minimus* compliance.

In 1977 there were a total of 188,007 juvenile status offenders incarcerated in secure settings; by 1988 that number had declined to 9,741 children, a drop of nearly 95% over just eleven years.

The enactment of the "valid court order" exception to the deinstitutionalization mandate in 1980 constituted a setback to the movement to remove from secure institutions all those charged with, or convicted of, no criminal act. The recently published study by the General Accounting Office, *Noncriminal Juveniles: Detentions Have Been Reduced but Better Monitoring is Needed,* revealed that in 1988 a total of 25 states reported detaining about 5300 status offenders after violation of a valid court order, with five states accounting for 70 percent of this number. (GAO, 1990) Excluding these five, the states

reported a 95 percent reduction in the detention of status offenders since the inception of the Act. The GAO reported, however, that some of the states using the "valid court order" provision were violating the procedural requirements of the regulations promulgated pursuant to the Act, and closer monitoring of DSO by OJJDP would have resulted in three states exceeding the *de minimus* threshhold for compliance with the Act.

Separation of Children from Adults in Institutions

As mandated by the Act, the National Coalition and its constituent states and territories began their reform efforts with a focus on the common practice of detaining juveniles in jails, lockups, and other institutions where adults were detained or incarcerated. Whether non-offenders, status offenders or delinquents, the Act mandated initially that juveniles be held out of the "sight and sound" of adult prisoners. This mandate acknowledged that, despite the best intentions of most law enforcement personnel, adult jails often meant victimization, psychological trauma, and a denial of basic rights to the children housed therein. The Act's mandate was designed to protect juveniles from abuse.

". . . adult jails often meant victimization, psychological trauma, and a denial of basic rights to the children housed therein."

Unfortunately, there were unintended consequences at first from the separation effort. Overcrowded jail facilities and scarce resources frequently resulted in youth being separated into total isolation. Solitary confinement usually reserved for the most heinous adult criminal was now being used for children, especially young women or emotionally disturbed youths. A principal consultant, Community Research Associates (CRA), found that, due in large part to such isolation, the suicide rate of juveniles held in adult jails was seven to eight times greater than that for youth held in detention centers. To remedy this tragic situation, the Act was amended in 1980, with our strong support, to require complete removal of juveniles from adult jails and lockups by December of 1988. Simple separation of juveniles from adults in adult facilities was no longer deemed a sufficient strategy for protecting juveniles. Thirty-two of the 56 participating states and territories were in compliance with the separation requirement in 1988, and 20 additional jurisdictions were deemed to be making progress toward compliance. The number of juveniles held

in regular contact with incarcerated adults in a year had dropped by 78% from a baseline of 84,130 to 18,417 in 1988, with two states accounting for almost 14,000 of the number remaining.

Removal of Juveniles from Jails and Adult Facilities

The Act was amended in 1980 to include jail removal as one its key mandates. In 1981, OJJDP funded the $5.3 million "National Jail Removal Initiative" to assist states to put an end to all juvenile jailings by developing an array of secure, non-secure, and non-residential programs for youths previously jailed. Advocates for jail removal have worked valiantly over the years, with the leadership and support of both the National Coalition and its State Advisory Groups, to comply with this mandate. While full compliance across all the states remains elusive, considerable progress has been made. This progress has been made possible by the considerable efforts of the State Advisory Groups using Federal monies allocated through OJJDP. Without these funds for training and technical assistance, progress would have been impossible.

In 1988, the National Coalition successfully urged Congress to amend the Act even further to make continued receipt of grant funds contingent on several forms of compliance. The Act, as amended, requires states to demonstrate full or substantial compliance within five years, or lose their eligibility for funding. Substantial compliance is defined as having removed not less than 75 percent of juveniles from jails or lockups for adults or having achieved significant compliance with the Act's requirements coupled with "an unequivocal commitment to achieving full compliance within a reasonable time, not to exceed 3 additional years." States can also request a waiver of termination from the Administrator of OJJDP on the condition that the state agrees to expend all of its grant funds for the purposes of achieving compliance.

Critics have argued that allowing states to achieve only "substantial compliance" lowered the standards. It was feared that, in effect, progress would be discouraged and complacency rewarded. For the most part, these fears have gone unrealized. The amendments have rewarded states for the progress they have made and provided incentives for what remains to be accomplished. Equally important, at about the same time as the new regulations were being created, OJJDP began to systematically and seriously monitor states' compliance with the Act and provide discretionary monies to fund compliance efforts.

The combination of renewed OJJDP attention, flexible eligibility criteria, and the constant peer pressure of jurisdictions within the National Coalition that have attained jail removal all have been essential to fulfilling the jail removal mandate.

"The amendments have rewarded states for the progress they have made and provided incentives for what remains to be accomplished."

Some states have had an easier time in achieving compliance than others, and neither substantial nor full compliance has come quickly. Different methods have been used across the various states—including litigation, programming, legislation, and state regulations—with diverse results. For example, New Jersey changed its Juvenile Justice Code in 1974 and has been in full compliance for some time. Minnesota, on the other hand, was successful only in 1989 in passing removal legislation that became effective in August of this year. **South Carolina** currently operates under waiver status with regard to jail removal, but just last year the legislature passed a law requiring local jurisdictions to comply with the Act by January 1, 1993. The state is endeavoring to develop a network of regional detention facilities to be in place by that date.

Louisiana law requires both separation and jail removal, and the state has created an effective network of community-based programs into which it diverts juveniles. In a very effective move, the state hired a full-time Juvenile Detention Alternatives Coordinator who travels across the state assisting local jurisdictions in their efforts to place youth outside secure detention and to develop community-based alternatives to jail. The **Michigan** route to compliance has long received national attention. In 1979, a pilot project was funded by the Michigan Advisory Committee on Juvenile Justice to remove status offenders from five adult jails in Michigan's rural upper peninsula. In 1980, using grant money received from the Office, the state advisory group funded the Department of Social Services to develop a network of DSO support services and alternatives to lock-up in adult jails. That model eventually was replicated across the state. The alternative services network is now state funded, currently covers most of Michigan, and features nonsecure holdovers, home detention, a transportation network connected to longer-term detention, 48-hour secure holdovers, holdover and home detention worker training, and a 24-hour clearinghouse of available detention bedspace.

These brief examples indicate that states have been willing to be innovative in removing juveniles from adult jails. Because of the

collective efforts of the State Advisory Groups, their National Coalition, OJJDP, and advocates of child welfare across the country, 29 states and territories report full or *de minimis* compliance for 1988 (the latest official figures) and thirteen additional states met the substantial compliance standard. The national aggregate numbers are also quite encouraging. On any given day in 1982, 1,729 juveniles were held in adult jails, while in 1988 there were 1,451 per day in such facilities. (Census of Local Jails 1988) In the base year for data accumulation there were 150,099 youths in jail in America; by 1988 that number had been reduced to 42,537. As a group, those juveniles who are still jailed are older than those previously held, and the number of days detained is less than in the past. In addition, juvenile jailing is no longer a pervasive practice in most participating states and, for the most part, it has been reduced to pockets of noncompliance in those states still struggling with the issue. Progress clearly has been made, but there is still far to go.

"Progress clearly has been made, but there is still far to go."

Fears that juveniles who are released and are not securely detained would fail to appear for court, or that predisposition arrest rates would rise, have not materialized. Concerns that a lack of secure juvenile detention facilities would make it impossible to comply with the mandate likewise have proven unwarranted. In addition, a study of the Jail Removal Initiative conducted by Community Research Associates showed that "jail removal did not cause serious overcrowding problems for detention facility administrators, and that after implementation, attitudes toward the new program changed dramatically from resentment to acceptance, and even outright enthusiasm." (CRA, 1986)

Overrepresentation of Minorities in Juvenile Justice

In 1988 the National Coalition was successful in seeking amendment of the Act to require the states to eliminate the over-representation of minority youth in secure confinement as a fourth mandate. Each state is to determine whether such youth are being confined in disproportionate numbers in its secure facilities and must establish a strategy for addressing a racial imbalance where it is present.

Two researchers, Pope and Feyerherm, were funded by OJJDP to review the literature, data-bases, and existing programs in the area of

minority overrepresentation. The unpublished draft report from this effort was completed in late 1989 and a Summary Report (1990) is available through the Office. Technical assistance is currently offered by OJJDP through the considerable expertise of Community Research Associates to assist states in addressing and reducing overrepresentation.

"... most states indicate that they do not yet have sufficient data available [to assess] the current status of minority youth ..."

The process of confronting this most serious issue has really just begun. In reporting on their progress to date, most states indicate that they do not yet have sufficient data available with which to make an accurate assessment of the current status of minority youth in their juvenile justice systems, let alone create a specific strategy. These states have, for the most part, just begun to create data collection systems; the actual program and policy strategies will come later. A few states have already collected the data needed to determine need and justify action. In these instances, action strategies are being developed and implemented.

A Unique and Special Relationship— the Federal-State Partnership Under the Act

Norma was fifteen and threatening to run away from home when she was referred to Arizona's Turning Point Program with her family. During the first session among Norma, her family, and the Program, Norma stated, "I don't get to do anything. My parents ground me for every little thing. Sometimes I just wish I was dead."

Norma's mother and father were born and raised in Mexico, and have retained many traditional values as parents. On the other hand, Norma and her 13-year-old brother, Jose, were born and reared in Los Angeles prior to moving to Tucson.

"My dad wants me to be just like they were when they were growing up," said Norma, "they hardly ever let me go out, and when they do I have to be home by 8:00 or 9:00 o'clock. Sometimes it's not even dark, but I have to be home like an old maid."

"It's not right," said Norma's dad, "for a girl her age to be on the streets after dark."

"See what I mean," retorted Norma "I can't do anything. Forget it, they don't listen!"

Throughout the first three sessions, issue after issue was addressed and discussed with little or no agreement. At best, it was agreed that Norma could listen to whatever music she chose to listen to, provided she did it in her room and the volume was turned down so as not to disturb other family members. A couple of days after the third family session, Norma ran away from home. Both parents attended the fourth session feeling very sad that their daughter had run away, and they were very concerned for her safety. The counselor finally was able to break through their defenses, and the parents began to question some of their parenting practices.

Norma returned home before the fifth family session. At the beginning of the session, the family was split to compile separate lists of changes they would like to see in the family. When Norma and her parents were re-united for the second half of the session, their lists were almost identical. By the end of the sixth session, the family was working through their roles, limits, and consequences, and healing had started.

