OVERSIGHT HEARING ON THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON EDUCATION AND LABOR

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

HEARING HELD IN WASHINGTON, D.C., ON MARCH 20, 1979

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OVERSIGHT HEARING ON THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

TUESDAY, MARCH 20, 1979

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HUMAN RESOURCES,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to notice, in room 2261 Rayburn Building, Hon. Ike Andrews (chairman of the subcommittee) presiding.

Members present: Representatives Andrews, Kildee, Stack, Williams, and Coleman.

Staff present: Gordon A. Raley, staff director; Neil B. Krugman, legislative counsel; and Patricia A. Sullivan, legislative clerk.

Mr. WILLIAMS. I would like to call this subcommittee on Human Resources into session. Chairman Andrews will be here shortly. I am Congressman Williams. And I will chair until the regular chairman arrives.

Pursuant to its oversight responsibility for the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, the Subcommittee on Human Resources convenes today to review the progress of the Office of Juvenile Justice and Delinquency Prevention in resolving those problems that came to light at hearings held this past June.

We are pleased to have with us today spokesmen for the Administration and from a number of groups that work closely with youth.

Our first witness is Mr. John Rector, Administrator of the Office of Juvenile Justice and Delinquency Prevention. And, Mr. Rector, if you will take the witness table, we will be pleased to hear your testimony.

[The prepared statement of Mr. John M. Rector follows:]

PREPARED STATEMENT OF JOHN M. RECTOR, ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

I am pleased, Mr. Chairman, to again appear before you to discuss the activities of the Office of Juvenile Justice and Delinquency Prevention.

When I last testified before this Subcommittee, you expressed concern regarding problems faced by the Office in a number of areas. Among the issues raised last June were fund flow, particularly in the Special Emphasis program, staffing of the Office, appointments to the National Advisory Committee, and meetings of the Coordinating Council. You will recall that I shared your concern about the need for action in these areas, and outlined some of the steps that were being taken to address these difficulties.

Today, I can report to you that significant progress has been made in resolving many of the problems which faced the Office a year ago. The President has filled all

vacancies on the National Advisory Committee for Juvenile Justice and Delinquency Prevention. The Committee has held several meetings and is continuing its important role of developing recommendations regarding policy, operations and standards. Similarly, the Attorney General has convened meetings of the Coordinating Council on Juvenile Justice and Delinquency Prevention to discuss overall policy and development of objectives and priorities for Federal juvenile delinquency programs.

Nearly all vacant positions have been filled. Staff members of OJJDP's three divisions—Special Emphasis, Formula Grants and Technical Assistance, and the National Institute for Juvenile Justice and Delinquency Prevention—are working diligently to fulfill the mandates of our enabling legislation.

In the Formula Grants and Technical Assistance Division, special attention is being given to improving the monitoring activities which states participating in the program are required by law to conduct. We are taking a very proactive role in working with those jurisdictions indicating difficulty with compliance with the separation and deinstitutionalization mandates of the Act.

Our National Institute is continuing its relatively broad program of research, evaluation, and standards development. The activities of the Institute have evolved to a point where existing knowledge has been comprehensively assessed and we are ready to begin dissemination of information to practitioners on an accelerated basis. Progress is also being made in consideration of a grant to establish a School Crime Resource Center, a subject in which I know this Subcommittee is deeply interested, Mr. Chairman.

The backlog of Special Emphasis funds which had been a serious problem for the last several years, has been remedied. All prior year funds have been awarded and we are now working only with Fiscal Year 1979 funds. Grants for the Restitution Initiative have all been awarded. We are now preparing to formally announce two new initiatives for this year. Another initiative, in the area of alternative education, is also being developed.

The Youth Advocacy Initiative will support projects incorporating such approaches as the following: development of coalitions with business, industry, labor, churches, the United Way, and other leadership groups for the purpose of protecting the rights of youths and their families and helping to ensure that services entitled are improved and provided; development and support of both individual and systemic or class advocacy, whether it be by means of legal, para-legal or lay advocates; encouragement of citizen, especially youth, participation in the development, implementation, monitoring and evaluation of programs; development of efforts to assure access to quality educational programs and related services; and, direct efforts to assure that improper school expulsions or inappropriate and unwarranted suspensions which clearly eliminate career and other options are curbed and that sound alternatives are developed.

The Project New Pride Initiative will take the New Pride exemplary model and make it available to numerous communities around the country. Project New Pride is a community-based program offering services to adjudicated juveniles with histories of convictions for repeated serious offenses. New Pride operates on the premise that an individual must confront his or her problems in his or her environment, i.e., within the community. The New Pride model provides the youth with a year of intensive individualized attention in a setting designed to overcome the youths' very low esteem for themselves and others. It provides an array of services, including alternative schooling, correction of learning disabilities, vocational training, job placement, counseling, recreation, and cultural education.

As you have requested, Mr. Chairman, we have reviewed H.R. 2108, which is pending before the Subcommittee. Section 103 of the bill would repeal Titles I and II of the Juvenile Justice and Delinquency Prevention Act of 1974. OJJDP, instead of having separate enabling legislation, would be established as one of several offices within a new Bureau of Criminal Justice Assistance.

The Juvenile Justice and Delinquency Prevention Act of 1974, as I am sure you are aware, Mr. Chairman, was developed and supported by citizen groups throughout the country and by strong bipartisan majorities in Congress. It was designed to help states, localities and public and private agencies to develop and conduct effective delinquency prevention programs, to divert more juveniles from the juvenile justice process, and to provide urgently needed alternatives to traditional detention and correctional facilities.

The current authorization of the Act, which was approved by President Carter on October 3, 1977, continues through Fiscal Year 1980. Work is now underway to develop for submission to Congress this year, legislation which would reauthorize the current program. The Administration continues to support separate enabling

legislation for the Office of Juvenile Justice and Delinquency Prevention. Thus, we do not favor the approach of H.R. 2108.

In concluding, Mr. Chairman, I would like to express my appreciation for your continued interest in and support for the programs of OJJDP. I feel we have developed a very positive relationship, and particularly appreciate the dialogue on issues affecting the program in which we have engaged with the Staff Director of the Subcommittee, Mr. Raley.

Thank you. I would now be glad to respond to any questions you might have.

STATEMENT OF JOHN M. RECTOR, ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

Mr. RECTOR. Mr. Chairman, I am pleased to participate in the Subcommittee's review of the progress made by the Office of Juvenile Justice and Delinquency Prevention since your hearings last June. I have a relatively brief statement that I will share with the committee. Of course, I would prefer to spend the bulk of my time responding to questions that members and the chair have regarding the Office.

When I last testified before this subcommittee, concern was expressed regarding the problems faced by the Office in a number of areas. Among the issues raised last June were fund flow, particularly in the Special Emphasis program and the staffing of the Office, which were commented on at length. There was concern about the appointments to the National Advisory Committee and the meetings of the coordinating council.

I shared the subcommittee's concern about the need for action in these and other areas. I outlined some steps that were being taken at that juncture to address these difficulties.

Today I can report to you that significant progress has been made in resolving many of the problems which faced the Office a year ago. The President has filled all the vacancies on the National Advisory Committee. The committee has held several meetings and is continuing its important role by developing recommendations regarding policy, operations and standards.

Similarly, the Attorney General has convened meetings of the coordinating council to discuss overall policy development and objectives and priorities for the Federal Juvenile Delinquency Programs. The council has utilized the agenda recommended by the conference committee Report on the Juvenile Justice Amendments of 1977 in focusing activity on the issues of deinstitutionalization and jailing of juveniles.

Nearly all of the vacant positions in the office have been filled. Staff members of our three divisions, the Special Emphasis division, the Formula Grants division, the Technical Assistance and Formula Grants division and the Institute, as well as our new planning and policy unit, are working diligently to fulfill the mandates of our enabling legislation. For example, we are giving special attention to improving the monitoring activity which States participating in the program are required by law to conduct.

We are taking a very active role in working with the jurisdictions where difficulty has been indicated with regard to compliance with the separation and deinstitutionalization mandates of the act.

Our Institute is continuing its relatively broad program of research, evaluation and standards development. In the standards area, for example, considerable progress was made on the IJA/

ABA standards at the bar meeting in Atlanta. The majority of the standards, developed through an OJJDP grant, were approved by the delegates of the American Bar Association.

The activities of the Institute have evolved to a point where existing knowledge has been comprehensively assessed and we are ready to begin dissemination of the information that has been developed over the last several years to practitioners and to the private and nonprofit sectors on an accelerated basis.

Progress is also being made in consideration of a major grant to establish a school resource center. This has been of particular interest to the members of the committee and the chair in particular.

The backlog of the Special Emphasis funds, which had been a serious problem for the last several years, has been remedied. All prior year funds have been awarded and we are now working exclusively with fiscal year 1979 funds.

Grants for the Restitution Initiative have all been awarded. We are now preparing formal announcement of two new initiatives for this year, one in the area of youth advocacy and the other the replication of the New Pride project, which is based in Denver, Colo.

A third initiative in the area of alternative education is currently under development. That initiative has been the subject of some substantial amount of debate. I have set out in my prepared statement a sketch of both the New Pride and youth advocacy initiatives.

As you have requested, we have reviewed H.R. 2108, which is pending before the subcommittee. Section 103 of that bill would repeal titles I and II of the Juvenile Justice Act of 1974, as amended in 1977. The Office of Juvenile Justice and Delinquency Prevention, instead of having separate enabling legislation, would be established as one of several offices within a new Bureau of Criminal Justice Assistance.

The Juvenile Justice Act of 1974, as you are aware, was developed and supported by citizen groups throughout the country and by strong bipartisan majorities in the Congress. It was designed to help States, localities, and public and private agencies to develop and conduct effective delinquency prevention programs, to divert more juveniles from the juvenile justice process and to provide urgently needed alternatives to traditional detention and correctional facilities.

The current authorization for the act, which was approved by the President on October 3, 1977, continues through fiscal year 1980. Work is now underway to develop for submission to the Congress this year legislation that would reauthorize the current program.

The Administration continues to support separate enabling legislation for the Office of Juvenile Justice and, thus, we do not favor this approach incorporated in H.R. 2108.

I should note we continue to enthusiastically endorse the notion of maintenance of effort as required by the 1974 act and reaffirmed in 1977. That is the section which requires that 20 percent of the Crime Control Act dollars be set aside for juvenile justice programs in addition to the appropriation for our Office.

The Attorney General, in fact, cited strong support for that when the Carter juvenile justice bill was introduced about this time 2 years ago.

In concluding, I would like to express my appreciation for your continued interest and support for the programs of Office of Juvenile Justice. I feel we have developed a very positive relationship. I am particularly appreciative of the dialogue in support of the program in which we have engaged with the subcommittee staff director, Mr. Raley.

I would now be glad to respond to any questions that you might have.

Mr. WILLIAMS. Thank you, Mr. Rector. We appreciate receiving your testimony. I have a couple of questions.

The act, in section 204-B-5, requires that an annual report be submitted to the President and the Congress no later than the last day of last year. It is my understanding the report has not yet been submitted. When can we expect it?