A National and a Bipartisan Concern

The co-patrons of Senate Bill 821 in the 93rd Congress, which became the Juvenile Justice and Delinquency Prevention Act, were Senators Birch Bayh, an Indiana Democrat, and Marlow Cook, a Kentucky Republican. Co-sponsors of the legislation included Senators from both sides of the aisle, and the Senate Judiciary Committee unanimously reported out the amended bill onto the floor of the Senate. The House-Senate Conference Committee also acted unanimously in recommending approval of their report. The House vote on the Act in 1974 was 329 to 20, the vote in the Senate was an overwhelming 88 to 1, and President Ford signed the bill into law on September 4, 1974. The 1977 reauthorization was similarly a joint Republican and Democratic effort, patroned by Congressman Ike Andrews of North Carolina, with a House Education and Labor Committee endorsement of 34 to 0 and a floor vote of 389 to 5. A comparably overwhelming vote in the Senate on the House bill led to President Carter's signature on October 3, 1977. The 1980

reauthorization measure was introduced by Senator Bayh, passed the Senate, was amended in the House and passed by voice vote, passed again in the Senate, and signed into law by President Carter on December 8, 1980. In 1984, the House version was again introduced by Congressman Andrews, and the Senate counterpart was co-patroned by Senators Arlen Specter of Pennsylvania and Paula Hawkins of Florida. The House bill became the vehicle for reauthorization, although the continuing appropriations bill was used to complete the process, and President Reagan approved the resolution on October 12, 1984. The 1988 House bill was introduced with Congressman Dale Kildee, a Michigan Democrat, and Congressman Thomas Tauke, an Iowa Republican, as its chief patrons. Five days of public hearings were held, three in Washington, one in Iowa, and another in Ohio.

". . . the Juvenile Justice and Delinquency Prevention Act, through its various enactments, has received overwhelming bipartisan support . . ."

Thus, the Juvenile Justice and Delinquency Prevention Act, through its various enactments, has received overwhelming bipartisan support, with both Democratic and Republican sponsors and co-patrons in both houses of Congress and lop-sided votes in each body at every point of the process. The bills have been signed into law by Presidents Ford, Carter (twice), and Reagan (twice). The range of organizations arrayed in support of the Act has been similarly impressive, including, for example, such diverse groups as the American Academy of Child Psychiatry, the American Bar Association, the American Legion, the American Public Welfare Association, the Association of Junior Leagues, the Boys Clubs of America, the Child Welfare League of America, the Children's Defense Fund, the General Federation of Women's Clubs, the Girl Scouts of America, the International Association of Chiefs of Police, the National Association of Counties, the National Congress of Parents and Teachers, the National Council of Jewish Women, the National Council of Juvenile and Family Court Judges, the National District Attorneys Association, the National Education Association, the National League of Cities, the National Network of Runaway and Youth Services, the National Sheriff's Association, the United States Catholic Conference, the YMCA of the U.S.A., and the YWCA of the U.S.A.

The State Advisory Groups— An Exercise in Effective Federalism

The Structure and Empowerment of the State Advisory Groups

The State Advisory Groups (SAGs) are the key to any success achieved under the Juvenile Justice and Delinquency Prevention Act. Congress recognized from the beginning that success in achieving the goals of the Act was dependent on the commitments of the individual states to those goals. Thus, the State Advisory Groups were charged with the responsibility to develop comprehensive state plans to carry out the congressional mandates, fund programs to implement the Act's goals, coordinate juvenile justice and delinquency prevention efforts in their states, and advise their governors and state legislators on matters concerning juvenile justice. The Act provided for gubernatorial appointment of the members of the SAGs in order to enhance their credibility and influence. The groups are comprised of a broad-based collection of public officials and private citizens with interest and expertise in the field of juvenile justice. Without the leadership and advocacy provided by the State Advisory Groups, much less progress would have taken place at the state level toward accomplishing the goals of the Act. Congress should increase the funds available to the states and territories to an amount sufficient to permit four SAG meetings a year, currently a problem for a number of states and entities.

"... success in achieving the goals of the Act was dependent on the commitments of the individual states to those goals."

We would be remiss if we did not acknowledge the critical role of the state juvenile justice specialists in any achievements of the SAGs. These knowledgeable, highly motivated, and committed individuals in each state have provided the necessary staff support and professional leadership to enable the advisory groups to perform their functions in compliance with the law and in an effective manner. The specialists increasingly have come to play an important role on the national level as well through their elected regional and national leaders, their meetings at the National Conference and other national and regional gatherings, and their representation on committees and task forces. They are frequently the hands and feet of the State Advisory Groups in the performance of their tasks under the Act.

The State Advisory Groups are increasingly advocates for reform and meaningful change in the juvenile justice systems of the states, even beyond the present confines of the Act's mandates. The SAGs in many states are actively involved in educating the public about juvenile justice concerns and about the needs of youth who are at risk for delinquent or non-criminal misbehavior. The planning process which leads to the development of a three-year plan, and the implementation of that plan in each state has stimulated the State Advisory Groups in their advocacy function as they seek to secure needed services for youth. It was through this planning process that many people at the state level first became aware of the overrepresentation of minority youth at many stages of the juvenile justice process, and this concern was brought to the National Coalition and to the Congress. Through the National Coalition, the SAGs have increased the training of their members and shared their experiences with members from other states in order to become even more effective agents for constructive change in their respective jurisdictions. Many states also have worked harder at involving their youth members in the decision-making and advocacy process, and this effort is bearing more fruit at the national level as well.

"The State Advisory Groups are increasingly advocates for reform and meaningful change in the juvenile justice systems . . . even beyond the present confines of the Act's mandates."

The Victories Wrought by Empowerment

The progress that has been achieved toward meeting the goals of the Act, as described in this Report, has been largely the product of the enhanced empowerment of the State Advisory Groups and their National Coalition, through recognition by Congress of the importance of the Advisory Groups. In addition, the centrality of the state-based model for achieving Federal goals has resulted in greater experimentation across the country and the accomplishment of notable results in the development of programs that work in reaching those goals. Some of those exemplary programs are described in the Appendix to this Report. Without the Act and the resources it provides, many of these innovative programs would not have been tried. Through the allocation of formula grant funds, the State Advisory Groups have devised and implemented programs for community-based diversion, alternatives to jail and other secure institutions, and family and school-based crisis intervention services. Also, the state experimentation stimulated by the design of the Act has helped in identifying programs that are

not as effective in achieving the Act's goals, and this information is just as important as knowing what programs and activities are successful.

Many of the states have revised their juvenile codes and passed other legislation to reflect the goals of the Act and to incorporate what has been learned through programs established with the encouragement and financial support of the State Advisory Groups. Without the funds generated by the Federal formula grant programs many of the states would have had to retreat significantly from their commitments to juvenile justice reform as state-generated resources diminished in the early 1990s.

The National Coalition of State Juvenile Justice Advisory Groups— A Voice for Children

The Structure and Functions of the National Coalition

The National Coalition of State Juvenile Justice Advisory Groups is the national voice for the State Advisory Groups. It is recognized in § 241(f) of the Act as "an eligible organization composed of member representatives of the State Advisory Groups appointed under section 223(a)(3). . ." The Act defines the duties of the National Coalition to include the following:

(A) conducting an annual conference of such member representatives for purposes relating to the activities of such State advisory groups;

(B) disseminating information, data, standards, advanced techniques, and program models developed through the Institute and through programs funded under section 261;

(C) reviewing Federal policies regarding juvenile justice and delinquency prevention;

(D) advising the Administrator with respect to particular functions or aspects of the work of the Office; and

(E) advising the President and Congress with regard to State perspectives on the operation of the Office and Federal legislation pertaining to juvenile justice and delinquency prevention.

The National Coalition is that statutory "eligible organization" operating as a coalition of the states united behind the common goals of achieving the purposes of the Act and of securing justice for juveniles in America.

The governing body of the National Coalition is the Board of Directors, which consists of the chairs of the respective State and Territories Advisory Groups. The Board meets at least twice each year, in the spring at the Annual Conference mandated by the Act and in the fall at a specific Board of Directors meeting. In recent years the spring meeting has been in late April in Washington, D.C., and the fall session has been held around the country over a weekend in late September. The Board of Directors elects officers for the organization at the fall meeting—consisting of a Chair-Elect, a Vice-Chair (Secretary), and a Vice-Chair (Treasurer). In January, 1992, a new office will be created—that of Youth Member. These officers, along with the Chair and Immediate Past Chair and the Chairs of the four regional coalitions—Northeast, Midwest, Southern, and Western, serve as the National Steering Committee, which meets more regularly and has "the powers of the National Coalition between meetings." The regional coalitions have become more active in recent years, holding regular meetings which have become a major vehicle for training within the National Coalition. The National Coalition, through its Board of Directors, prepares the Annual Report to the President, the Congress, and the Administrator of OJJDP, with this being the seventh such report.

Growth Toward Maturity over the Years

"The National Coalition has evolved in recent years to become a significant national force in juvenile justice reform."

The National Coalition has evolved in recent years to become a significant national force in juvenile justice reform. This evolutionary process began with a purely volunteer effort, an organization driven by the energy and time commitments of a handful of deeply committed volunteer leaders. For several years, it was literally an organization "run out of A. L. Carlisle's kitchen in Maine," with the Washington expertise and contacts provided by Marion Mattingly, a highly motivated and effective advocate for children from Bethesda, Maryland, who served as Washington Representative for the Coalition and as the first Executive Director for the group. In 1990 the National Coalition conducted an extensive national search before hiring Robert J. Baughman as its Executive Director, and a deeply

committed staff was assembled to provide support for the organization operating from an office in Washington, instead of a kitchen. The highly professional monthly *JJ Coalition News* newsletter is now published to keep members informed of developments and activities. Through the leadership of the national office's staff, training activities have increased significantly.

Thanks to the support of Congress, especially through key amendments to the Act in 1988, the National Coalition is assured the necessary financial and logistical support to perform its assigned tasks in an effective manner. The uneven and uncertain support of the Office of Juvenile Justice and Delinquency Prevention is, we hope, only a part of the Coalition's history and not its future. No longer should the Coalition have to worry about whether the funds will be provided to support the Annual Conference only a few weeks before the conference is scheduled, and no longer will outside funds be necessary to publish the Annual Report. The Office now exhibits a far more supportive attitude, and there is an effective working relationship between the National Coalition and OJJDP.

Hope Through Continued Empowerment

"The independence of the Coalition must continue to be secured so that it may be a constructive critic of the Office and of Federal efforts in juvenile justice."

The National Coalition seeks to be an increasingly effective vehicle for positive change in juvenile justice in America. The 1988 actions of Congress have given greater stability to the Coalition, as has the resulting national office established in Washington. New efforts have been initiated to enable the Coalition to network more effectively with other national groups concerned with youth and juvenile justice. The regional coalition structure has been enhanced, and a greater voice exists in the National Coalition on minority issues and for youth members of the State Advisory Groups. There needs to be strong continued growth in training activities, and in the development of a clearinghouse in the national office for information about what the states are doing. The technical assistance role of the National Coalition should continue to be developed so that the innovative programs and activities generated at the state and local level can be shared with other states. The independence of the Coalition must continue to be secured so that it may be a constructive critic of the Office and of Federal efforts in juvenile justice. There is also a need for the National Coalition to

do more in the policy area by developing position papers through study groups for consideration by its Board of Directors. To do this there must be a continued growth in resources allocated to the group.

The Office of Juvenile Justice and Delinquency Prevention and Its Administrator

Structure and Staffing of the Office

The Office has been the principal vehicle for a focus on juvenile justice at the Federal level. However, OJJDP has not always had a clear vision of its role and of its goals. The Act has provided an excellent road map for the Office to follow, but too frequently there have been entirely different agendas driving the operations of the Office. Administrators have had their own priorities which have not always meshed with the ones established by Congress. It is time to get back to basics, and back to the road map, by establishing an Office structure and a plan for achieving the goals articulated by the JJDPA. The primary task of the Office, and one which should be kept foremost in any planning by the Administrator, is to provide the best possible support to the State Advisory Groups in carrying out the mandates of the Act. OJJDP must be structured so as to be able to interact with the states in an efficient, timely, and helpful manner. That is clearly not the case at the present time. The Office is under-staffed and has not been given the authority to fill some of the vacancies that exist in order to be adequately staffed to carry out its mission. There is currently no one in the Office now who has been trained or is experienced in dealing with the state formula grant program. No one presently is assigned to work with the waiver states in assisting them to come into compliance. The states need help and technical assistance in carrying out the mandates of the Act, and very little of that help and assistance is forthcoming from the Office. In the recent past, the Office has used clerical staff and White House Fellows acting as state representatives. The only consistent and quality aid currently available to the states is being provided by Community Research Associates (CRA).

"OJJDP must be structured so as to be able to interact with the states in an efficient, timely, and helpful manner. That is clearly not the case at the present . . ."

The Office also needs to be a more dedicated advocate for positive change in the juvenile justice field. Too often the Federal response to delinquency and crime is entirely reactive, and little leadership is given to advocating for meaningful change. The Office needs to be far more involved in identifying model programs and activities and in assisting the National Coalition to disseminate information about these models to the states. There must be a greater emphasis on technical assistance, much as CRA has provided in the jail removal area. There must be a greater commitment to delinquency prevention as a major goal of the Office.

"Too often the Federal response to delinquency and crime is entirely reactive . . ."

The Administrator needs to provide greater leadership within the Coordinating Council on Juvenile Justice and Delinquency Prevention to ensure greater cooperation and coordination among those Federal agencies responsible for drug programs, child abuse and neglect, runaways, and other activities involving children who are delinquent or are at risk of becoming delinquent. There is often very little coordination among these groups, and funds are disbursed to the states through discrete channels without much communication about what is taking place. The Council should also be involved more in developing a coherent federal policy on juvenile justice and delinquency prevention, consistent with the mandates of the Act. It should take the lead in assuring that all Federal agencies are in compliance with the mandates of the Act.

There should be greater interaction among the Office, the National Coalition, and the State Advisory Groups in carrying out the goals and purposes of the Act. There must be a true partnership of caring and concern if juvenile delinquency is to be reduced and the juvenile justice system is to be made more just and humane. Greater and more timely coordination and broader participation in the planning process for the Office will markedly improve this creative interaction. Sending out a "FAX" on May 17, 1991, to State Advisory Groups and Juvenile Justice Specialists soliciting suggestions for consideration in the development of a 1992 Program Plan by OJJDP senior staff at a meeting scheduled for May 21-22, 1991, is not an example of the sort of meaningful participation we advocate. When the Office sent out a letter describing the Office structure for working with the states that included the National Coalition's regional organization, it did so unilaterally without developing this structure collaboratively after discussions with the National Coalition.

There are some signs of greater stability in the Office and more consistent leadership. The working relationship between OJJDP and the National Coalition has improved markedly over our experience with prior Administrators. However, there needs to be an even greater dedication to the goals defined by the Act, which is our road map for improving juvenile justice. The Administrator, and the staff of the Office, must act in a consistent fashion to carry out those goals and not undermine them by granting ill-conceived waivers to jurisdictions that are not in compliance with the Act or by issuing policy interpretations about secure facilities that are inconsistent with the philosophy of the Act. The Administrator's discretion should be exercised in a fashion that is consistent with the spirit, as well as the letter, of the Act. The single most important function for the Office is to implement the mandates of the Act, not to facilitate or accommodate jurisdictions that wish to shirk their responsibilities. Legislation is a blunt instrument for achieving certain goals, and those charged with implementing enactments must be more finely tuned to the core message and intent of the legislation in administering it.

"The single most important function for the Office is to implement the mandates of the Act, not to facilitate or accommodate jurisdictions that wish to shirk their responsibilities."

The role of the Office of Justice Programs (OJP) in fixing the agenda for OJJDP in the 1991 Comprehensive Plan is a very bad precedent, and it occurred this year for the very first time. As the history of the Act related above illustrates, the Office is structured in the Act as an independent entity in carrying out the goals of the Act. The National Coalition stands willing at all times to perform its advisory role on a continuing basis and not just in writing its Annual Report. The Act does create a unique partnership between the Federal government and the State Advisory Groups, but at the present time OJJDP is restricted to the role of a junior partner.

The Formula Grant Program

The formula grant program is the heart and soul of the Juvenile Justice and Delinquency Prevention Act. The primary goal of the Office should be to administer this program as effectively, imaginatively, and consistently as possible. The formula grant program is the principal tool for bringing about meaningful change in the juvenile justice systems of the several jurisdictions, in accordance with the Act, and yet the Office has frequently been an impediment in the effective

use of this tool, rather than a facilitator. OJJDP must dedicate itself to impacting on juvenile justice in America through the careful stewardship of the formula grant program in the states. There should be a significant increase in formula grant funds to enable the states to work more effectively in carrying out the mandates of the Act, and to help stimulate compliance with the Act. The current appropriation under the Act is almost $22 million less than the amount allocated ten years ago and almost $25 million less than that appropriated during the peak support of the Act, when the mandates were fewer than today.

Discretionary Grant Program

The discretionary grant program frequently has been the source of funds to carry out the particular ideological agendas for OJJDP Administrators in all administrations. The National Coalition recognizes that a certain amount of this is natural and, perhaps, inevitable. However, the Office should be directed to make a greater use of the discretionary funds allocated to it in order to achieve full compliance with the mandates of the Act. These funds particularly should be used to address special and unusual problems in the several jurisdictions, such as those presented by geography, including distance and topography. An excessive percentage of such funds are allocated currently to boot camps, gang activities, drugs, and intervention with abused and neglected children, rather than being focused on areas previously identified by the Coalition as needing immediate attention. It is not that drugs and abuse and neglect are unworthy of Federal attention, but other agencies have responsibility for these concerns, and the limited funds for juvenile justice should be saved for programs and activities more closely related to the goals of the Act. The Office should use the resources available under the discretionary grants program to supplement formula grant funds for jail removal and minority over-representation and to concentrate on such problems as the overuse and overcrowding of secure detention, the deplorable condition of many juvenile correctional facilities, the availability and assignment of effective counsel to represent delinquent youth, the status of waiver or transfer from juvenile or family courts to adult courts, and a renewed focus on prevention. The Office has also allocated discretionary funds for training and technical assistance unevenly across the juvenile justice system.

" . . . the limited funds for juvenile justice should be saved for programs and activities more closely related to the goals of the Act."

The Substantive Issues Under the Act

Two-year-old Lakita cried for almost three hours the first time she spent the weekend with her father. She wanted her mother. The second time Lakita visited her 19-year-old father, James, at Louisiana Training Institute in Monroe, she cried only 20 minutes. "She didn't cry at all when she came to visit the third time," James said with a shy grin.

"She's gotten to know me better since she's been coming to visit. Now she calls me daddy, and James," he said. James, who is serving an armed robbery sentence, is one of 16 teen parents at the state corrections facility for juveniles participating in a parenting system in 1990 designed to break the cycle of family abuse and neglect.

Refining and Strengthening the Basic Mandates of the Act

Deinstitutionalization of Status Offenders

The Act enables states to treat status offenders differently from delinquents by making resources available to establish community-based treatment, diversion, and prevention programs. In 1976, the Task Force on Juvenile Justice and Delinquency Prevention reemphasized the need to reform juvenile court procedures for status offenders. That group recommended that it was time to "discard the vague labels that have formed the basis for court jurisdiction and some serious abuses up to now." (Task Force, 1976) It defined only five classes of status offenses that warranted any form of judicial intervention: school truancy, repeated disregard for or misuse of lawful parental authority, repeated running away from home, repeated use of alcoholic beverages, and delinquent acts committed by a juvenile younger than ten years of age. The Task Force also recommended that a child's entire family be placed under the jurisdiction of the court to secure effective remediation of any problems and argued that the incarceration of such juveniles was unnecessary and potentially damaging.

Those who advocate the institutionalization of status offenders argue that, even if delinquents and status offenders appear different at any given time, eventually they become one and the same. In other words, they argue, status offenders can be expected to escalate their behavior to delinquent activity. Research data indicate that most often this is not the case. (Kobrin et al., 1983; Schneider, 1986) The majority of status offenders have no previous contact with police or

probation and are not arrested subsequently for either a delinquent act or another status offense at the 12-month follow-up point. A smaller group of status offenders evidenced a prior record. But, even among these juveniles, about one-half were not returned to court again. (Kobrin et al., 1983; Weis, 1980) Studies of follow-up offenses by runaways find that while about 40 percent will run away again, approximately one-third will commit no additional offenses, about 11 percent will commit another type of status offense, and less than 20 percent will commit a delinquent act. The vast majority of those delinquent acts will be property offenses. (Schneider, 1986)

"Studies of follow-up offenses by runaways find . . . approximately one-third will commit no additional offenses . . ."

It is important to note that data from several studies indicate that status offenders sometimes evidence a mixed status/delinquent offense pattern. Accordingly, it may be erroneous to focus deinstitutionalization efforts on just one group or the other. Emphasis should be on appropriate care, regardless of the label. Programs should "aim at the child as target, regardless of the 'accidental' charge lodged against him or her . . . ." (Kobrin and Klein, 1983)

The recently concluded Government Accounting Office study of the experience under the "valid court order" exception heightens the National Coalition's distrust of this device. The exception creates a mechanism for "bootstrapping" status offenders into a quasi-delinquent category which exposes the youth to incarceration in a secure facility. The National Coalition believes that Congress should restudy the "valid court order" exception and that the Act should be amended to severely restrict the availability of the exception. A statutory formula like that utilized by both **Florida** and **Virginia** would narrow considerably the adjudication of status offenders in the first instance and would limit significantly the subsequent placement of any child guilty of non-criminal misbehavior in a secure institutional setting. Both states have used a "gate-keeping" approach by requiring the delivery of services to the youth before resort to court and mandating the use of a multi-discipline team upon violation of an order before further court action. The Office in the meantime must step up its monitoring of use of the exception and assess jurisdictions' compliance with the Act much more closely.

Separation of Juvenile and Adult Offenders

Much progress has been made since 1974 in eliminating contacts between juvenile and adult offenders in the same institutions. However, with the 1980 amendment to the Act mandates establishing complete removal of juveniles from jails and lock-ups as a goal, separation should be a necessary and natural byproduct of the achievement of the greater mandate. All of the states and territories should immediately be brought into compliance with the separation mandate.