Mr. RECTOR. We are aiming for a submission date of no later than May 15.

Mr. WILLIAMS. Can you enlighten me as to the difficulties you have experienced in submitting it on time?

Mr. RECTOR. We have had a rather extraordinary experience in the Office in the last 12 months. As you know, we started with an accumulation of 3 fiscal years of dollars and had an unusually high amount of grant activity last year. This is one of the areas of our responsibility that essentially got put on the back burner. We focused on what, in our view, were the most pressing matters. Thus, we have experienced a delay of several months.

The report will relate in part to the activities of the council. We have had difficulty in arranging and scheduling a meeting of the council. The delay that we had with regard to the council certainly fed into a delay in filing the report.

Mr. WILLIAMS. The Administration has suggested cutting your office's budget, if what I have been told is accurate, by half. Would you comment on the reasons for that, and within that comment would you tell this committee what effects that will have on the office and also what your original request to OMB was.

Mr. RECTOR. It is correct that the Administration has requested $50 million for fiscal year 1980. The current appropriation is $100 million for fiscal year 1979. The basis for the cut was a documented slowness in the expenditure rate of Formula Grant moneys. In other words, the dollars that we awarded to State and local governments through Formula Grants had been moving at a rate slower than OMB and others had anticipated.

The predication for the recommended cut was slowness in the expenditure rate. For example, it has been cited that by September 30, 1979, there will be more than $100 million in what OMB has called the pipeline of unexpended Formula Grant dollars.

In a year of fiscal concerns such as this, with an austere kind of focus, OMB and the President recommended to Congress this cut.

You also asked our original recommendation. My recollection is that the Attorney General was asked to cut $112 million from the Department of Justice 1980 budget. In response to that request from the Office of Management and Budget, a submission was

made to the OMB by the Department that included the cut of which you are inquiring.

The programmatic impact is that almost without exception, each of our funding categories is cut in half. Our Institute, for example, that would have $11 million under the $100 million approach, will have $5.5 million. These would be a similar effect through most of the areas of our office.

The most important exception is in the area of Technical Assistance, where we have $3 million in the fiscal year 1980 proposal, in part because the Technical Assistance dollars available to the States assist them with problems, including problems regarding fund flow. That was one area where the full amount of funding was retained for fiscal year 1980.

At this juncture, we have not finalized our program plan for fiscal year 1980. Certainly, we will have half as many dollars for the Special Emphasis division, the Institute and our other discretionary activities. Formula grants will also be halved. So rather than awarding $61 million plus to the States, it will be in the neighborhood of $30 million for the program in fiscal year 1980.

Mr. WILLIAMS. Thank you.

Questions, Mr Kildee?

Mr. KILDEE. To follow up, Mr. Chairman, to one of your questions, you said that one of the reasons that OMB cut the budget was the slowness in getting grants to the States. What accounts for that slowness?

Mr. RECTOR. Mr. Kildee, the problem that was cited by OMB was not the slowness of awarding moneys to the States. The problem is in the discerned slowness in the expenditure rate of the dollars by the States.

Mr. KILDEE. OK.

Mr. RECTOR. Once the States have received the dollars from the Office, there has been some slowness in the granting and expenditure of the money.

Mr. KILDEE. What accounts for that slowness then at the State level of spending the dollars?

Mr. RECTOR. There are a variety of things that have accounted for the slowness, depending on the particular State. You perhaps have seen a different list of ingredients that have contributed to the slowness, but there are some very general problems. One is an informational problem. Some States have been relatively delinquent in submitting the proper fiscal forms.

There are forms that are required to be submitted to the agency 45 days after each quarter of the fiscal year. Those are the forms that are studied by the LEAA, by the Office of Management and Finance at the Justice Department and by the OMB in discerning the level of activity in the States.

So at the outset, one of the problems was that the States had been tardy and delinquent in submitting these forms.

A parallel problem was that many of the submissions were not accurate or current with regard to information on fund flow at the time they were submitted. Those are two problem areas.

In addition to those procedural problems, a number of the States have had a degree of difficulty in implementing the Juvenile Justice Act. There are, as you know, several requirements that, de-

pending on the State involved, require change in large part. This may not be major substantive change, but change in the manner in which young persons are handled by the justice system in the States, particularly the nonoffender category.

In some States, political differences of opinion have been the cause of slowness. In Ohio, for example, I know there have been substantial differences of opinion amongst the views of the Attorney General, the bench, the social service community and others that have contributed to the slowness in the movement of money.

In other States, the nature of the apparatus itself inhibits the movement of moneys. Money is oftentimes moved, once we award it to the States, to intermediate regional planning units, then again to the local level and perhaps even again to the private nonprofit entities. This is a relatively cumbersome process even if it is working well. So that that is another area.

Given the rather rocky road that the Office experienced in fiscal years 1975 and 1976, many representatives in the States took a wait-and-see attitude with regard to the act. There was little money available. The former Administration had not given it a considerable amount of support. That would be another reason that some of the States were hesitant to act. They set the money aside to see if Congress would be appropriating more.

Thus, there are a host of reasons that have contributed to this expenditure problem.

Mr. KILDEE. On the first reason you gave, the informational gap, what has your agency done to try to close that informational gap?

Mr. RECTOR. We have been working very closely with the State Planning Agency Conference. They have been working with our comptroller's office and through our Technical Assistance and Formula Grants division.

It was amazing to see, once the word of the budget cut circulated, how rapidly we began to receive timely submissions that were far more accurate than had been the case in the past.

We took a special poll of eight states in preparation for hearings at which we testified in the House in November. Just in that period of time, there had been decided improvement in evidence of fund flow.

Since that time, the State Planning Agency Conference, working with us, has updated forms indicating information regarding most of the States. However, there are still some which have not filed submissions. For example, fiscal year 1975 has come to a closure point in that LEAA dollars are no longer available after 3 years. Yet we still have 18 States that have not submitted their final reports on fiscal year 1975. Those reports were due last summer.

There are some 30 States that have not yet filed their final fiscal year 1976 reports that were due in mid-February. We have corresponded with the States, we have been on the telephone, and the SPA conference is working to make available more current, accurate information.

Mr. KILDEE. So you are conscious of that informational gap and are trying to take measures to close it?

Mr. RECTOR. Yes, we are.

Mr. KILDEE. I encourage you to continue in that.

Thank you, Mr. Chairman.

Mr. WILLIAMS. Mr. Stack?

Mr. STACK. I do not have any questions at this time, Mr. Chairman.

Mr. WILLIAMS. On behalf of Chairman Andrews I would like to recognize Gordon Raley, staff director for the subcommittee.

Mr. RALEY. John, one of the problems that might be looked at more is the management problem that was faced by the Office last June, particularly the vacancy rate in the Office at that time.

At that time, as I recall, you had 61 staff positions that were available. You had 18—this was full time positions—vacancies for a vacancy rate of about 30 percent. Could you update us on what has changed in that regard?

Mr. RECTOR. We are presently authorized at 51 permanent full-time positions. We have one vacancy that has just recently been advertised. It is in the planning and policy unit. I believe that there is an exhibit on this subject that we submitted in answer to one of the several questions that the committee asked.

We also have one part time permanent vacancy and a temporary vacancy. So we are near maximum in each of our three categories.

Mr. RALEY. I was going to summarize the situation and compare it with last year. Last year you had 61 full-time positions. This year you have 51. But last year you had 18 full-time vacancies, and this year you only have one full-time vacancy.

Would I be correct in assuming that in June you had a 30 percent vacancy rate in full-time positions and that now you are down to a 2-percent vacancy rate in full-time positions?

Mr. RECTOR. That is correct. I would have to look up the exact figures from last June. The sum of 17 or 18 vacancies sounds correct.

Mr. RALEY. At least there has been a substantial ability on the Office's part to fill those vacancies?

Mr. RECTOR. Right. It takes a relatively long time. Once we are provided the slots, job descriptions have to be developed, and then there is a civil service selection 3-month process. It is quite unlike the process here.

Mr. RALEY. Another problem you alluded to earlier in your testimony was the amount of unobligated funds, particularly in your special emphasis or discretionary fund area.

Could you tell us now as far as fiscal year 1978 Special Emphasis funds are concerned what percentage of those are currently unobligated for fiscal year 1978.

Mr. RECTOR. We have obligated all of our discretionary funds that were appropriated for fiscal year 1978. That would be in several categories including the Institute, Concentration of Federal effort, and the special emphasis program.

Last year was a significant grant activity year for us, both in terms of percent of obligations and the total dollars obligated.

Last year, we awarded approximately $65 million under the several categories within the Office, separate and distinct from the formula grant awards that we made in the fall of 1977.

To put that in perspective, that contrasts with $13.8 million awarded in fiscal year 1977 and $14.2 million awarded in fiscal year 1976. And as you have noted, we did not have an appreciable increase in staff.

I believe we did a rather stolid job under very difficult circumstances. In fact, we received a print-out this morning that demonstrates that some of the individuals in our office are managing dollar amounts of grants in the neighborhood of the full appropriation for the Runaway Youth Act, for example.

So they really cranked it out last year. They did it in a conscientious fashion. It was well planned. We do have some additional submissions with regard to that effort. In the area of grant activity, my recollection is that we awarded 172 grants last year.

Mr. RALEY. Another concern at the hearing last June had been the fact that vacancies on the National Advisory Committee (NAC) might prohibit its fulfilling its legal requirement to meet four times per year. The NAC is a citizens group that includes not only experts who have knowledge of the problem but also young people who have been within the system.

In 1978 did the NAC meet its four-meeting requirement as prescribed by law?

Mr. RECTOR. Yes, although there was some delay in the appointment process, they were able to meet their statutory duty of four meetings.

Mr. RALEY. The Federal Coordinating Council, which is made up of Federal agency officials from agencies that have some delinquency or delinquency prevention types of programs is also required to meet four times per year. Did you accomplish this in fiscal year 1978?

Mr. RECTOR. We were able to meet four times in fiscal year 1978.

Mr. RALEY. And could you give us the dates of those meetings, please?

Mr. RECTOR. I will have to check my notes. Just a second, please.

The first meeting was August 24. Then we had three that were consecutive, on the 18th, 19th, and 20th of December, where the entire agenda for this calendar year was worked out. We were focusing on title XX, title IV-A and title IV-B. A 2-day meeting will be held in April assessing those programs as they relate to the policy and themes of the Juvenile Justice Act to begin to at least disseminate information as to their availability for common purposes.

Mr. RALEY. You mentioned a number of new initiatives and special programs that were being considered by the Office. Would you say that some of these or all of these involve status offenders or do some of them involve just delinquent offenders? At the hearing last June, Mr. Andrews did make one statement about that. I won't try to quote him exactly, but it was to the effect that deinstitutionalization should not be the only flag that the Office files.

Could you sketch out for us here at the hearing what some of those new initiatives would do if fully performed?

Mr. RECTOR. In most initiative areas, programmatic efforts are directed at all offenders. I am glad to be able to comment regarding flying the flag of deinstitutionalization. Understandably, there is a perception that persists to the effect that we fly only one flag.

This derives from the fact that the deinstitutionalization sections of the Formula Grant program are somewhat controversial. Whenever there is a controversy, it tends to predominate in discussion

about the subject matter, in this case, the Office. So 9 times out of 10 when folks hear about the statute and our activities, they make an association with deinstitutionalization.

But to put it in perspective, the first initiative that the Office engaged in using discretionary funds was the deinstitutionalization of status offender initiative. That activity occurred in fiscal years 1975 and 1976.

The second initiative was in the area of diversion of minor delinquents.

The third area of focus was prevention. We funded that in September of 1977 and subsequently refunded those projects.

Last year, the major focus of the Office was Restitution, to the extent of approximately $19 million. Projects were funded in many communities around the country to provide alternatives to incarceration, while at the same time focusing on accountability and helping to compensate persons that have been harmed.

This current year we have an effort underway to replicate Project New Pride. I understand representatives from that program will participate in the hearing. That is focused on the serious delinquent, those that have been in trouble, that are on verge of a long term of incarceration.

We also have the youth advocacy activities under development. That again touches on status offenders, but it is directed at all young persons who are in the system, whether they be status offenders, minor delinquent, or other type of delinquent.

For fiscal year 1980, although we have not finalized our plans, we have two project areas on the drawing board. One is on the violent offender and another is a prevention-oriented project.

When you really break out the categories and look at the dollar amounts involved in those categories, it will be noted that a significant amount, but by no stretch of the imagination anywhere near the lion's share of our dollars, have been awarded to this area of the status offender. It is a very important area. Nearly half of the people in the Juvenile Justice system in the United States are in the category of the noncriminal offender.

Mr. WILLIAMS. Mr. Kildee.

Mr. KILDEE. The Juvenile Justice and Delinquency Prevention Act requires that about 75 percent of all status offenders and nonoffenders be removed from juvenile detention correctional facilities.

Your agency has proposed guidelines concerning the definition of these juvenile correctional facilities. I understand that there has been some discussion within your agency modifying these guidelines.

Does your office indeed intend to modify them?

Mr. RECTOR. The answer is yes. The original guidelines to implement the act were developed in calendar year 1976. They were developed in conjunction with a number of groups. In particular, the Academy for Contemporary Problems was involved, although I may be mistaken about that.

The Council of State Government was very much involved in the development of the original guidelines. We began to implement those guidelines in the fall of calendar year 1977. It was discerned

instantly that there were many problems in the guidelines, particularly in this area that you have mentioned.

Last year we modified the guidelines in two areas. One was in the area of size. We revised the original guidelines developed in 1976 in terms of trying to define the area of what is small. Some felt that small should be 20. Standards and a whole host of other things we studied. Subsequently, the guideline incorporated 20 as the maximum for indicating whether a facility or what have you was small.

Flexibility was provided in that area by doubling the specified maximum size last year. There were some other controversies about the guidelines regarding the commingling of nonoffenders and minor delinquents, even in a small community-based program.

We eliminated those last year. So we attempted to address all the problems last year. I think we addressed most of them.

However, there has been persistent concern expressed in this area of the definition of detention and correctional facility, particularly as it relates to large, noncommunity based yet nonsecure facilities. It is in that area that we are proposing a change in the definitions that will make security the salient distinction as to whether an entity is a detention or correctional facility.

Mr. KILDEE. Did the objections come from those who are, and I don't want to say the distinction exists in reality, but those who have been traditional advocates of justice for juveniles or from those who are operating in one capacity or another the facilities?

I am not saying that distinction is a real distinction, but it may be a real distinction.

Mr. RECTOR. I think we had a healthy cross-section of persons and entities that expressed concern about the current definitions. Both the categories that you just mentioned were included.

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

Mr. WILLIAMS. Are there any further questions?

Mr. Rector, on behalf of Chairman Andrews and the other members of the committee, I thank you for your testimony.

Mr. RECTOR. Thank you very much.

Mr. WILLIAMS. We now ask Michael Whitaker, Thomas James and Judge Kramer to come to the witness table.

I would like to introduce the witnesses. On my left is Michael Whitaker, who is project director for the Memphis-Metro Youth Diversion project.

Sitting in the middle is Judge Alfred Kramer, District Judge of the East Norfolk District Court. Judge Kramer administers the Restitution program there in Quincy, Mass.

And on my right is Thomas James, the Founder of Project New Pride in Denver, Colo.

Judge Kramer, we are ready to hear your testimony.

[The prepared statement of Judge Alfred Kramer follows:]

PREPARED STATEMENT OF JUDGE ALFRED KRAMER, ADMINISTRATOR, RESTITUTIONS PROGRAMS, EAST NORFOLK DISTRICT COURT.

Mr. Chairman, I want to thank you, and through you to thank the members of the subcommittee for inviting me to testify about Restitution and the Community Work/Sentencing Program called "Earn-It."

To be frank, this program, which serves the District Court of East Norfolk in Quincy, Massachusetts, grew out of my frustration as a Judge trying to deal with

offenders where institutional confinement was not appropriate. I believe this to be the same frustration felt by victims and the public at large who have witnessed what they term "turnstyle justice". In short, a feeling that the way courts deal with first offenders is merely to wait and see if they become second offenders. Unfortunately, this giving of a second chance without requiring anything more of a defendant, is practiced in too many juvenile courts across the country.

In Massachusetts we even have a name for doing nothing. It's called "Continuing the Case Without a Finding."

If you walk into most any juvenile court in Massachusetts, and I daresay across the country on any given day, you will hear a good defense counsel make the same plea for his young client:

"Your Honor, this is the defendant's first offense. I believe he's learned his lesson and I doubt if you will see him here again. He comes from a good family (or a broken one—take your pick—the request that's coming will be the same). He deserves a second chance. Would Your Honor consider continuing the case for six months without a finding of delinquency and dismiss it then if during that time there is no further trouble by the defendant?"

The "continuance without a finding" gives the defendant a second chance to save his record, upon his or her promise of good behavior.

Some argue it makes sense. If the offender stays out of trouble for six months, he deserves a second chance. If he doesn't, he can be punished for both offenses the second time around.

The truth is, that all we are really doing here is nothing. It is true that for some the experience of a court appearance is enough and we'll never see them again. But for too many, doing nothing tells them that crime pays. Rather than discouraging anti-social behavior, we reinforce it.

On the other hand, others tell us to get tough with first offenders and throw them in institutions or jails. Sending initial offenders to institutions or jails is like sending a patient to major surgery when aspirin would probably do the trick.

Institutions are costly—over $10,000 a year. It's also risky—mixing first offenders with repeaters. But, worse, it's likely to fail, given the 70 percent failure rate of jails and institutional facilities.

The truth is, that "getting tough" and "doing nothing" both fail for the same reason. They forget the victim of the crime, and fail to place responsibility on the offender to make up for his offense.

The Courts should not wait for a second offense to deal with offenders, nor is it necessary that they all be institutionalized. Instead of going to jail, they should go to work *@*@* to pay for the damages they caused. Instead of being given a second chance, they should earn it.

And thanks to a small grant of the Juvenile Justice and Delinquency Prevention Act, juveniles are doing just that in the Quincy Court and in an increasing number of courts across the country.

In Quincy, young offenders are required to earn their second chance through a new program, appropriately called "Earn-It." Under this program, defendants work and the victims of their crimes are compensated, thanks to the work hours provided by the local business community.

When restitution is not required for individual victims, defendants are still required to make up for their offenses by working for the community whose peace they violated. This is accomplished by having the offender work on community service projects.

Those who earn it, get a second chance. Those who don't, are brought back to court immediately and dealt with before the second offense.

This program was originated to deal primarily with initial offenders, but I know of nobody who commits the second, third or fourth offense without having committed the first. There is no more effective place to begin, with the increasing problem of juvenile crime, than at the beginning. [The program, however, proved so successful, that it is now used for all offenders, including adults.)

The jobs provided by Earn-It are temporary, just long enough for the offender to pay back the victim what is owed, plus lunch and travel money for the worker.

Let me cite some examples:

Bill steals a car. He is caught after a minor accident, having caused damage to the car. The boy admits to his guilt. He has no previous record. Damages are assessed at $300. In addition, the court orders Bill to pay another $100 to the owner for loss of convenience while the car was being recovered and repaired.

Bill is unemployed, having recently dropped out of the 11th grade where he was enrolled in a vocational educational program. He took a few courses in printing which he liked.

The court refers him to the Earn-It program, whose staff places him immediately at the Patriot Ledger, a local daily newspaper that participates in the program.

Bill does very well at the Ledger. He pays back the victim within several weeks. The Ledger offers him a job if he goes back to school and finishes his vocational education program.

Thus, the victim was compensated, the defendant saved his record, and in so doing, perhaps was saved himself.

Another typical example concerned the case of four juveniles who camped out in some woods opposite their junior high school. Around two in the morning, they decided to break windows in the school. They were caught and brought to court for malicious destruction of property. The Earn-It staff met with school officials and determined damages to be $500.

The boys, ranging in ages from 13 to 15, admitted to their delinquency, while the parents offered to make restitution. The Judge rejected their offer, explaining that their sons, not themselves, broke the windows and should pay. None of the boys had jobs after school, so the Judge referred them to Earn-It.

The Earn-It staff met with the school officials, who offered the four boys work after school repairing the broken windows. They were supervised by the custodial staff. The school officials preferred this approach rather than cash restitution, because they hoped the example of these boys having to work would make a positive impression on their peers.

A boy convicted for a rash of false fire alarms in Weymouth was ordered to complete 50 hours of community service work to make up for this crime.

He was placed in a Weymouth fire station to paint the inside of that station. In addition to the work itself, the experience allowed him to observe some of the firemen at the station. He saw first-hand the consequences of a false alarm, the enormous waste of manpower and energy, as well as the potential danger in each false alarm. The defendant directly confronted the results of his act. The boy completed his work for the town. His parents and the school report that his behavior has dramatically improved since his court experience.

These are just a few examples.

There are many others. Last year, in fact, there were 1,130 other examples. All were put to work to earn their second chance.

When Earn-It was begun in January of 1976, the court was receiving about $35,000 a year from defendants for restitution payments. During the last twelve months, the court has received over $120,000 in restitution payments. It came from defendants, either juveniles or young adults, not their parents. It came from part-time and temporary jobs, not new crimes to pay off past crimes.

The jobs were provided at over 100 different businesses throughout Boston's South Shore, including nationally known companies like Midas Muffler, Proctor and Gamble, McDonald's and Stop and Shop Supermarkets. Jobs were also provided by local restaurants, bakeries, auto body shops, etc. Most pay minimum wages. Some a little more.

In addition to monetary restitution, other youths contributed tens of thousands of hours of free labor to the community to make up for their crimes. In addition to working at fire stations, youths were placed at town libraries, parks, departments of public works, elderly housing projects, YMCA's, the Red Cross, hospitals, and in other public, non-profit settings.

Whenever possible, work sites are matched with the interests or needs of the young defendants. For example, those individuals who are before the court for driving under the influence of alcohol are placed at the Quincy Faxon House, an alcohol detoxification unit. There they not only provide needed services, but are directly confronted with the end results of alcohol abuse.