"Recent research confirms that from arrest through sentencing and incarceration, disproportionate representation and differential treatment are evident along the entire system . . ."

Removal of Juveniles from Adult Jails and Facilities

Using creativity and resolve, states have shown that alternatives to inappropriate detention can be found. On analyzing states' efforts, CRA has found that success depended on the following key elements:

- Community commitment to keep juveniles out of adult jails.
- Alternatives for juveniles who do not need to be in secure facilities.
- Access to secure juvenile detention for those who need such.
- Objective decision-making criteria for detaining juveniles.
- Written policies and procedures for intake and detention services.
- An effective system to monitor the system for keeping juveniles out of jails.
- Local sponsorship and funding of intake and detention services.

The National Coalition is unequivocally committed to total and expeditious achievement of the Act's goal of removing *all* children within juvenile or family court jurisdiction from any adult facility. We do not view an enhanced form of separation as jail removal, although that now appears to be the direction the Office is taking.

Minority Over-representation

The State Advisory Groups and their Coalition remain concerned by the acknowledged over-representation of minority youth in the juvenile justice system, a representation far disproportionate to their numbers in the general population. Recent research confirms that from

arrest through sentencing and incarceration, disproportionate representation and differential treatment are evident along the entire system continuum. (Pope and Feyerherm, 1990) The extent to which such disproportionate representation exists on a state-by-state basis, the points in the juvenile justice process at which it is most likely to exist, and the reasons for its existence are less clear.

Two general perspectives are usually put forward to explain the disproportionate representation of minority juveniles in the system. One urges that the problem rests with the system which employs, unintentionally or not, a "selection bias" that results in a disproportionate number of minority youth in the system. In other words, minority youth do not commit more crimes than any other youth, they merely get treated differently and more harshly at various points in the system. The other perspective posits that the nature and volume of offenses committed by minority youth are the real issues. In other words, minority youth commit more offenses, and more serious offenses, than other youth because of the social and economic conditions in which they are forced to live. The differential involvement in crime on the part of minority youth, according to this perspective, accounts for their larger number in the juvenile justice system.

"Data suggest that both direct and indirect race effects, or a mixed pattern of bias, exist nationally."

Consistent with the mandates of the Juvenile Justice and Delinquency Prevention Act, the Coalition is primarily concerned with problems directly related to the juvenile justice system itself and, in this case, its potential for "selection bias." Does a bias in selection of minority youth exist within our juvenile justice system? Accumulated findings indicate that it does. Data suggest that both direct and indirect race effects, or a mixed pattern of bias, exist nationally. There is also evidence that small racial differences may accumulate and become more pronounced as minority youth penetrate deeper into the system. Pope and Feyerherm conclude:

> That minority offenders are over-represented in juvenile institutions across the country is an indisputable fact. Further, there is sufficient evidence to suggest that over-representation will continue and probably increase in the coming decades. The majority of research studies to-date, especially those undertaken since 1980, suggest that racial status may well be a factor influencing outcome decisions in certain jurisdictions at certain points in time . . . it would seem that processing of minorities through the juvenile justice system is an

issue that cannot and should not be ignored. . . . It can be argued that the lack of program initiatives and policy statements focusing on racial equality across the juvenile justice system is cause for concern and a condition that should be addressed. (1990, p. 3)

An OJJDP-published statistical update (March, 1990) attributes the 13% growth in minority detentions between 1985 and 1986 primarily to drug law violations. According to the update, during those years the number of white youth referred to court for drug law violations declined by 6%, while the number of nonwhite youth referred for drug offenses rose by 42%. This, coupled with "the court's greater likelihood of detaining drug cases resulted in a 71 percent rise in the number of nonwhite youth detained for a drug offense." (OJJDP, 1990)

". . . numerous variables are associated with disproportionate representation of minorities in the juvenile justice system . . ."

Another interpretation of the data may be warranted. Since this finding relates to court referrals, considerable selection bias may operate at the arrest and intake stages. In addition, while new judicial policies with regard to drug-offenders may account for some of the recent increase in minority detention, it is by no means the entire story. For over twenty years solid research has pointed out the more complicated picture, that numerous variables are associated with disproportionate representation of minorities in the juvenile justice system and at various stages within that system. A recent study also reveals that white youth may engage in significantly greater abuse of drugs than African-American youth but that differential enforcement of the laws proscribing such use results in greater involvement of minority youth in the formal justice system.

Another area of potential discrimination is in the transfer from juvenile or family courts to courts of adult criminal jurisdiction. Waiver or transfer decisions require judges to determine which juveniles would benefit from the rehabilitation efforts of the juvenile justice system, and which require the harsher sanctions of the criminal justice system. Since transfer is one of the most severe sanctions of the juvenile justice system with potentially harsh consequences, it is an area worthy of more careful attention.

Fagan and others analyzed a sample of youths to ascertain the differences between those retained in the juvenile court and those waived to the adult system. (Fagan et al., 1987b) They noted that practices varied widely across jurisdictions and were characterized by

vagueness and a lack of standards. More to the point of this Report, they also found that few whites were even considered for transfer. Minority youth were transferred more often than white juveniles. This racial disparity held true regardless of prior record and type of offense. A recent study of transfer practices in New Mexico reveals a similar disparity between Hispanic and Anglo youth in that state. (Houghtalin & Mays, 1991)

Native American Pass-Through

In its 1988 amendments to the Act, Congress incorporated two stipulations regarding Native American youth. One required that states allocate a portion of their formula grant funds for Native American tribes that perform law enforcement functions to use specifically for juvenile justice efforts. The other provided funds to OJJDP to conduct a study of Tribal and Alaskan Native juvenile justice systems. The Office contracted with the American Indian Law Center of Albuquerque, New Mexico, to conduct that study, and their research is under way. Preliminary findings may be available shortly.

"While the pass-through funding amendment was well-intended and much needed, its impact to date has been negligible."

While the pass-through funding amendment was well-intended and much needed, its impact to date has been negligible. The amount of funds passed through for the specific use of Native Americans depends on their percentage of the total youth population in each state. Predictably, the numbers are small and, in most cases, the resulting pass-through dollars are minuscule. A case in point was made recently at a National Coalition conference by a representative from Maine who stated that the amendment had resulted in a meager $741 in pass-through funds for Native Americans in that state in 1990. Clearly, the formula that determines the percentage of pass-through funding needs to be reconsidered. Some method for providing meaningful juvenile justice resources to Native Americans remains to be found. There should be a separate section of the Act devoted to addressing Native American juvenile justice issues. This is the only way to achieve a comprehensive approach to the complex issues presented.

Equitable Support for All Components of the Juvenile Justice System

The Office of Juvenile Justice and Delinquency Prevention has allocated large sums from the discretionary grant program over the years to support training and technical assistance for juvenile and family court judges and prosecutors. In recent years there has been some additional attention paid to juvenile correctional personnel. The Office's *Final Comprehensive Plan for Fiscal Year 1991*, circulated in February of this year, for example, includes $600,000 for training juvenile corrections and detention staff, almost $1,500,000 for training and technical assistance for judges, $765,000 for juvenile justice and child abuse training for prosecutors, $750,000 for CASA training and technical assistance in connection with abused and neglected children, and approximately $560,000 for technical assistance and training for law enforcement personnel. This allocation is fairly reflective of the funding patterns of recent years.

"The one glaring omission in the plan is the absence of any funds for training, technical assistance, or the development of model programs . . ."

The one glaring omission in the plan is the absence of any funds for training, technical assistance, or the development of model programs for counsel for juvenile delinquents or status offenders or lawyer guardians ad litem for abused and neglected children. In fact, serious questions can be raised about the allocation of significant funds in the area of abuse and neglect since the principal charge of the Act is to address the needs of delinquent children, and other agencies are charged with a focus on abused or neglected children. We cannot ignore the fact that many delinquent youth are also abused or neglected, but this is another example of the manner in which the federal Coordinating Council could be used effectively to divide up responsibility among agencies for training and technical assistance. OJJDP is the only agency specifically charged with a focus on delinquent youth, and the meager funds allotted to it should be reserved for that focus.

Recent studies show that there are serious problems in the delivery of effective legal services to delinquent youth in America. As we approach the twenty-fifth anniversary of the Supreme Court's decision in *In re Gault, supra*, it appears that many juveniles are being denied the right to counsel altogether, and others are receiving perfunctory representation from those lawyers assigned to represent them. Profes-

sor Barry Feld has noted that "nearly twenty years after *Gault* held that juveniles are constitutionally entitled to the assistance of counsel, half or more of all delinquent and status offenders in many states still do not have lawyers . . . , including many who receive out of home placement and even secure confinement dispositions. . . ." (Feld, 1988; 1989) A study of the law guardian system in New York, the primary means for the delivery of defense services to indigent delinquents outside of New York City, revealed an appalling level of competency, ". . . 47% of the courtroom observations reflected either seriously inadequate or marginally adequate representation; 27% reflected acceptable representation, and 4% effective representation. . . . Specific problems center around lack of preparation and lack of contact with the children." (Knitzer and Sobie, 1984) The seriousness of the deficiencies in the provision of adequate representation have been a major factor in causing Professor Feld to question even the continued advisability of a separate juvenile court. (Feld, 1991)

"In spite of these studies . . . no funds have been designated for advocacy for delinquent youth".

In spite of these studies, continued urgings of professionals for inclusion of a focus on legal representation in OJJDP's plans and the inclusion in the 1988 amendments to the Act of a mandate for allocating special emphasis funds for "programs stressing advocacy activities . . . including services . . . which improve the quality of legal representation of such juveniles . . . ," no funds have been designated for advocacy for delinquent youth. There has also been inadequate attention paid to juvenile probation and aftercare personnel as integral components of the juvenile justice system. There is a significant need for greater balance in allocating training and technical assistance resources by OJJDP, with no component of the system being favored to the exclusion of others. Within a system of justice that is traditionally adversarial, the judicial, prosecution, defense, and probation functions are all of central importance to a fair juvenile justice system.

Delinquency Prevention—A Focus on Children at Risk

With all the attention being paid to gang activities, anti-drug initiatives, serious and violent offenders, missing children, and other groups or concerns of the moment, it is sometimes easy to forget that we are operating under the Juvenile Justice and *Delinquency Prevention* Act of 1974. The Act has a duality of focus that must be kept in balance

in the allotment of resources and the assessment of programs. Prevention is still the most cost-effective and humane method of addressing the problems of anti-social behavior. We need to refocus our attention on the prevention of delinquency as the first line of defense against juvenile crime. We must look at the prevention programs that work and commit the resources to replicate those programs in other states and localities. The National Coalition believes that delinquency prevention should be at the top of the agenda in the Act.

A recent issue of *The Journal of Criminal Law and Criminology* features a "Symposium on the Causes and Correlates of Juvenile Delinquency," with reports on longitudinal studies of juvenile delinquents modeled, in part, on Dr. Marvin Wolfgang's pioneering birth cohort studies. (J. Crim. Law, 1991) The issue points with regularity to the need for a holistic approach to delinquency prevention, an approach that has been used by many grantees in the states. The role of OJJDP in helping to fund the reported research projects affords a good example of how JJDPA funds may be used in creative ways to advance our knowledge about children at risk and to assist in the design of programs to reduce those risks. The logical next step is to utilize the results of the research by the Office in developing programs and driving funding.