Last summer, another component was added to the work program. The probation department screened from within their caseload those juveniles owing the court money, who were too heavy a risk for placement in private jobs. Some had violent behavior on their record. Others were suffering from drug or alcohol abuse. Most were not felt to be trustworthy enough for placement in private jobs. All qualified, however, for summer CETA funding, since they came from poverty-stricken families.

In conjunction with a state agency called the Metropolitan District Commission, these youths were given the job of refurbishing one of the Boston Harbor islands, Peddocks Island.

The youths worked at clearing woods, building fire-places, picnic areas, campgrounds and other conservation projects. They worked four days a week, 9 hours a day. All those who completed the summer on the island paid their victims in full.

For most of these youngsters (as with many we place), it was their first job experience. Work supervisors, like all Earn-It employers, provided positive work recommendations to those who earned it. For many of the youths, this was the key to helping them stay in the job market after their Earn-It employment was terminated.

What we thought was going to be a big risk, a big gamble, paid off for everyone. Currently, Earn-It has been funded with CETA Title VI, Youth Conservation and Community Improvement funds (YCCIP) and has 56 youngsters working at similar work sites earning pay checks, and paying back for their crimes.

Earn-It does more than just enable offenders to make up for their crimes. It screens those who deserve a second chance from those who don't.

Even our failures do not represent a total loss. Those who fail to earn their second chance tell us something extremely important. They tell us to bring these offenders back to court for stricter controls before the second offense is committed.

Each case is judged on its merits. For example, if a youngster fails to meet his restitution payments because he was fired from his job, we find out why. We may find that he was fired because he came to work inebriated. Then we know that alcohol treatment must be mandatory. We can now channel our limited probation resources more effectively and efficiently.

Earn-It has enabled the court to insure that victims of crime are no longer the forgotten people of the criminal justice system. Orders of Restitution from the bench are no longer empty promises to the victim. Victims are compensated for their damages, even for medical bills if there was any injury. If willing, they get a chance to confront the young offender themselves. When possible, they are given the opportunity to have the offenders work directly for them to repair damages that may have been done. This makes it impossible for offenders to dismiss from their mind the victims of their crimes.

Studies recently completed by several professors from Northeastern University document what we have come to understand. Victims desire restitution over incarceration in a large majority of cases, except those involving substantial personal injury. Certainly, most misdemeanors would qualify.

Although we have not spoken of rehabilitation, we know of no program or rehabilitation more successful than work. Once a juvenile or youthful offender is employed, we know we have begun to win the war against crime. A maximum effort at probation guarantees contact with the juvenile once or twice a week for a few hours. A full-time job guarantees that they are off the street, constructively employed forty hours a week. It also places the youngster in a more constructive peer group than on the streets.

Sigmund Freud once defined mental health as the ability to love and do work. With Earn-It, we cannot insure the former, but we can see to the latter.

With initial seed money from the Juvenile Justice Act and a subsequent grant we have just been awarded, Earn-It has grown to the largest restitution program in the country. And it has been copied widely.

I have recently been invited to speak in Concord, New Hampshire, to launch their own Earn-It program. Like ours, it will be sponsored by their Court and Chamber of Commerce. I have also spoken at the Iowa Probation Officers annual meeting, as they were interested in bringing the program to Iowa.

Over the past year, I have been invited to Minnesota, New York and Rhode Island to speak on Earn-It. Last week representatives of the Woonsocket Police Department travelled to Quincy to learn how they could establish a police diversion program based on restitution.

I think the reason for this national interest in Earn-It stems from the same reasons the program has received such broad support from politicians, social welfare professionals, businessmen and women, and the liberal and conservative community as a whole. (See the attached appendix containing newspaper clippings and articles showing the extent and depth of that support.)

People everywhere agree we can no longer do nothing about crime, even with juvenile offenders. We can no longer ignore the victims or fail to place responsibility on the offender to make up for his or her offense. The program satisfies all interests. It provides an opportunity for the defendant to earn a second chance; it assists the victim in providing compensation for his or her loss or damage; and it provides a more effective way to rehabilitate the offender and protect the community.

Mr. Chairman, I have come to tell you that the public investments in these programs have produced great dividends. I thank you and your committee, and urge your continued support.

STATEMENT OF JUDGE ALFRED KRAMER, ADMINISTRATOR, RESTITUTION PROGRAMS, EAST NORFOLK DISTRICT COURT

Judge Kramer. Thank you, Mr. Chairman, and, through you, to the distinguished members of your committee, I want to extend my appreciation to you for the opportunity to appear to discuss restitution with you and, more particularly, to discuss the "Earn-It" program, which is located in Quincy, Mass. There sit four judges over whom I preside.

The program "Earn-It", the very title perhaps suggests its philosophy, and that is a philosophy based on a notion that an offender should not be given a second chance, but an offender ought to earn it. That an offender should take responsibility for his or her act, and that responsibility requires compensating the victim, of compensating the community whose peace that offender has violated.

The program really began in January 1975, not out of some application for grant. There were no grants for restitution. It really grew out of frustration. I had presided over the court at that time for a year, and I think I experienced the same frustration that judges, that victims, that members of the community have and are still experiencing over the juvenile criminal justice system, in fact, the criminal justice system as a whole, a frustration that in cases where institution or jail for youthful offenders is not appropriate, that in fact nothing is being done.

The offender comes through the system and the public sees it as a kind of turnstyle justice in which neither the offender has been rehabilitated nor the victim compensated.

And I think, Mr. Chairman, most of the members on the committee, whether lawyers or individuals who have studied the law by their capacity here on this committee, I think are very much aware of what happens in courtrooms.

I would like to tell you how the program actually began. I had been experiencing what most judges have experienced in that sitting in the courtroom and watching case-after-case where competent counsel would say, "Your Honor, I have a first offender, and indeed he admits to breaking the window, but I assure you he will never do it again, if you just give him a second chance and postpone the decision and continue the case without a finding of guilt for a year, and I am sure it will be all right and the case may be dismissed." He comes from a good family or he comes from a poor family, the request is going to be the same, a second chance. And that this happens over and over again.

And I recall the day when I looked down and said, "Well, a window has been broken, who is going to pay for it." And a parent stood up and said, "I will." I said, "You did not do it. The young person did it. What is he going to do?"

And the lawyer said, "He has not got a job, Your Honor." And I said, "I will get him a job." And that night I went to the phone and called up some business people and asked one of them to just provide enough hours of work so the defendant could go to work, earn the money and pay back the victim. And that is what occurred.

And from that day, rather than wanting to go back home and dial phones all the time, I formed a partnership with the South Shore Chamber of Commerce, a community of seven areas that are

served in my district, and the Job Bank with over 100 and now close to 200 sponsors, which have provided hours of work, 100 hours each, and some, many more than that. Not full-time jobs but just enough hours for defendants to go to work and earn their way back.

The offender, when he commits an offense now and does not have a job, is referred to "Earn-It". He is interviewed by the prospective employer, who can reject the individual if he wishes, and the individual is put to work. And many times some skills are matched with the job to boot.

The result of that program is that we now in 1 year, last year, have gone and put on the program some 1,200 youthful offenders and young adults in the program.

Our restitution collection for victims was $38,000 in the annual year 1975, when the program began. It is now approaching $138,000. The result is that the program is now the largest, I would suggest, restitution program in the country for what it serves.

Now, it is not just a question of dollars. It is not just a question, Mr. Chairman, of defendants paying back compensation for their acts. It is a question of the whole process of rehabilitation.

The defendants oftentimes will meet the victim. And I want to discuss an event because I think it will bring out a number of things.

There was the case where some youths had thrown rocks through three sets of windows, a doctor's office, a nearby church and school. And as a part of this program, the victim is offered an opportunity to meet with the defendant.

Some say, "I am sorry I met him the first time. I do not want to meet him again." But some take advantage of that process.

In this case, the owner of the building, the doctor, said, "I want to see the youngsters. I want them to come to the house." And they did. And as it is related by the counselor, the boys walked in and they said, "My God, is that the living room we threw the rocks through?" And he said, "No, that is a bedroom, son. I want you to come in."

Another boy said, "It is a good thing the bed was not near the window." And he said, "It was. But my boy does not sleep there any more. We had him move it over. And he won't be sleeping there for months."

And one boy spontaneously said, "We almost killed somebody." A contract was then made between the doctor and the boys. He said, "You are part of the group that has been vandalizing and dirtying up my yard with beer, et cetera, and if you are willing to clean it up (and the contract was made for after school for several weeks) I will be willing to forget the deductible on my insurance policy for which you are responsible." And he did it.

They then went and assisted the school in cleaning up five times the number of windows. They worked with the supervisor and the custodial staff. The church needed the money, as most churches do, so we provided them work and they paid off the church.

But there is a situation where the individuals had to confront their offense in human terms. Most of the kids that come through court see it as throwing rocks through windows. They do not see the damage.

And the experience of coming to terms with the victim and seeing the human suffering is part of what restitution and compensation is about.

In one case where they had broken into a victim's home, an elderly couple of 65 and 66 years old, you confront the problem of victims whose house had been violated, and I see them as you have witnessed them in this committee, and won't go back to that house for many, many years with the same feeling.

Well, in this case, they were introduced to the elderly couple, and the elderly couple did not see these normal stereotype Kojack offenders. They saw kids for what they were. They were painting the house at the time, and the kids agreed to paint their premises, which they did. And as a result of that, they were fed some food and they became somewhat friendly, and the offense was worked off but also the victim had a sense of what occurred, which was not a result of the paranoia that usually confronts victims in such instances.

Now, it is not just a question of restitution in terms of money, though I must say that 30 percent of the people who have been referred to our businesses have kept their jobs. And that is important because most of the offenders we are dealing with are individuals of very low esteem, individuals who have not been able to make it in terms of the real and constructive world. And to get them to participate in a job and complete it and to pay for their offense, to feel the money of the damage, to have to turn it over to the victims and know when they complete it they have paid their dues and are working, it seems to me from our evaluation we are beginning to see changes in life styles that are not affected by any other approach to the problem, either incarceration or detention or doing nothing, which does occur.

The putting of people to work in a job which they can feel some confidence and develop esteem is a very important element of compensation.

The other thing is that many times there is no restitution to be paid in terms of finances. There is no damage. But even there they are required in this program, as I think they should be in most programs of restitution, to make up to the community. And that can be done by working at YMCA's, the Red Cross and hospitals, which we require them to do to make up for their particular offense.

And it is very interesting in terms of the approaches that one can find to do this. Individuals who have pulled fire alarms, again, are not aware of what is at the other side of that fire alarm. They are asked to paint.

Individuals who have shoplifted are required, having taken something, to purchase goods and donate it and get a feeling for what it is after earning money and paying for something to give things rather than take things.

I will not trespass on the committee's time. The other examples are in the report I submitted. But I want to suggest that work service has more than just making up to the community in it. It has something to do with the defendants' evolution.

I want to mention one item to show where work service can go beyond the traditional approaches when the traditional approaches

fail. I had a young man who turned the corner too quickly and killed his best girl friend. And as a result of that particular act, the prosecution asked that there be 3 months, this boy had just achieved 18, in the house of correction. In some States, I gather, that age is still a juvenile.

The defense counsel stood up and said, "Your Honor, this is an honor student. You cannot punish him any more. He is scarred for life. He will carry it the rest of his life. We ask that you continue the case without a finding and dismiss it."

I took that case home, but part of the "Earn-It" philosophy suggested a different answer. And when I got back I had noted in the report that the individual was close to a priest.

I said to him, "In my religion, which is different than yours, when somebody dies, one lives a year of moderation and does good deeds and rises up and as a result of that lives again."

I said:

You cannot get the life back but you can give life. And I am going to ask you to meet with your priest every weekend to do 2 days of giving life, work in hospitals, work for the elderly, 100 days on your probation of giving life, and I expect you to come back and then rise up and live, hopefully with some therapy that will occur.

To my disappointment, the lawyer appealed. But the family came back 2 weeks after the accepted the sentence. There are just so many approaches to alternatives in terms of these cases that can be used. And I would suggest to you that any program of restitution which is now being funded across the country through the Juvenile Justice and Delinquency Prevention Act should not only require restitution in terms of money but in terms of compensation.

I will mention one other point where the acts which are in existence can be combined to do a number of things. Many defendants carry risks. They have violence perhaps in their record or perhaps they are into drugs or into alcohol.

And last year, you, utilizing the premises of the Massachusetts District Commission and going to the Boston Harbor and an island called Penikese Island, we used CETA money to put 30 individuals to work, where they worked 4 days a week and received group sessions as well. They received CETA money, and everyone on the program paid their victim in full and not one got into a problem in the summer, because they were working.

Those projects now are continuing through the winter utilizing the funds of the conservation act, which is now in existence, and we now have 56 doing those jobs in various hospitals and other places.

Now, what about failures? And that is a very important question. First, let me give you a statistic. About 90 percent of those who enter our program proceed to complete what their task may be, the compensation, or proceed to work for the community and do what is required.

Even the failures, however, are not failures because most courts, without restitution or compensation programs, or community service, will do nothing but merely say, "We will give you another chance," or place them in probation where perhaps they can see someone once a week and maybe at most twice a week.

We have an opportunity on the first offense, although these programs are used for people who have committed many offenses, to see whether they will go on the job and work or whether they will not. And as a result, those who go on the job and do not work, we are able to spot why. Perhaps it is alcohol. And so we are able then to move in with our resources to deal with the alcohol problem. Or perhaps it is drugs. We will find that out. Or perhaps it is counseling.

But we are able to screen out through this process without a heavy utilization of resources those who have gone through the process successfully and those who have not.

The idea of fines, which are used with juveniles and are ordered, most of the time it does not work because juveniles are not working. And the courts find that they are frustrated. They order fines and they are not paid. They order court costs and they are not paid. They order restitution and they are not paid.

The ability to provide the employment does two things. One, there is a case that came down in 1970, a good case, *Tate* v. *Short*, that said one cannot penalize anyone for nonpayment of fines unless you can show a deliberate nonpayment. The denial of equal protection, poor people cannot be punished for being poor.

Well, by being able to offer jobs through restitution programs of alternatives, work for the community at the rate, say, of $25 a day in lieu of a $100 fine, the defendant now either works or does not work. There is an opportunity to make the fines a deterrent or to make the work in lieu of fines a deterrent.

I would conclude by saying this, Mr. Chairman, so I do not trespass on your time too much and your kindness in hearing about the program, that I have had the opportunity to be in a number of States, because this program, thankfully, has been funded by the funds through the Juvenile Justice and Delinquency Prevention Act.

We now can continue our program and in fact experiment some more. But I have watched now that the funding is going out across the country what has been occurring. I have been in Minnesota. I have been here in Washington. Next week I go to program there. There are 17 programs beginning in Massachusetts. And I find there is great national interest.

I have submitted an appendix with some newspaper coverage to show that the support comes not only from liberals. Not the Boston Globe front page and its main editorials, but from conservatives. David Brudloy, who has a syndicated column nationally, has to be put into that area.

It has an appeal because to the conservative it means that something is being done. The defendant is asked to take responsibility for his or her act. And to the liberals it means an opportunity. But it is a responsible opportunity.

I find that, for instance, we are supported by the Lieutenant Governor of our State, who is the son of your distinguished Speaker. But I understand that the Speaker, from a Globe article today, does not necessarily agree with his son. But I would assume he would agree here, because I think that what I have found is the politicians, the business community and the public as a whole endorse a program if it makes sense.

So I want to thank you for this opportunity and urge your support of the kinds of things that are being done, continuous support, the kinds of things that are being done as a result of the acts of Congress. I think we are going to find in the area of restitution and compensation and community work service that we will have an alternative to incarceration. And perhaps just as importantly we will have an alternative to doing nothing, which really exists in a lot of courts throughout the country.

Mr. WILLIAMS. Thank you very much, Judge Kramer. Your submitted written testimony, along with that of the other witnesses today, with no objection, will be submitted in the record.

I would like to proceed through the witnesses and then open for questions.

Before turning the microphone to Thomas James, I would like to note that our regular chairman has arrived, and after introducing Mr. James, I would like to turn the chair back to Congressman Andrews.

Mr. Thomas James, again, is the Founder of Project New Pride from Denver, Colo.

[The prepared statement of Mr. Thomas James follows:]

CENTRAL DENVER YOUTH DIVERSION,
Denver, Colo., March 16, 1979.

Re testimony on intervention strategies for serious offenders.

To: Subcommittee on Human Resources, House of Representatives, U.S. Congress.
From: Thomas S. James, Executive Director.

The Central Denver Youth Diversion program is essentially an expansion of Project New Pride. The systems concept was developed in an attempt to provide New Pride's concept of well-integrated services to a broader population. It should be emphasized that this "broader population" does not differ significantly from New Pride's target group of multiple offenders. However, there are different needs within this population and the systems approach is specifically designed to address individual needs.

Central Denver has been designated as the "Supervisory Agency" by the Denver Juvenile Court for all youth diverted into the system's programs (Project New Pride, Morgan Center for Learning Disabilities). Central Denver acts as the intake unit for all clients, providing diagnostic examinations and in-depth needs assessments prior to placement in a service component. Additionally, a major employment program is operated by Central Denver, and all clients who are reintegrated into the public schools are managed by the School Reintegration component. The concepts used in the Central Denver system were developed over the past six years. The majority were field tested by the New Pride program and implemented after they were proven effective. Expansion into a systems model was necessary because the original program could only serve sixty clients per year. The current capacity of the system is 420 youth per year. In-depth diagnostic examinations have been provided to over 500 clients in the past eighteen months.

The New Pride experience graphically demonstrates that programs that are capable of meeting individual needs are indeed able to reduce the number of juveniles subject to incarceration, and substantially reduce the number of youth committing new offenses. Perhaps the most significant finding of the Pride experience is its demonstration that hardcore juvenile delinquents can be maintained in the community without danger to neighbors or increasing the rate of criminal activity in the city. The program's success has provided dramatic new evidence for those practitioners who have argued that viable alternatives to incarceration are feasible. In addition, it has demonstrated that community programs are far more effective than incarceration, do not create problems of reentry associated with prolonged institutionalization, and are certainly more humane.

Although New Pride has achieved much success, its failures indicated the need for the Central Denver system. Many of New Pride's failures were caused by a lack of extensive diagnostics or needs assessments. Further, the program quickly discovered that although the majority of clients had histories of school-related failure, commonly used academic remediation techniques were not always effective. In

many instances, academic remediation alone was not appropriate and aggravated deviant behavior, rather than alleviating it. This was especially true for the learning disabled youth, and early experiments were conducted to develop effective treatment strategies for this specific population. Morgan Center for Learning Disabilities was developed to work with those clients who had been identified as learning disabled (demonstrate a perceptual processing deficit). Fully one third of the New Pride population were determined to be severely learning disabled. Additionally, other research studies suggested that the learning disabled juvenile had a higher probability of being incarcerated than other youth in the juvenile justice system. Early studies of institutionalized youth indicated that the incidence of learning disabilities among inmates ranged from 80 percent to 90 percent, as compared to reported incidences of 4 percent to 6 percent in the general population. Clearly, a disproportionate number of learning disabled youth are incarcerated. The data also suggests an increased frequency of learning disabilities when various points of penetration into the juvenile justice system are analyzed—the deeper the penetration, the greater the probability of learning disabilities.

Current research tends to support the early observations. Interestingly, a casual relationship between learning disabilities and juvenile delinquency has not been established. Current national research suggests that the juvenile justice system views the learning disabled youth differently and selectively retains him, while gradually eliminating the non-learning disabled. Morgan Center's current research efforts are designed to address the impact of learning disabilities upon the socialization process, and the relationship of this to delinquent behavior. This research is based upon the assumption that it is the youth's deviant behavior, not his ability to read or write, which leads to incarceration, and that the successful identification of abnormal socialization patterns, coupled with effective remediation techniques, will dramatically reduce the number of juveniles who are incarcerated.

Central Denver, Morgan Center, and New Pride clients exhibit many common characteristics. Typically, they are lower socioeconomic status males. The average client is a Spanish surnamed male; an adjudicated delinquent, with a history of six or more prior arrests. He is 16 years old, from a single parent family (usually the mother), and has three or more siblings, who in most cases have also had contact with the juvenile justice system. The family is usually receiving some form of public assistance, living a transient life-style, and includes one member who has been incarcerated. The child has probably dropped out of school, completing either the 9th or 10th grade. One in every three youth has an identifiable learning disability, although possessing average or above average intelligence. He has a history of expulsion and/or other school-related failures. The child's most recent attendance in school can usually be attributed to a court order. The client's home is unstable, nonsupportive, and frequently other family members are involved in illegal activities and may be contributing to the delinquency of the client. The child is often viewed as an unwanted burden. He has frequently been placed in a variety of treatment programs designed to rehabilitate him. In almost all cases these "treatments" have been failures and have contributed to his feelings of low self-esteem. He has been incarcerated for brief periods of time and expects to be rearrested.

Employment appears to be a critical variable in reducing recidivism or incarceration. The rearrest rate declines sharply (80 percent when these youth are employed. However, merely providing a job does not appear to be the answer. Job retention is quite short unless comprehensive services are also provided. These services are apparently necessary because without them, the work ethic has not and cannot be developed for many of these youth. American technology has essentially eliminated a large scale demand for unskilled labor. The ability to read or write is of paramount importance in almost any employment opportunity. Additionally, business requirements for a productive employee excludes learning and earning at the same time. The problems are further compounded by the unrealistic expectations of unskilled youth for jobs with the stature and pay which are assumed to be a part of the "American Dream." This segment of the population appears to be immune to changes in the nation's economy—recession or boom, they remain chronically unemployed.