"The logical next step is to utilize the results of the research by the Office in developing programs and driving funding."

The New Jersey Governor's Juvenile Justice and Delinquency Prevention Advisory Committee has recently published an insightful report, *Towards a New Generation: A Primary Prevention Plan for New Jersey*, and the recommendations of that report need to be examined by OJJDP and other jurisdictions. (New Jersey, 1990) The New Jersey JJDP Advisory Committee made six recommendations after considering existing programs in their state and examining the prevention plans and legislation of six other jurisdictions, Connecticut, Maine, Oregon, Vermont, Virginia, and the District of Columbia. Those recommendations are as follows:

1. Increase public awareness of primary prevention activities and promote effective parenting within the general population.

2. Encourage increased participation of industry and the private sector to facilitate opportunities for youth.

3. Increase the primary prevention planning and implementation activities of the state, county and municipal level youth-serving organizations.

4. Establish a statewide clearinghouse network for primary prevention that will provide technical assistance to communities.

5. Establish a uniform policy and system of collaboration between agencies which assures effective prevention planning on an on-going basis.

6. Improve the education of our youth to increase competencies and skills and impact the serious problems of high drop-out, suspension and truancy especially among urban youth.

All the states, with the encouragement and technical assistance of the Office and the National Coalition, need to re-examine their commitment to delinquency prevention and to reaffirm the idea of prevention as a primary goal of the Act. In doing so, we need to look at the recent report and recommendations of the National Commission on Children for the broader view of the needs of children and families in our society.

There is a definite need to focus more on intervention when a child first shows the signs of a problem. Community Research Associates has urged "that real progress in the prevention and reduction of youth crime can best be accomplished during that 'teachable moment' at the end of prevention and at the beginning of the juvenile justice system." Implementation of the Act's mandates has resulted in a shift of resources from "backend" institutional services to far more effective and cost-efficient "front end" services.

Alternatives to Institutions—Programs That Work

Appropriate care and meaningful alternatives to incarceration have not enjoyed the same broad-based support through the years for delinquents as for status offenders. Considerable support, however, can be found in the Juvenile Justice and Delinquency Prevention Act. The Act states that it is the policy of Congress to provide the necessary resources, leadership, and coordination 1) to develop and implement effective methods of preventing and reducing juvenile delinquency, including methods with a special focus on maintaining and strengthen-

ing the family unit so that juveniles may be retained in their homes; 2) to develop and conduct effective programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives to institutionalization. . . .

The Act is thus entirely consistent with the Coalition's position against simple, punitive incarceration. It favors, instead, a continuum of care in the least restrictive setting.

"Current research data clearly indicate that correctional institutions do little to reduce delinquency in general . . . and may actually worsen the situation."

Current research data clearly indicate that correctional institutions do little to reduce delinquency in general, or the rate of recidivism among delinquents in particular, and may actually worsen the situation. According to several studies, recidivism among delinquents in community-based projects is about the same or less than among those in large, institutional programs, provided the project includes intensive supervision and effective reintegration strategies. (Fagan, 1990; Clements, 1988) Yet minimal progress has been made to date with regard to ensuring the widespread availability of such appropriate care for delinquents.

While some contact with juvenile court cannot be avoided in every instance for many delinquents, penetration into the system can be minimal, resulting in probation, foster home or group home placement instead of detention or incarceration. For others, especially those who are repeat offenders and whose offenses are of a very serious nature, some detention is unavoidable and may even be advantageous. The degree of restriction in detention, the length of stay, and the effectiveness of rehabilitation and reintegration efforts then become critical.

Community-based treatment can be used effectively when youth cannot be diverted from the juvenile court but do not require intensive, lengthy incarceration. In such cases, youth should be treated in small community-based programs instead of those offered in large, centralized correctional settings or in private facilities rather than public ones. Michigan's Day Treatment program described in our 1990 Annual Report, *Looking Back to the Future*, is one successful example of such a model (1990 Annual Report). A recent publication by the National Council on Crime and Delinquency describes other highly successful programs for community-based alternatives to institutions, such as the Broward County, Florida, home detention program, the Juvenile Alternative Work Service programs in Orange and Los Angeles counties

in California, the Associated Marine Institutes (AMI) Day Treatment programs, the Seattle-based Homebuilders program, and the KEY Outreach and Tracking program in Massachusetts. (Steinhardt & Steele, 1990)

Despite the political and economic ups and downs of the past decade, the State Advisory Groups and their National Coalition have continued to advocate strongly and persistently for community-based treatment for delinquents. Through the dark years of naysaying in both Washington and the states, we have continued to fund and encourage the development of community programs to rehabilitate delinquents and decrease their chances of recidivating.

Conditions in Institutions

"The National Coalition does not believe that the projected training matches the needs previously identified."

The National Coalition's 1989 Report, *Promises to Keep*, addressed the issue of conditions of confinement at great length, especially at pages 14-26, and we shall not repeat that discussion here. However, little positive has occurred in the past two years to change our assessment of the status of conditions in juvenile correctional facilities articulated in that report. We are encouraged that OJJDP is planning a training program for juvenile corrections staff under the rubric of "Improving Conditions of Confinement," but we are discouraged that the description of this program lists the training as being "in such areas as drug testing and gang activity." The National Coalition does not believe that the projected training matches the needs previously identified. The conclusion we stated in our 1989 Annual Report is still sadly timely:

The main theme of the 1989 National Coalition of State Juvenile Justice Advisory Groups Conference was conditions of confinement, one of the basic issues that the Juvenile Justice and Delinquency Prevention Act of 1974 was intended to address. As we have reported, the promises made in this area turned out to be temporary and short-lived even though problems identified then persist to the present time. We see our responsibility as one of working with the Office and the individual states, through our Regional coalitions, to address, once again, some of the causes underlying the problem.

We have no illusions that the task of improving conditions of confinement for juveniles will be simple or short-lived. We do recog-

nize it as important to our credibility as a Coalition seriously committed to juvenile justice reform. We also see it as important to the credibility of the Office of Juvenile Justice and Delinquency Prevention. It is an area in which our interests and responsibilities coincide, and it is an example of a problem that requires the states and the federal government to work together. We can and will provide the bridge that will permit this to happen.

Special Treatment Needs of Incarcerated Juveniles

An increasing number of the juveniles committed to correctional and detention facilities around the country have special problems and needs that require additional tailoring of the rehabilitative programs in such facilities. Commentators have long noted that incarcerated juveniles have a higher incidence of special educational needs than exist in the adolescent population as a whole, and the Act acknowledges this reality with a specific focus on learning-disabled youth. The current crop of institutionalized youth increasingly exhibit even greater problems, such as mental retardation, emotional difficulties, physical or psychological dependency on substances such as drugs or alcohol, and sexual abuser characteristics. These troubled young people tax the program capabilities in many states.

"The current crop of institutionalized youth increasingly exhibit even greater problems . . ."

There needs to be greater attention paid to the more troubled and diverse population of correctional and detention facilities. Some of these youth are incarcerated because of the absence or overcrowding of community-based or specialized private treatment facilities or programs. The Office of Juvenile Justice and Delinquency Prevention must address the problems of these youth with special needs

Inappropriate Hospitalization of Minors

Although we are encouraged by the large number of status offenders and nonoffenders who are no longer housed in juvenile correctional institutions, there is growing concern that many youth are being shifted to equally restrictive drug treatment or mental health programs—a phenomenon Dr. Lois Weithorn terms "trans-institutionalization" in an influential law review article. (Weithorn, 1988)

Others have described the same phenomenon as the process of "relabeling" or the "medicalization of deviance."

Admissions to private adolescent psychiatric hospitals have increased substantially over the years, as evidenced by an increase in the number of beds from 13,000 available in 1977 to 30,000 in 1987. Admissions of adolescents to member hospitals of the American Association of Private Psychiatric Hospitals more than doubled in the five years between 1980 and 1985. Admissions due to behavior disorders increased over 400% during that same period. (Darnton, 1989) The relocation of status offenders and other "incorrigibles" appears to account for at least some of the dramatic increase in juvenile psychiatric placements. In addition to the courts' apparent propensity to relabel status offenders, a number of other social factors contribute to the phenomenon.

Realizing that juvenile psychiatric detention is a lucrative business, private hospitals successfully employ advertising campaigns to create a large consumer market among middle class parents frustrated and concerned about their children's difficult behavior, behavior, by the way, which in many cases may be quite typical and normal for the average adolescent. Third-party insurance is widely available to pay the bill. Community-based programs, that were supposed to take the place of secure facilities when status offenders were deinstitutionalized, have been slow to materialize in some areas. Private, for-profit psychiatric hospitals have moved quickly into the void, diverting many youth into the mental health system and confining them in psychiatric instead of correctional institutions.

"Behind the facades, private psychiatric facilities are often similar to correctional facilities, including the use of isolation rooms, mechanical restraints, and punitive behavior modification programs."

Parents may be induced into committing their youngsters to a hospital by advertisements that tell them that to do so is the obligation of a responsible, caring parent. They may be lulled into a sense of security by the plush settings sported by many of today's psychiatric hospitals. Such trappings, of course, do not ensure that the hospital environment is safe or that it promotes effective treatment. Behind the facades, private psychiatric facilities are often similar to correctional facilities, including the use of isolation rooms, mechanical restraints, and punitive behavior

modification programs. In addition, hospitals may also prescribe powerful psychotropic drugs during treatment. (Darnton, 1989)

Ira Schwartz, former Administrator of the Office of Juvenile Justice and Delinquency Prevention and now Professor of Social Work at the University of Michigan, warns that "mental hospitals are becoming the jails of middle-class kids. It's the biggest child-welfare scandal of the last 50 years." (Darnton, 1989) There is also reason to suspect that it is primarily youth from white, middle-class America who are placed in private hospitals while minority youth occupy a substantially disproportionate number of beds and cells in our nation's public correctional institutions. (OJJDP, 1989) **We are offended by the apparent inequity that denies one race adequate psychiatric help and creates a prison of it for another.**

"The private psychiatric hospital issue is . . . but one more example of our tendency as a society to over-institutionalize our youth in general."

There is little doubt that some adolescents require institutional placement, whether in a correctional or psychiatric facility, as we noted above. But institutionalization, regardless of the label under which it takes place, is an extreme and potentially harmful option which must be used with caution only after other less restrictive and less intrusive treatment alternatives are exhausted. Institutionalization can make matters worse by stigmatizing the juvenile, by encouraging dependence upon an institutional environment, by failing to cure the problem it proposes to address, and, most important, by standing in the way of effective, appropriate assistance. Psychiatric detention also can have the additional adverse effect of allowing juveniles to abdicate responsibility for their actions because they are "too ill to know what they are doing."

The private psychiatric hospital issue is symptomatic of our national lack of commitment to the needs of families and children and is but one more example of our tendency as a society to overinstitutionalize our youth in general. It is time to allocate the resources needed to care for all children in need, appropriately and effectively, and our 1990 Report proposed some suggestions regarding this troubled population.

The Serious or Violent Offender

We have been less successful in developing and implementing effective programs for serious, violent offenders. But here, too, important strides are being made.

"Reintegration is most often used . . . with delinquents whose careers are chronic and whose crimes are quite serious."

Reintegration is that complex of approaches that emphasizes "early reintegration activities preceding release from secure care, and intensive supervision in the community with emphasis on gradual reentry and development of social skills to avoid criminal behavior." (Fagan, 1990) Reintegration is most often used, and is most cost-effective, with delinquents whose careers are chronic and whose crimes are quite serious. Reintegration strategies can help provide youth with resistance against the social disorganization, weak social controls, and limited economic opportunities they will inevitably experience upon release. In an article published last year, Dr. Jeffrey Fagan, a principal speaker at our 1991 Conference, reported on his evaluation of the Violent Juvenile Offender (VJO) Program that made extensive use of reintegration. (Fagan, 1990) The VJO Program was conducted in four urban juvenile courts: Boston, Detroit, Memphis and Newark. The program was directed at violent youths, about 70 percent of whom were adjudicated delinquent for armed robbery or aggravated assault, about 17 percent for murder, and 13 percent for forcible rape. Where the program was well-implemented, significantly lower rates of recidivism were found for violent and serious offenses as well as for total crimes. The VJO Program is an excellent example of what is possible when appropriate, effective treatment is the focus of the juvenile justice system's creativity and resources.

While traditional corrections practices for violent juveniles usually emphasize investment of most of the resources on treatment services within the institution, the VJO Program is characterized by its emphasis on correctional system intervention combined with community reintegration. The program provided a balance between treatment and control and effected reintegration in three ways—1) early reintegration efforts that began in the secure setting and followed the youth into the community upon release; 2) intensive supervision in the community to provide support upon reentry; and 3) life skills and social skills training.

As Fagan points out, virtually every delinquent youth, whether housed in small, community-based programs or large training centers, eventually returns to the community. Continued efforts must be made to create and research similarly effective programming for serious, violent delinquents. To be effective, this programming must recognize that a youth's successful return to the community is the primary goal. The cooperative resources of corrections and the community must be applied to effect that success through individualized assessment and appropriate treatment.

Waiver and Transfer from the Juvenile or Family Court

As public and political concern about serious juvenile crime has increased during the 1980s, so has the resort to waiver or transfer of young people from the juvenile or family court to the adult court for trial as adults. (Champion, 1989; Feld, 1987) Most states historically have given the juvenile court exclusive jurisdiction over children charged with delinquent acts, with an upper age of eighteen, but then have permitted the court to waive its jurisdiction and transfer the case to the adult court for trial. The decision for waiver, or transfer, generally has been within the discretion of the juvenile court judge based on certain statutorily-defined criteria. The process of transferring jurisdiction has different names in the several states. Transfer hearing, waiver hearing, jurisdictional hearing, fitness hearing, and certification hearing are the most common, but the purpose is the same, determining whether a particular juvenile is to be tried for delinquency in the juvenile court or transferred to the criminal court for trial as an adult. In a very real sense, this is a dispositional decision, because it most likely results in some form of sentencing as an adult.

"Regardless . . . there was a general trend to "get tough" by making more juveniles subject to trial as adults in the criminal courts."

During the 1980s, however, state legislatures tinkered considerably with these procedures. Some states lowered the minimum age at which transfer could take place. Other jurisdictions allowed prosecutors to file charges directly in the adult court, or they carved exceptions out of the exclusive jurisdiction of the juvenile court for certain offenses. A few states placed original jurisdiction over certain matters, or classes of juveniles, in the adult court and permitted that court to decide whether to transfer jurisdiction to the juvenile court. Regardless of the ap-

proach taken, there was a general trend to "get tough" by making more juveniles subject to trial as adults in the criminal courts.

Very little has been done about studying this trend and the effect it has had on the juveniles waived or on the justice system generally. Some studies have shown that minority youth are transferred in disproportionately high numbers, particularly in those jurisdictions with a high level of judicial discretion. (Fagan, Forst & Vivone, 1987a; NJFCJ, 1990; Houghtalin, 1991) Other studies demonstrate that juveniles waived for trial as adults rarely end up with lengthy sentences in the criminal court and may even enjoy a relatively high acquittal rate. (Champion, 1988) Where prosecutorial discretion enters into the decision-making, there is much inconsistency from jurisdiction to jurisdiction and the transfer decision is subject to the vagaries of geography. (Feld, 1987)

" . . . there needs to be a thorough examination and study of waiver or transfer practices across the country . . ."

The National Coalition believes that there needs to be a thorough examination and study of waiver or transfer practices across the country, with particular attention paid to the effect of minority status on the transfer decision. Future legislative policy-making in the transfer area needs to be informed by the availability of relevant data about the effect of various methods of handling transfer. The Office needs to make this a research priority.

Implementation of Juvenile Justice Standards

The decade of the 1970s was a decade of Standards promulgation in American juvenile justice. No fewer than three separate sets of comprehensive juvenile justice standards were issued by groups concerned with the reform of juvenile justice policy in the country. The first of these standards was issued in 1976 as the Report of the Task Force on Juvenile Justice and Delinquency Prevention of the National Advisory Committee on Criminal Justice Standards and Goals and was simply titled *Juvenile Justice and Delinquency Prevention.* The second set of standards was the most comprehensive, the Juvenile Justice Standards Project of the Institute of Judicial Administration and the American Bar Association, and it consisted of twenty-three volumes of standards and commentary initially published in 1977, with twenty of the volumes ultimately being approved by the House of

Delegates of the ABA in February of 1979 and 1980. The twenty approved volumes included Standards on *Juvenile Delinquency and Sanctions, Police Handling of Juvenile Problems, Rights of Minors, Youth Service Agencies, Adjudication, Appeals and Collateral Review, Counsel for Private Parties, Court Organization and Administration, The Juvenile Probation Function: Intake and Predisposition Investigative Services, Pretrial Court Proceedings, Prosecution, Transfer Between Courts, Architecture of Facilities, Correctional Administration, Dispositional Procedures, Dispositions, Interim Status: The Release, Control and Detention of Accused Juvenile Offenders Between Arrest and Disposition, Juvenile Records and Information Systems, Monitoring,* and *Planning for Juvenile Justice.* The three volumes not approved were on *Abuse and Neglect, Schools and Education,* and *Noncriminal Misbehavior.* There was a twenty-fourth volume, entitled *Juvenile Justice Standards: A Summary and Analysis,* which gave the historical background and summarized the most salient "black letter" standards. The third set of standards was issued as a Report of the National Advisory Committee for Juvenile Justice and Delinquency Prevention in July of 1980, entitled *Standards for the Administration of Juvenile Justice.* The first and the third set of standards were funded, at least in part, by OJJDP. Other more narrow sets of standards were issued by the American Correctional Association/ Commission on Accreditation for Corrections, the National Council on Crime and Delinquency, the Interstate Consortium on Residential Child Care, and the National Commission on Correctional Health Care.

"Little attention has been paid by OJJDP to these sets of standards, even those financed in whole or in part by the Office."

Little attention has been paid by OJJDP to these sets of standards, even those financed in whole or in part by the Office. The ill-advised "ALEC Code," prepared by the Rose Institute of State and Local Government and the American Legislative Exchange Council and funded by the Office, virtually ignored these standards in its misguided effort to revolutionalize juvenile justice. These standards need to be analyzed, updated, and annotated to make them more timely and to take advantage of more current research, and they need to be disseminated through the Office as part of its technical assistance effort. Many of the recommendations made are just as timely today as they were more than a decade ago, and they should be consulted and used.

Advocacy for Juveniles

As noted previously, the 1988 amendments to the Act included an enhanced requirement that the Office fund "advocacy activities" during each fiscal year as a part of the Special Emphasis Prevention and Treatment Programs, and yet little attention has been paid to this mandate by OJJDP. The funding of Court-Appointed Special Advocate (CASA) programs has been the Office's only real nod to Congress's admonition. While CASA is a highly worthy recipient of Federal funds, it is on the periphery of juvenile justice as the volunteers recruited under the program around the country devote their attention almost exclusively to abused or neglected children within the legal system, with some few local affiliates addressing the needs of status offenders. We would like to see far more attention paid to the expansion of ombudsman programs in correctional settings, or other similar programs dealing with conditions in detention or correctional settings, and to the provision of counsel to children facing trial on delinquency or status offense charges. Programs focusing on the legal rights of juveniles are especially deserving of support and promotion by OJJDP.

"Programs focusing on the legal rights of juveniles are especially deserving of support and promotion by OJJDP."

A Focus on America's Troubled and Troubling Children

In January of 1989, Helen, a petite, brown-haired young lady came to the attention of Missouri's 27th Judicial Circuit Juvenile Court through its early identification and intervention program for status offenders funded by the Department of Public Safety-JJDP. Helen, her mother, and younger brother were living in the small rural town of Butler, and they had moved four times during the previous year. Helen exhibited problems common to many incipient status offenders— excessive absences from school, failing grades, poor self-esteem, and behavior problems. The family was in turmoil. Although Helen was only six years old when she was referred for services under Project SCORE (School and Court Outreach through Resources and Education), her school attendance was sporadic and she was at risk of being held back in the first grade. Her teacher's frustration was evident. The child's IQ revealed almost gifted level capabilities, and yet she was failing. She was described as a "wild child" by school officials.

She ate only with her fingers, her speech was impaired, her behavior disruptive, she never smiled, had no friends, featured a constant body odor, and appeared constantly unkempt.

Project SCORE's coordinator, Mr. Scott, began providing services to Helen and her family, coordinating community resources for them, and acting as liaison between the school and family. Helen thrived in the weekly school meetings with Scott. They worked on improving Helen's self-esteem and academics. Counseling sessions were arranged through a local therapist who discovered a history of sexual abuse by Helen's now absent father. The weekly sessions addressed her victimization, eliminated her frequent nightmares in which she would awaken screaming "no, no, don't, daddy," and greatly improved her speech problems. Through Mr. Scott's home visits, he addressed the family hygiene problem, discipline issues, single parenting obstacles and, with the help of a grandmother, was able to get Helen's school attendance problem corrected. Scott contracted with a fourth grade teacher for after-school tutoring sessions for Helen through the Court's Educational Assistance Program, also funded by the Department of Public Safety-JJDP. The individual help she received in tutoring allowed her to catch up on missed assignments, improve her reading and spelling skills, and receive the adult encouragement she so desperately needed.

During the course of Project SCORE's intervention, the teachers were able to acquire a better understanding of Helen's family and home life, which allowed them to create a more effective school approach to Helen's problems. Helen's mother even became more involved in her daughter's school work and began helping on school projects. Helen's attendance and grades are good, and she can be seen in the school halls smiling and chatting without hesitation to her friends. She's so proud of the E's and S's on her spelling tests that she often takes them by to her previous teachers to show them off. Her grooming, manners, appearance, and behavior have all improved tremendously.