The correlation between school-related failure and juvenile delinquency is well documented in the literature. It is almost unquestioned that deviant behavior is first documented in the public schools. The juvenile delinquent first exhibits acting out or assaultive behavior which frequently leads to disciplinary actions (including temporary suspensions) which is followed by chronic truancy, and eventually dropping out of school. In Colorado, the Children's Code requires mandatory school attendance until the age of sixteen, hense these clients are subject to arrest for nonattendance. There also appears to be an alarming trend of arrests for school

loitering, usually at the assigned school. Students are required to leave the school grounds following the completion of classes or other activities. It can be safely assumed that one or more arrests on a charge like loitering is not likely to lead to increased school attendance. It is also not unreasonable to assume that arrests for comparatively minor offenses are frequently followed by arrests for more serious offenses such as vandalism, assault, etc. Analysis of arrest records frequently reveal that for many juveniles, the first arrest is associated with a school-related incidence. It is also apparent that many juveniles have extensive amounts of idle time that would otherwise be nonexistant if they were attending school.

Intensive supervision or counselling was developed in an attempt to negate low self-esteem and alienation from society. These youngsters have consistently failed at almost everything that they have attempted, including criminal careers. They have been labeled as misfits by the system and are outside the social mainstream. Most have been shunted from one program to the next; they have been bombarded with social workers, probation officers, partners, big brothers, and the threat of being locked away—all in the name of "rehabilitation." More often than not, rehabilitation efforts disintegrate into chaos primarily because of a lack of coordination and sound case management. Consequently, efforts of professionals become so fragmented that the child's perception of the system is inconsistent, and often results in decreased confidence in his ability to succeed by socially acceptable standards. Therefore, it is not enough to just counsel the child. The system must be also counseled. Thus, implicit in the intensive supervision design is supervision of the child and all significant others in his life. The establishment of a trust relationship is also a necessary ingredient, coupled with successful experiences which are designed to improve the youth's self-image.

The New Pride programs (Central Denver, Morgan Center, and Project New Pride) are designed exclusively for the serious offender. There are several reasons for this: (1) Research empirically demonstrates that the best predictor of continued involvement in the juvenile justice system is prior involvement. Therefore, the multiple offender is the most logical candidate for intervention or diversion programs. (2) Community-based programs are much more cost-effective than public institutions. When compared to incarceration, the Denver model is five times less expensive ($3,000/yr. compared to $15,000/yr.). (3) Community programs are far more effective in reducing recidivism than public programs. The returns rate to public institutions exceeds 80 percent; in the Denver model more than 80 percent are never sentenced to public institutions. (4) By restricting its population to serious repeat offenders, the Denver model does not "widen the net" or bring into the system youth who are inappropriate or who, if left alone, would not have entered the system. It clearly works with only those youth who are in the juvenile justice system. (5) Finally, community intervention is vastly superior to public incarceration regardless of setting. Institutionalization, be it penitentiary, reform school, or juvenile detention facility, is overwhelmingly negative in its impact upon the individual, and its use has not proven to protect the public interest.

The programs that are currently operational in Denver address the intent of guidelines previously published by the Office of Juvenile Justice and Delinquency Prevention. This is accomplished by removing juveniles who are presently involved in the justice system from further involvement. Consequently, it prevents the incarceration of more than 80 percent of high-risk juveniles. It does this without additional stigmatization or negative labelling of clients. The programs are designed to maintain existing, intact family units; to improve employability; to increase academic abilities; to remediate or compensate identified learning disabilities; and to reintegrate appropriate youth into public school programs.

The Office of Juvenile Justice and Delinquency Prevention has determined that replication of the New Pride concept is in the national interest. Successful replication would have marked impact on the treatment of serious offenders in jurisdictions across the country. Criticial program elements essential to a successful replication effort are readily available in most major urban areas. It must be emphasized that for the successful replication of the concept, all elements designated as critical must be present. These elements have been extensively tested for over six years and are known to be effective.

STATEMENT OF THOMAS JAMES, FOUNDER, PROJECT NEW PRIDE, DENVER, COLO.

Mr. JAMES. Thank you, Mr. Chairman, for the opportunity to appear before you today.

I would like to tell you about a program that I think works. We started Project New Pride approximately about 6 years ago. During that time, we have diverted a large number of serious offenders in Denver, Colo.

I am pleased to be able to tell you that in diverting serious offenders from the court system we have not seen an increase in the amount of crime in Denver. We have seen that the vast majority of these kids have not been incarcerated, and the program was designed as an alternative to incarceration.

Since its inception, we have started under New Pride two other programs: Central Denver Youth Diversion and Morgan Center for Learning Disabilities.

These programs were an outgrowth of some early experiments that we conducted as part of the New Pride program. We discovered in working with multiple offenders that approximately one-third of our population was seriously learning disabled and could not achieve in traditional academic remediation programs without some type of learning disability therapy.

In our experiments, we discovered that we could remediate or compensate for those identifiable learning disabilities and saw some drastic improvements in those kids' abilities to function within the community.

New Pride experience also taught us the value of employment. We very quickly discovered that when kids were employed, the recidivism rate declined by something like 80 percent.

We consequently have developed employment programs for almost every program that we operate and have seen some rather dramatic improvements with those children.

On the subject of education, our diagnostic examinations demonstrate that the vast majority of the kids who come to us have had school related problems. For the most part, when we conducted an analysis of rearrest patterns, we found that in many instances the first arrest was related to a problem in school.

Subsequent to that, kids usually went on to a number of other arrests, usually became chronically truant, or dropped out of school.

When we diagnosed those kids, we discovered that they were functioning on either third or fourth grade level, and it became almost impossible to do anything with those children unless we provided them with some academic remediation.

We discovered that our program, in the way it is structured, could increase the reading and writing abilities significantly in a rather short time span.

That, too, has become a major component of the program. We also looked at the amount of idle time that these kids had, because, for the most part, they were not attending school.

Again, the employment, coupled with academic remediation, tends to reduce that amount of time. It also tends to keep them out of trouble and, again, we have seen a dramatic reduction in the rearrest rate.

We also looked at intensive supervision for these children. One of the things that became very apparent to us was the fact that for the most part these kids could not be seen on a regular basis by

traditional services, probation departments, social services, because of tremendously high case loads.

We were able to keep our case loads below 20 kids at a time and see them on a daily basis. The program is structured in such a way that we have an intensive phase and a follow-up phase. During that intensive phase, kids are seen daily by us. That, too, has an impact on whether or not a child will go out and commit another offense.

During the follow-up phase, we tend to shift the responsibility from our counselors contacting the kid to the child contacting the program. The contact then drops from daily to approximately once a week. Children are involved in the program for a minimum of 1 year. But during that year's time span, we have seen that the vast majority do not go on and become incarcerated.

We established diagnostic capabilities because of a need. We discovered with a population of multiple offenders that there were some area needs between kids. I mentioned the fact that roughly one-third are learning disabled, the fact that most are functioning at about a third or fourth grade level. Most do not have skills that would enable them to hold down a job. The work ethic itself has not been developed.

Although we stress employment, we recognize the fact that these kids cannot retain a job unless there is a significant amount of work conducted prior to placing that child on a job.

We find that it is absolutely necessary to work not only with the employee but also with the employer. We have to provide supportive services in order to maintain that child on a job while we are in the process of trying to develop the work ethic.

We work with juveniles between the ages of 14 through 17. In Colorado it is mandatory that children stay in school until they are at least 16 years of age.

We have developed the school reembracement component. In that program, approximately 70 percent of the kids who we see, at either the New Pride Remedial School or the Morgan Center for Learning Disabilities, do return to the public school system.

Again, they are returned with supportive services from our community based program. We have discovered that the retention rate is much higher when we can provide those additional support services.

Finally, I think one of the other major ingredients of the program is a research effort. In working with serious offenders, one of the things that we found in 1973, when we were first trying to get our efforts underway, was that there was very little information about this project group. For the most part, most community programs at that time were designed for first offenders or those kids who had been targeted as free delinquents.

Very little had been done and very little was known about the serious offenders, the kid who had committed a robbery, burglary or an assault.

One of the things that we had started to accomplish over the last 6 years is to develop a data base. We would like to know what components work best with this type of kid.

We have found that through analysis of our data that there are some elements in the program that are extremely critical: employ-

ment, remedial education, learning disability therapy, intensive supervision, cultural education, physical health education.

Those things are extremely important in efforts of this type. I am very pleased that the Office of Juvenile Justice and Delinquency Prevention has chosen the New Pride program as one to be replicated.

I am also convinced that New Pride is the kind of program that can be replicated in almost any major urban area. Most large cities have the necessary components available to them in order to replicate programs of this nature. Thank you.

Mr. ANDREWS. Mr. Whitaker, if you will.

[The prepared statement of J. Michael Whitaker follows:]

PREPARED STATEMENT OF J. MICHAEL WHITAKER

PROJECT DESCRIPTION

The Memphis-Metro Youth Diversion Project is a special emphasis project funded through discretionary funds from the Law Enforcement Assistance Administration, Office of Juvenile Justice and Delinquency Prevention. The project was developed in response to the April 1976 program announcement, Diversion of Youth from the Juvenile Justice System. Project implementation began December 1, 1976.

With research and demonstration as the primary scope of the Memphis project, the purpose of the project is to explore alternative methods for processing youth who have committed delinquent acts significantly serious to result in adjudication. The largest component of the project deals with youth who receive individualized services through resources provided to the project by twenty-five (25) non-justice-system, community agencies. All but two (2) of these agencies previously excluded justice-referred youth from their target population, thus the initial goal of redirecting existing resources has been realized. The related goal of expanding existing resources has also been somewhat realized since eleven (11) of the agencies are currently providing services to youth through non-project funds. The ultimate goal of the project is to establish a permanent resource for non-justice-system agencies which will routinely provide services to justice-referred youth without the benefit of Federal funds. Current sentiment in Memphis is that this ultimate goal will be realized.

SIGNIFICANT PROJECT FEATURES

Since the beginning of the project significant attention has been given to identifying issues which relate to the possibility of replicating the Memphis model in other communities. Thus, the following are features which have contributed to the success of the project:

Juvenile court support.—One of the more significant features of the project has been the outstanding support of the Juvenile Court Judge, Kenneth A. Turner, and the entire Juvenile Court staff. From the beginning, Judge Turner has not only encouraged the success of the project but has been actively involved in building its support. It is felt that the Memphis experience very effectively demonstrates the necessity that the support of the Juvenile Court Judge is crucial to non-justice-system youth programs, particularly when there is an identity with other than just the local level.

Technical assistance.—Through the OJJDP technical assistance contract with the National Office for Social Responsibility in Arlington, Virginia, it has been possible to address and confront weaknesses and deficiencies which have existed in both the project staff and process. The outstanding resources provided through NOSR have demonstrated that effective training and technical assistance can not only provide staff with additional knowledge and skill but can serve to increase staff cohesiveness and build community support, of which particularly new initiatives are in need.