Our nation is beginning to look once again at the plight of its children. Governmental reports such as *Child Abuse and Neglect: Critical First Steps in Response to a National Emergency,* issued by the U.S. Advisory Board on Child Abuse and Neglect, and the more recently released report of the National Commission on Children—*Beyond Rhetoric: A New American Agenda for Children and Families*—point with refreshing and disturbing candor to the state of children in our society as we enter the last decade of the twentieth century. Private examinations of the state of America's children are

even more alarming, from Lisbeth Schorr's 1988 book, *Within Our Reach: Breaking the Cycle of Disadvantage*, to Stephen Shames' brilliant photographic essay, *Outside the Dream: Child Poverty in America*, to the Children Defense Fund's *The State of America's Children 1991*, and Sylvia Ann Hewlett's *When the Bough Breaks: The Cost of Neglecting Our Children*. The picture painted of the state of children in 1991 America by all these reports is a shocking and challenging one. It can either beat us down into cynical apathy or it can galvanize us into a legion of commitment that can impact mightily on the governmental processes that either ignore children or, worse, coat them with the sugar of platitudes about the importance of the family and children as the future of our nation.

"The picture painted of the state of children in 1991 America by all these reports is a shocking and challenging one."

The National Coalition of State Juvenile Justice Advisory Groups has stood for more than a decade and a half for commitment to and caring for those children who are troubled by life in a stifling ghetto of despair or who are troubling to those who are frightened by their casual approach to the violence that surrounds them or offended by their outreached hands on the sidewalks of our cities. We have funded the programs that have tried to improve the lives of those children. The resources given us have been a pittance compared to the appropriations for armaments or the monies spent for alcohol and cigarettes. The recommendations we make in this Report will help us to continue this effort and, hopefully, expand upon it. However, our efforts are simply a pebble thrown into a pond, even though we know the level of the pond is thereby raised, and the President and the Congress must together make a major new commitment to placing other pebbles and boulders into this pond. The pebbles and boulders that are needed to truly raise the level of the pond will be the products of a commitment to a health care system that provides effective prenatal care for pregnant women and accessible pediatric care for babies and young children, to the expansion of the Women, Infants and Children (WIC) nutritional supplement program and the Head Start program, to an educational system that treats every child as important, to the development of a child care system that cuts across all income levels, to the development of government policies that promote parental leave, flexible work schedules, and workplaces that help put the family first, and to a juvenile justice system that helps to prevent delinquency and provides due process and fair treatment to those who do violate society's norms.

A commitment to these goals will cost money, but it is money that must be viewed as an investment. Sylvia Ann Hewlett points out that "we are foolishly reckless when we squander $150,000 of public funds on neonatal intensive care rather than spend $400 on preventing the tragedy in the first place." (Hewlett, 1991) We will be willing to make such a commitment when—and only when—we realize that all of these children are our children. Charles Silberman points to "a story about the great educator Horace Mann, who was invited to speak at the dedication of a juvenile reformatory; Mann's thesis was that all the money being spent for the reformatory would be justified if only one child were to be saved. When he had finished, a cynical listener asked Mann if he had not let his enthusiasm run away with him. Wasn't Mann exaggerating, the listener demanded, when he said that the whole expenditure would be worthwhile if it saved a single child? Horace Mann's reply was brief but eloquent: 'Not if it were my child.'" (Silberman, 1978)

"A commitment to these goals will cost money, but it is money that must be viewed as an investment."

CONCLUSION

We have been bold in the recommendations we make, and we have tried to discharge our advisory obligation with honesty and sensitivity. What we urge through reauthorization is a renewed commitment to America's children by the Congress and the President, as well as a reaffirmation by the Administrator of the Office to his obligations under the Act. What we urge will not be easily realized, but it must be if we are to be as great a nation in the next century as we have been over the past two centuries since we became a beacon of hope for the world through the ratification of the Bill of Rights. We cannot hope to be an example to those nations now "yearning to breathe free" if we do not free our own children for a life of promise and hope. The National Coalition does not want to be like Charlie Brown in the "Peanuts" cartoon when he sadly leaves the ballpark with the scoreboard in the background showing "Visitors 99, Home 0." "Ugh," he says, "how could it happen when we were so sincere?"

RECOMMENDATIONS

The National Coalition makes the following recommendations for action this year and beyond, with several of them directly related to reauthorization of the Act. Some of these will look familiar. They have been made before. Others are new—they address recently acknowledged problems and concerns. All of the recommendations, if taken seriously and acted upon effectively, will advance the cause of true justice for juveniles. More, they will improve the quality of life for our nation's children and thus for our nation.

Recommendations offered in previous Coalition reports, but not yet realized, appear in *italics*. New recommendations are shown in bold type.

To the President:

1 **We recommend, in light of the conclusions of this report, that the President affirm the continued and profound relevance of the goals and strategies embodied in the Juvenile Justice and Delinquency Prevention Act, that he support reauthorization of the Act, and that he provide the visible leadership so desperately needed to carry the Act's initiatives successfully forward.**

Discussion

The President has acknowledged several needs consistent with the stated purposes and strategies of the Act— support for and reliance on the families and communities of America, large-scale volunteer involvement in the delivery of human services, effective state intervention in the problem of drug use by America's youth, and significant reduc-

tion of antisocial behavior by young people. These are some of the very goals that inform the Act. It was created, and has been continually reauthorized, to empower the states to achieve these goals, among others. Many of the milestones established by the Act have been realized but, as we all know, adverse pressures on our families and young people continue to mount. Strong national leadership is required to ensure continued and accelerated progress, and the President is well-placed to provide that leadership through support of reauthorization and of the goals of the Act.

2 We recommend that the President propose to Congress a significant increase in formula grant funds to enable the states and entities to work more effectively in carrying out the mandates of the Act.

Discussion

True support for the goals of the Act includes a commitment to provide the resources necessary to achieve those goals. The President should propose a sufficient level of funding to allow the National Coalition and its constituent jurisdictions to effectively carry out the mandates of the Act.

To the Congress:

3 We recommend that Congress move expeditiously to reauthorize the Juvenile Justice and Delinquency Prevention Act, to increase the appropriation level to permit the states and territories to achieve the goals of the Act, and to reaffirm its basic goals and strategies.

Discussion

As this Report has amply articulated, the Juvenile Justice and Delinquency Prevention Act has been a positive force in the improvement of juvenile justice and in the improvement of the lives of children in America. However, there is much yet to be accomplished and the reauthorization of the Act will be a major step toward realizing the goals first identified in 1974, and expanded upon over the years.

4 We recommend that Congress take action to address the differential treatment and confinement of juveniles

due to gender, socioeconomic status, ethnicity, sexual orientation, race, learning disability or other handicap, and medical condition.

Discussion

Historically, young offenders have received differential treatment in the juvenile justice system according to the demographic groups to which they belong or to the stereotypes with which they may be identified. Female and minority status offenders have tended to be institutionalized more frequently than white male youth. Parents of "incorrigible" young women have often encouraged courts to institutionalize them in order to curb sexual behavior or to break off a disapproved marriage. Minority offenders have been the victims of invisible, often unconscious, discrimination, while well-intentioned efforts to remove them from a negative environment have often backfired and made things worse.

While there is little formal research to date, there is widespread concern that white middle class youth, especially females, are being transinstitutionalized from correctional programs into private, residential treatment facilities, at least to the extent that third party insurance payments are available to cover the cost. At the same time, minority youth are denied appropriate residential treatment for similar emotional problems and are instead incarcerated in correctional facilities, perhaps because of their lack of insurance coverage or other resources. These inequities need to be probed and strategies developed to eliminate them.

(See Recommendation 2, 1990 **Report**, page 33)

5 We recommend that Congress amend the Act to require that all Federal agencies with jurisdiction over juveniles, whether direct or indirect, be fully subject to the mandates of the Act.

Discussion

A number of federal agencies that have jurisdiction over youth, either directly or indirectly, do not abide by the requirements of the Act. This discrepancy is inherently unjust and counterproductive. The equal application of the mandates to all states is based on the premise that individual rights should not depend on the vagaries of geography. Likewise, the needs and susceptibilities of youths are not diminished

or transformed when they enter Federal territory or find themselves under Federal jurisdiction.

The Act should be amended to cover all agencies that may have jurisdiction over juveniles, including Federal military installations, the Immigration and Naturalization Service, the District of Columbia, the Bureau of Indian Affairs, the Department of the Interior, and the Federal Bureau of Prisons. The Coalition is particularly concerned about the confinement of juveniles by these agencies in jails and adult detention facilities.

(Recommendation 8, 1990 **Report**, page 36)

6 We recommend that the Congress re-examine the present pass-through funding formula for Native Americans with an eye toward developing an approach that provides sufficient resources for them to address their unique juvenile justice concerns.

Discussion

The current pass-through funding formula allocates formula grant dollars to American Indian tribes with law enforcement programs based on their percentage of a state's total youth population. This system, in reality, results in a minuscule amount of funding, insufficient to attend to the needs of American Indian youth and their juvenile justice systems. Even in populous states, the percentage amount available is so small that it is not worthwhile for a Native American group to submit an application for the funds. In less populous states, where most Native Americans reside, the grant base is minimal, which translates to a small dollar amount available, or the actual Native American population is not recognized because it does not provide a law enforcement program as defined in legislation. Likewise, in the smaller states, the pass-through requirement reduces the already modest grant amounts available to the general population of youths at risk.

When the National Coalition reported the findings and recommendations of the American Indian Ad Hoc Committee in 1986, we envisioned that discretionary grant money should be available for American Indian tribes and Native Americans to assist in dealing with the unique problems with their juveniles. The need for such assistance still exists. However, we are convinced that the pass-through approach is not the answer. We hope that Congress will allocate funds desig-

nated specifically for Native American juvenile justice efforts and will enact a separate section of the Act devoted to such issues and efforts.

(Recommendation 9, 1990 **Report**, pages 36-37)

7 We urge that Congress restudy the "valid court order" exception to the mandate for deinstitutionalizing status offenders and further restrict its usage.

Discussion

The recently released Government Accounting Office report on the "valid court order" exception to the DSO mandate reinforces the National Coalition's stated misgivings about the exception since its adoption in 1980. There are simply too many instances in which the exception is used to "bootstrap" status offenders into secure settings in violation of a basic principle of the Act. We believe that the exception should be restudied, its use reevaluated, that further restrictions should be placed on the situations when it can be used, and that the basic mandate of deinstitutionalization should be reaffirmed.

8 We urge that Congress appropriate funds to develop standards and guidelines to deal with issues presented by juveniles who are transferred, waived or certified to adult court or otherwise placed within the jurisdiction of the adult court, especially the issues of detention, the standards for transfer, waiver, or certification to adult court, or placement within adult jurisdiction, and of the safety and security of such juveniles when placed in adult facilities and institutions.