*Administrative support.*From the very beginning, the project has consistently received technical assistance and support from Linda O'Neal, Juvenile Justice Specialist with the Tennessee Law Enforcement Planning Agency, the agency through which the Memphis diversion funds were initially channeled. Mrs. O'Neal's support has been particularly significant in attempts to legitimate and institutionalize the diversion concept on a state level. Also, with the assignment of Marjorie Miller, Law Enforcement Specialist with OJJDP, last summer, the support from the national

level has significantly increased, resulting in the resolution of problems which could have potentially disrupted or halted the progress of the project. Thus, it is very strongly felt there should be very real and visible support from both the SPA and OJJDP if Federally-identified programs are to succeed and become institutionalized.

Community support. Due to the fact current Federal programs tend to have stigma attached, it was perceived that extensive efforts needed to be implemented to offset unwarranted negative reaction to the diversion concept. Thus, extensive efforts have been undertaken in Memphis to build community support. Of these efforts, the most significant has been the establishment and performance of the Diversion Advisory Committee which is composed of active community representatives. It is felt that the experience in Memphis has demonstrated the significance of establishing a perceivably real "ownership" of the community in the Federally-funded program.

Issues requiring additional attention

Through the development and evolution of the diversion project various issues have been identified as in need of additional and/or special attention. The most significant of these [which also interface with issues identified through my involvement as a member of the State Advisory Group (SAG) on Juvenile Justice] are briefly stated as follows:

Conflicting "system" roles.—One of the more time-consuming roles the diversion project assumes involves serving as liaison between the Juvenile Justice System and the Social Services System. The most notable point is that the two systems apparently operate from different levels in relation to control over the youth. Specifically, the justice system relates more to the adversarial posture, i.e., "if one does not conform, more restrictive environments will be sought," while the services system prefers a motivational posture where threats of negative sanctions are avoided. The identification of this relationship has been instrumental in resolving the various problems which emanate from an inability to agree on the means or responsibility for approaching a goal upon which agreement may exist. It is felt more time and energy needs to be spent in helping different systems at least recognize, and hopefully accept, the direction of the other system. Much progress has been made in Memphis toward having the two systems directly interact but increased understanding and communication still needs to occur. This is seen as a concern because it is felt much of the negative criticism of the Juvenile Justice System is a result of other system's disapproval of the approach and direction of such.

Management.—Through dealing with twenty-five different agencies, many of which deliver the same types of services, it has been possible to recognize that much of the non-success of many service concepts actually has little to do with the validity of the concept but rather with the level of management skills and the degree to which those skills result in successful implementation. It is felt that many concepts are discarded as non-viable or youth have been labeled as failures and forwarded to more restrictive environments when in actuality neither the concept and/or the youth were at fault. The problem seems so obvious in dealing with the project and the State Advisory Group that it is respectfully suggested that some type of organized efforts needs to be made to investigate to what extent poor management is responsible for the negative image of our juvenile justice system.

Public image.—Finally, both through the project and the SAG extreme concern has arisen for the overall image of the juvenile justice system, particularly in relation to the increasing lack of confidence in delinquency "treatment" programs. Whether the reasons for the breakdown in credibility are of programmatic or administrative natures, some sort of deliberate efforts needs to be made to improve the image of the system. It is strongly felt that the problem will not resolve itself. This is particularly true on local levels with Federal programs because increasing complaints are being voiced not in opposition to ideas or concepts but to the fact such came out of a Federal agency. For example, there are those in Tennessee who are opposed to deinstitutionalization of status offenders not because they oppose the concept but because their lack of confidence in Federal programs renders them suspicious and reluctant to accept any guidelines. Again, the problem is viewed as serious and in need of immediate attention.

There are other issues which could be addressed at length but these few are representative of the overall situation. I very much appreciate the opportunity to address your committee and will be at your disposal at any time to any questions or comments you may have.

Respectfully submitted.

J. MICHAEL WHITAKER, *Project Director.*

STATEMENT OF J. MICHAEL WHITAKER, PROJECT DIRECTOR, MEMPHIS-METRO YOUTH DIVERSION PROJECT

Mr. WHITAKER. I, too, would like to express my appreciation for the invitation to be here. And I will just briefly run through this statement.

The Memphis-Metro Youth Diversion Project is a special emphasis project funded through discretionary funds from the Office of Juvenile Justice and Delinquency Prevention. The project was developed in response to the April 1976 program announcement, Diversion of Youth from the Juvenile Justice System. Project implementation began December 1, 1976.

With research and demonstration as the primary scope of the Memphis project, the purpose of the project is to explore alternative methods for processing youth who have committed delinquent acts significantly serious to result in adjudication.

I might insert here that the people at Special Emphasis always sort of start to squirm when I mention research and demonstration. And I do understand that the initiative is not—the overall initiative is not—R. & D. But we in Memphis have chosen to exert the extra effort.

Also John mentioned that diversion was originally scheduled to deal with less serious delinquents, which is the way we began, but we have evolved to the point of also dealing with serious offenders, including 20 kids who fall within the categories of assault to murder, rape and armed robbery. So the program has evolved in relation to the seriousness of the charges.

The largest component of the project deals with youth who receive individualized services through resources provided to the project by 25 nonjustice system community agencies. All but two of the agencies previously excluded justice-referred youth from their target population. Thus, the initial goal of redirecting existing resources has been realized.

The related goal of expanding existing resources has also been somewhat realized since 11 of the agencies are currently providing services to youth through nonproject funds. The ultimate goal of the project is to establish a permanent resource for nonjustice system agencies which will routinely provide services to justice-referred youth without the benefit of Federal funds. Current sentiment in Memphis is that this ultimate goal will be realized.

Since the beginning of the project, significant attention has been given to identifying issues which relate to the possibility of replicating the Memphis model in other communities. Thus, the following are features which have contributed to the success of the project:

JUVENILE COURT SUPPORT

One of the more significant features of the project has been the outstanding support of the Juvenile Court Judge, Kenneth A. Turner, and the entire juvenile court staff. From the beginning, Judge Turner has not only encouraged the success of the project but has been actively involved in building its support.

It is felt that the Memphis experience very effectively demonstrates the necessity that the support of the juvenile court judge is

crucial to nonjuvenile justice system youth programs, particularly when there is an identity with other than just the local level.

I think also Judge Kramer's comments here this morning demonstrate the necessity of having support of local judges, particularly with Federally funded programs.

TECHNICAL ASSISTANCE

Through the OJJDP technical assistance contract with the National Office for Social Responsibility in Arlington, Va., it has been possible to address and confront weaknesses and deficiencies which have existed in both the project staff and process.

The outstanding resources provided through NOSR have demonstrated that effective training and technical assistance cannot only provide staff with additional knowledge and skill but can serve to increase staff cohesiveness and build community support, of which particularly new initiatives are in need.

ADMINISTRATIVE SUPPORT

From the very beginning, the project has consistently received technical assistance and support from Linda O'Neal, the juvenile justice specialist with the Tennessee Law Enforcement Planning Agency, the agency through which the Memphis diversion funds were initially channeled.

Ms. O'Neal's support has been particularly significant in attempts to legitimate and institutionalize the diversion concept on a State level.

Also with the assignment of Marjorie Miller, law enforcement specialist with OJJDP, last summer, the support from the national level has significantly increased, resulting in the resolution of problems which could have potentially disrupted or halted the progress of the project.

Thus, it is very strongly felt there should be very real and visible support from both the SPA and OJJDP if Federally identified programs are to succeed and become institutionalized.

COMMUNITY SUPPORT

Due to the fact current Federal programs tend to have stigma attached, it was perceived that extensive efforts needed to be implemented to offset unwarranted negative reaction to the diversion concept. Thus, extensive efforts have been undertaken in Memphis to build community support.

Of these efforts, the most significant has been the establishment and performance of the Diversion Advisory Committee which is composed of active community representatives. It is felt that the experience in Memphis has demonstrated the significance of establishing a perceivably real ownership of the community in the Federally funded program.

Through the development and evolution of the diversion project, various issues have been identified as in need of additional and/or special attention. The most significant of these, which also interface with issues identified through my involvement as a member of

the State advisory group on juvenile justice, are briefly stated as follows:

CONFLICTING SYSTEM ROLES

One of the more time-consuming roles the diversion project assumes involves serving as liaison between the juvenile justice system and the social services system. The most notable point is that the two systems apparently operate from different levels in relation to control over youth.

Specifically, the juvenile justice system relates more to the adversarial posture, that is, if one does not conform, more restrictive environments will be sought, while the services system prefers a motivational posture where threats of negative sanctions are avoided.

The identification of this relationship has been instrumental in resolving the various problems which emanate from an inability to agree on the means or responsibility for approaching a goal upon which agreement may exist. It is felt more time and energy needs to be spent in helping different systems at least recognize, and hopefully accept, the direction of the other system.

Much progress has been made in Memphis toward having the two systems directly interact but increased understanding and communication still needs to occur. This is seen as a concern because it is felt much of the negative criticism of the juvenile justice system is a result of other system's disapproval of the approach and direction of such.

MANAGEMENT

Through dealing with 25 different agencies, many of which deliver the same types of services, it has been possible to recognize that much of the nonsuccess of many service concepts actually has little to do with the validity of the concept but rather with the level of management skills and the degree to which those skills result in successful implementation.

It is felt that many concepts are discarded as nonviable or youth have been labeled as failures and forwarded to more restrictive environments when in actuality neither the concept and/or the youth were at fault. The problem seems so obvious in dealing with the project and the State Advisory Committee that it is respectfully suggested that some type of organized efforts need to be made to investigate to what extent poor management is responsible for the negative image of our juvenile justice system.

PUBLIC IMAGE

Finally, both through the project and the State advisory group, extreme concern has arisen for the overall image of the juvenile justice system, particularly in relation to the increasing lack of confidence in delinquency treatment programs.

Whether the reasons for the breakdown in credibility are of programmatic or administrative natures, some sort of deliberate efforts need to be made to improve the image of the system. It is strongly felt that the problem will not resolve itself. This is par-

ticularly true on local levels with Federal programs because increasing complaints are being voiced not in opposition to ideas or concepts but to the fact that such came out of a Federal agency.

For example, there are in Tennessee those who are opposed to the deinstitutionalization of status offenders not because they oppose the concept but because their lack of confidence in Federal programs renders them suspicious and reluctant to accept any guidelines. Again, the problem is viewed as serious and in need of immediate attention.

There are several other issues that I could address, but for the point of brevity, I will cut off at this point and I will be glad to respond to any questions that you may have.

Mr. ANDREWS. Well, certainly, I want to thank each of you for your trip here and for your assistance to us in trying to help improve the programs, the programs in which this committee has considerable interest.

Do any of the members of the subcommittee, have questions of either of the three?

Mr. KILDEE. I would like to throw a general question out, just for my own, and hopefully our, edification.

Judge, you mentioned the low esteem in which many of these juveniles hold themselves. What role can society, aside from the family, the immediate family, play in trying to raise that sense of low esteem or give a sense of high esteem?

Judge KRAMER. Congressman, I wish I had a very glib easy answer, But I will attempt to relate some experiences.

Mr. KILDEE. I have been searching for the answer for 15 years myself, actually.