Discussion

Over the past decade there has been a trend across the country to increase the trial of young people in the adult courts. States have lowered the maximum age for exclusive juvenile or family court jurisdiction, reduced the discretion of juvenile and family court judges to determine the proper court in which a juvenile is to be tried, and increased the number of offenses that are referred automatically to the adult criminal court.

There has been little study of the effect of these legislative changes on youths and on the juvenile justice system. What effect have the

changes had on minority representation in the population of youths who are transferred to or placed in the adult system? What impact have the changes had on the placement of young people in adult jails and correctional facilities and the treatment of juveniles in these institutions? Have the changes reflected any coherent philosophy or body of knowledge about successful intervention with serious, violent and habitual juvenile offenders? Are objective criteria utilized to decide who is tried and treated as a juvenile and as an adult? What procedures are followed in the juvenile and adult systems to determine which juveniles are to be tried and treated as adults and do these procedures comport with the fundamentals of fair play and due process? What happens to juveniles who are transferred or referred to the adult criminal system in the sentencing process or in those adult institutions where they may be placed? There needs to be a fuller recognition of the fact that juvenile transfer decisions are dispositional decisions that impact more profoundly on the future of youths than more traditional treatment choices. We need to examine the transfer process far more closely.

(Recommendation 7, 1990 **Report**, pages 35-36)

9 We recommend that Congress move aggressively to address the problem of inappropriate confinement of juveniles in psychiatric hospitals, secure residential treatment programs, and other forms of secure out-of-home care to ensure such a placement is used only when absolutely necessary, for the shortest duration, and only when it constitutes the least restrictive alternative.

Discussion

There is growing evidence that status offenders and less serious delinquent youth are being confined inappropriately in mental health and drug rehabilitation centers and that this confinement is similar in intent and effect to placement in correctional institutions. Independent counsel and a prompt hearing preceding or following admission would help protect juveniles against violations of their due process rights and would provide a greater opportunity for appropriate care within the least restrictive setting. The development of alternative non-residential resources, such as day treatment, home-based care, and outpatient diagnostic and evaluation services, is needed to expand the continuum of care.

(Recommendation 4, 1990 **Report**, pages 33-34)

10 *We recommend to Congress that states be required to collect data about juvenile placements from psychiatric hospitals and other residential treatment programs and report such to the Office of Juvenile Justice and Delinquency Prevention as part of their regular yearly report.*

Discussion

Evidence, while inconclusive, suggests that some status offenders are being inappropriately transinstitutionalized into private psychiatric hospitals and residential drug abuse programs from those correctional facilities where they previously were housed before the Act forbade such housing. A national study is required to accurately assess the situation and, if appropriate, to recommend a course of action to address it.

(Recommendation 5, 1990 **Report**, page 34)

11 *We recommend that Congress authorize research to track those status offenders who can no longer be held in jails or lockups.*

Discussion

The deflection of status offenders from the formal juvenile justice system has not always led to the development of effective treatment services for these young people in the least restrictive setting. As already mentioned, there is the continuing concern that some of these youths are being labelled differently in order to be placed in other secure or otherwise restrictive facilities, such as psychiatric hosptals. We need research to track more effectively those status offenders who are in the system and to evaluate the treatment settings they enter, in order to determine what is happening to these children at risk. This research will give us better information about these youth so as to influence policies about effective treatment programs and activities.

(Recommendation 3, 1990 **Report**, page 33)

To the Administrator of the Office of Juvenile Justice and Delinquency Prevention:

12 ***We recommend that the Administrator of the Office of Juvenile Justice and Delinquency Prevention augment state formula grant funds with discretionary funds to assist states in developing the data collection, juvenile tracking systems, training and action strategies needed to assess and eliminate minority over-representation in the juvenile justice system.***

Discussion

The Office of Juvenile Justice and Delinquency Prevention allocated discretionary funds in the past to assist states in complying with the jail removal mandate. These funds were used effectively by the states that received them and the result was a substantial increase in compliance. Congress amended the Act in 1988 to address minority over-representation in the juvenile justice system and provided funds for research and the development of programs on the issue. The National Coalition believes that the State Advisory Groups are the most appropriate entities to utilize and distribute these funds since it is the SAGs who are mandated with the responsibility to reduce minority over-representation.

(Recommendation 13, 1990 **Report**, page 39)

13 **We recommend that the Administrator make a greater use of the discretionary funds to assist the states and entities in achieving full compliance with the mandates of the Act. These funds particularly should be used to address special and unusual problems in the several jurisdictions, such as those presented by geography, including distance and topography.**

Discussion

The discretionary grant program frequently has been used to implement the ideological agendas of OJJDP Administrators. A certain amount of this is natural and, perhaps, inevitable. However, the Office should be directed to use more of the discretionary funds allocated to it in order to achieve full compliance with the mandates of the Act. These funds particularly should be used to address special and unusual problems in the several jurisdictions, such as those presented by geography, including distance and topography. An excessive percentage of such funds are allocated currently to peripheral programs and activities rather than being focused on areas previously identified by the Coalition and Congress as needing immediate attention.

14 We recommend that the Administrator of the Office of Juvenile Justice and Delinquency Prevention significantly increase interest in and funding for advocacy on behalf of juveniles in court, especially in the areas of training legal counsel and guardians ad litem for juveniles, examination of the incidence of the waiver of counsel by juveniles, and the development of pilot and model programs for delivering effective defense services to juveniles.

Discussion

The 1988 amendments to the Act included in Section 261(a)(3) a mandate for "establishing or supporting programs stressing advocacy activities," including "the improvement of due process," improving the "quality of legal representation of such juveniles," and "the appointment of special advocates by courts for such juveniles." So far, the Office has responded only to the last of these, through the encouragement of Court-Appointed Special Advocate (CASA) programs. There has been little or no focus on issues presented by the provision of legal representation for delinquent youth to implement the requirements of *In re Gault, supra.* The American system of justice is predicated on an adversarial model and the Act recognizes this in urging the delivery of effective advocacy services for delinquent youth, as well as those abused or neglected children well-served by CASA volunteers and guardians. The Office has done much to improve prosecutorial services and judicial services over the years but little to improve the provision of due process through the assurance of competent, com-

mitted, and informed defense services to youths charged with delinquency.

(Recommendation 11, 1990 **Report**, pages 37-38)

15 We recommend that the Administrator of the Office of Juvenile Justice and Delinquency Prevention, in cooperation with the federal Coordinating Council, propose and initiate a major delinquency prevention demonstration effort—one that addresses, at least in part, the problems of those youth who are disproportionately represented in the juvenile justice system and are near or below the Federal poverty level.

Discussion

It has been nearly a decade since OJJDP has focused on prevention of juvenile delinquency as a major agency priority. During this period, research findings from all disciplines have revealed that the same dozen antecedent risk factors are at the root of almost all kinds of anti-social behavior. These include behavior as diverse as drug abuse, adolescent pregnancy, school failure, participation in gangs, suicide, and school dropout, as well as a wide variety of illegal activities classed as juvenile delinquency. These findings indicate that any effort to affect different kinds of undesirable behavior must target the same risk factors. They also establish that a merely punitive "just deserts" approach to assessing responsibility attacks only the symptoms and not the underlying causes of behavior.

The National Coalition has consistently urged a high priority for delinquency prevention program research and demonstration, as well as information dissemination and technical assistance to the states. Our State Advisory Groups have continued to commit as much of their resources as possible to prevention programs in their jurisdictions, many of which have been quite successful.

Since OJJDP historically supported research efforts which led to the identification of risk factors common to troublesome adolescent behavior and has funded tests of prevention models which have been successful in ameliorating the impact of risk factors on delinquency, the Office is in a unique position to take a leadership role in a major delinquency prevention effort. Thus, the National Coalition again

urges the Administrator to provide the leadership in developing and implementing a juvenile delinquency prevention effort based on the cooperative efforts of those constituent members of the Federal Coordinating Council that will participate.

(Recommendation 15, 1990 **Report**, page 40)

16 We recommend that the Administrator of the Office of Juvenile Justice and Delinquency Prevention re-examine the Native American youth situation and formulate a more effective and practicable means of providing assistance.

Discussion

The current pass-through funding formula requires states to allocate a portion of grant dollars to American Indian tribes that perform law enforcement functions based on the number of Indian youth residing in the state as a percentage of the total state youth population. In the more populous states, the percentage amount available is so small that it is not worthwhile for a tribe to submit an application for the funds. In the less populous states, the grant base is so minimal that the dollars available are also hardly worth applying for.

When the National Coalition reported the findings and recommendations of the American Indian Ad Hoc Committee in 1986, we envisioned that discretionary grant money should be made available for Indian tribes and Native Americans to assist them in dealing with the unique problems of their youth at risk. We are convinced that the current pass-through funding formula is not the answer. We hope that the Administrator will work with the Coalition and Congress to devise a more effective way of dealing with the issue.

(Recommendation 14, 1990 **Report**, pages 39-40)

17 We urge that the Administrator of the Office of Juvenile Justice and Delinquency Prevention study the issues presented by the transfer, waiver and certification of juveniles to adult courts, or otherwise placed within the jurisdiction of the adult courts, and to formulate standards and guidelines for use by legislatures, courts and

other participants in the juvenile justice system in addressing transfer issues.

Discussion

We have attempted to obtain data on the number and characteristics of youth who are waived or transferred to adult courts each year in the United States. The Office does not have this information, and we have been unable to find definitive statistics elsewhere. We need better data to effectively address the magnitude of the problem presented by juveniles in the adult criminal justice system. The Office should be a leader in formulating standards and guidelines for the use of legislatures, courts and other participants in the juvenile justice system to help assure that children are not being inappropriately transferred to adult courts and placed in adult detention or correctional facilities. Uniform standards and guidelines can help in insulating the decision-making process from the public and political pressures that flow from serious or sensational crimes. The Office should begin collecting data from the states to enable the development of a more accurate picture of the numbers of transfers or waivers and of placements in adult institutions and facilities.

(Recommendation 12, 1990 **Report**, page 38)

18 We recommend that these subjects of previous suggestions for the Administrator of the Office of Juvenile Justice and Delinquency Prevention continue to receive major attention and support by the Office:

a. Jail removal

b. Identification and dissemination of information on alternatives to confinement, improving conditions of incarceration for those juveniles requiring such confinement, new program approaches for handling overcrowding, classification, and promising new programs utilized in the states and territories.

Discussion

Great strides have been made in achieving and providing alternatives to incarceration for juvenile offenders. But the work is far from

complete. Efforts in these critical areas must continue with the same or greater intensity. The Administrator's recent action in permitting the state of Wisconsin to come under the Act again but with relaxed standards for accomplishing jail removal demonstrates that OJJDP is not always steadfast in its commitment to the mandates of the Act. Such action also cheapens the diligent efforts of those states that have toiled long and hard in achieving removal of children from jail, and it dulls the enthusiasm of those still seeking to attain that goal. We welcome any state that seeks to join in this high endeavor, but we all desire to "play by the same rules."

(Recommendation 17, 1990 **Report**, page 41)

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