Judge KRAMER. Even if I knew it, then, I would not want to come forward. I do not think it would be very courteous. I do not anyway, so there is no danger of that.

First of all, in terms of the projects that we have, I have found judges preach to a defendant and say, "If you do this again, you will be in trouble. Now go out, we are giving you a break."

And I say to myself:

> What kind of break is that to send somebody out with less esteem than they came into the courtroom, without any intervention in their lives, without changing any of the circumstances, and telling them they are less than what they should be and only waiting for them obviously to come back, because nobody has changed things.

And it just seems to me within the criminal justice process, from our end of it, it is important that the experience in the courtroom and what comes outside the courtroom as a result of it provides opportunities for people to succeed.

For instance, when an individual is referred to an "Earn-It" job, they say, "Where is my job?" And counsel says, "You have to interview for it." "Interview, what is that?" "Well go down to the employer's office." And he comes out. And 95 percent of them win the interview and say, "I won the job." It is only a small little start, but it is something that occurs.

Let me give you a second example that will seem almost ridiculous but it will make the point. In this Penikese Island Project where people were developing various kinds of things in campsites

which was our second effort to put people in the island, we had jobs that were menial. But the first time we had a sewer plant and we sent kids to paint little round manhole covers. And they painted them industrial green, not for asthetics but obviously to protect it.

There was a defendant who had been to four foster homes who had been now in his third, as I recall, delinquency act. One of them was breaking and entering. He was in the island for days and weeks, and one day he knew we knew we had a breakthrough because he refused to go to lunch. He said because it was 98 degrees out and painting this manhole cover industrial green, he said, "Half is painted and if I go and come back and paint the other half, I am going to have some difference in the color. And you know since that day he has been in one foster home and has not committed an act.

He sort of got some pride in his work, pardon the expression, using your grant title as a good one. He got pride in his work, he accomplished something.

What I find is that the kids go through the school system where they cannot do their homework. Then a learning disability is suggested, and knowing they cannot read at all, what they do is they act out, because they do not want to be known as a dummy. They want to be known as someone who is causing a problem because they can get attention. And if we can develop in that systems things they can do, that they can accomplish, small things such as completing a job, I think in the process pride and esteem will develop.

What is the trick? I do not know in each case because we are talking about deviant behavior. But I do know that we come through the criminal justice system and use our funds to develop opportunities. We develop opportunities to succeed when they are on levels when they cannot succeed.

For instance, in the last comment, juveniles are harder to get to work and keep them there than adults. They have very poor work habits. Many of them do not know how to get on the bus or how to wake up in the morning in the right way. So we buy them an alarm clock—but they have to pay us back for the alarm clock—to wake up in the morning. We begin to teach them things and provide them with counseling to develop a way of succeeding.

So I think, in short, we ought to provide programs that give them some small things to succeed in and then increase their challenge as they move along, in terms of the whole teaching process.

Mr. KILDEE. In general, do you think the school systems, on a scale, do a good job in trying to help a student achieve self-esteem? I taught school for some 10 years before I got in Government. We teach the cognitive skills very well. The offensive skills are not quite maybe as certain as cognitive skills. What is your experience there?

Judge Kramer. I come with more credentials here, not on my own but I have a brother, who is a principal in the system, who teaches. And I hear from him that their frustration is quite high. I think that the problem is one of the number of teachers who find that just to keep a class going is so difficult in terms of their

resources, their strength, and their energy, that when students begin to act cute there is a special magic in the counselor's office and a special magic in sending them down to the courthouse. They think that somehow we have some answers so they can begin to exclude disruptive students from the process because the classes are being disrupted.

So to that degree there is a great frustration among teachers because really, they are expected to do superhuman jobs in that regard. But I have found that with the core evaluations that we perform in Massachusetts pursuant to Act 776, with sensitivity on the part of the school, the schools are beginning to detect the problems and understand them.

I still think that they lack the funds—and I am not sure I am optimistic about them obtaining them—for programs within the school itself to deal with these issues. And what they tend to do is try to ship them to other kinds of outside services.

The answer is that I do not find that individuals are insensitive nor do I find the school system insensitive, but I do find that they feel a bit overwhelmed and it is an area in which I do not feel that I can offer suggestions.

I think they do understand the problem. They face a resource problem and are concerned with just getting by each day.

Mr. ANDREWS. Unless someone else has a comment on that, I think we will proceed.

Mr. JAMES. I would like to expand on that particular problem. It also goes a little bit further. It is awfully difficult to teach kids who are not in school. Quite often when you are looking at serious offenders, you are looking at a child who has not been attending school for a number of years. It is also difficult to try and rehabilitate that kid and enroll that kid in, say the 9th and 10th grade who is 16 or 17 years of age and he is functioning on a third-grade level. There has to be a considerable amount of work done prior to reentering that child back into the school system.

I think also there is a question of past experiences of the kid with poor self-esteem, who really feels negative about himself. Basically what you are looking at is 16 or 17 years of a cumulative negative experiences. The only way, in my opinion, that you are going to be able to do anything about that is to give that child some small success experiences and build on those to start raising his opinion of himself.

But I think that a number of things have to be recognized. You have to recognize the fact that for the most part it is an accumulation of years of negative experiences. He has been outside of school quite a long time span and in one sense it is unfair to the schools to ask the schools to take this kid back and attempt to bring him up to grade level when no one has a proper handle on where he is.

Mr. WHITAKER. Can I briefly respond?

Mr. ANDREWS. Yes.

Mr. WHITAKER. I am sort of in an unusual situation in Memphis in that we accepted contracts at 25 different agencies which include the school board, family counseling agencies, and employment agencies. And when we drew them all together at one time which we do about every other month, sort of like the United Nations, we start talking about delinquency and what we can do

about it. And someone always pretty quickly comes up and says that they all had jobs and that we could resolve the delinquency problem.

This forces the employment people to speak up and say if our schools were better, we could resolve the delinquency problem. This then forces the school people to speak up and say if we had better families and better family counselors, we could resolve the delinquency problem. And it just sort of goes around like that all the time.

What we are focusing on is trying to get the people to accept the responsibility that maybe school systems won't be better, maybe the families won't be better, maybe every kid won't have a job, but what we do collectively together as a system to help these kids who have all these problems.

I really think on a system level we as managers have some things that we can do to resolve some of these problems.

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

Mr. STACK. Mr. Chairman, I would like to make this observation. I, like Mr. Kildee, in my time have been a teacher, but prior to coming to Congress, for ten years I served as sheriff of Broward County, which is a county of a million people. We have a massive problem with juvenile delinquency.

In the first place that area is very attractive to the status offender, the runaway. And Fort Lauderdale, I might say, is a magnet which attracts runaways, not only juveniles but other age groups. Some of them bring money with them, but most of the kids do not.

In the first place, I am very much disappointed to find from Mr. Rector that since 1974 we have not been doing more to insure that the State-planning agencies in the various States are in fact taking advantage of the appropriations that are available to them.

I served many years on the State-planning agency in Florida and we were always confronted with the lack of funds.

It seems to me that we have got to, and I hope this will be one of the things that our committee will address, we have got to try to get down to the meat of the nut here. So the kid has a learning disability, as Mr. James pointed out, what are we doing to discover learning disabilities?

When you have learning disabilities you have poor learning achievement. When you have poor learning achievement, you have a kid who is frustrated in school. He cannot keep up with the class and consequently develops a poor self-image.

We like to do things that we do well. And we do not want to do the things that we do not do well. So if you cannot keep up with the class, what do you do? You either do not go or you formally drop out.

And there is a relationship between educational achievement and juvenile delinquency. Now it is not a question, as I am sure you are very well aware of, Judge Kramer, you mentioned vandalism and broken windows and so forth. The problem goes much deeper than that. It is a much greater problem.

I am sure that I am not giving you any information, but I impart this to you. The fact that the schools have become a veritable combat zone in which the teachers are in fact terrorized by many of the students. And when you ask how the teachers are reacting,

if you happened to see "60 Minutes" last Sunday night, you must be aware that the teachers are suffering, in large part, fatigue.

Now in my county, in Broward, I am not very proud of the fact, but it is not something that is confined to our county, we find that of those persons that we charge with the index crimes, which are murder, rape, battery and assault, armed robbery, burglary, larceny and all of the thefts, crimes on which the FBI builds its index, at least 40 percent are juveniles. And we are talking about a lot more than vandalism and windows.

I appreciate the fact that for some kids an approach in the area of restitution and the approach of the victim is a viable one. But by-and-large we are dealing with kids basically who are turned off by society. They are not really participants in society.They are out there committing very serious crimes, and unfortunately it would appear that our criminal justice system is inadequate to deal with the problem.

Now the fact is that what we have had to do in ever increasing numbers in out county is to refer the juveniles to the adult court for trial in the adult system because of the seriousness of their crimes and the large rate of recidivism.

I would hope that this committee, over this session of Congress, would meet many times in order to look at the nature of juvenile delinquency and its cause and effect. I have sat in on countless sessions of this sort, having an interest in it over the years. And I do not want you to think for a moment that I come here as a heavy-handed, hard-nosed sheriff. Quite to the contrary, if we are going to try to put people in a spectrum, I would probably fall into the liberal category.

I work with our State planning agency and we have certainly tried to use LEAA funds effectively. And money is part of the answer. In the southeast regional meeting of the school system, the State school superintendent made a very good little talk in which he pointed out to those present, while addressing the overall question of education and the improvement of education, that if anyone believed that money was not important, be dissuaded.

Money is a very important factor, and to find that we are not using money that is available to us is to me something to be concerned about. And I am upset about that. And I would hope that we are beginning to move.

But basically I like Mr. James' approach. I hope I am not stating your approach inaccurately. You may wish to speak for yourself after I speak, but I think what you are suggesting is that there is a very distinct relationship between a learning achievement and the prevention of juvenile delinquency. If we can get kids to perform well in school, they are more likely to go out and get jobs. And if they get jobs, they are less likely to commit crimes.

Now that sounds like an oversimplification. And we cannot forget the fact that not all families have the same background. What do you do with a kid whose parents, let us say, got to the second, third or fourth grade and he is in the same situation?

What are we doing with remedial teaching? This has to be an important ingredient in the overall prevention of juvenile delinquency. Remedial education, I think, is a very, very important goal to which we must give priority. I do not want to be repetitious, but

I am very much concerned about the fact that in our school system we are not developing the ability to deal with, nor are we paying sufficient attention to the detection of, learning disabilities.

About 3 years ago at our own juvenile delinquent system in Broward County, I conducted tests with professionals, I did not give the test myself, I had a psychologist do this. But we found physical, hearing or some similar problem, and that in consequence was, as I recall, three grades below their peer group.

And the ultimate answer has to be this, that our prisons throughout the country are filled with people whose learning achievement is at the level of about the fifth grade. And we have the recidivism rate which I state is approximately 70 percent.

We are dealing with a treadmill, and where it begins is right here in your court, Judge, as you are no better than I am. And I do not envy your job. I would much rather be serving where I am serving.

We deal in words and semantics, and I will speak only for myself here. We appreciate the opportunity to meet with you people working in the field. And certainly you have my best wishes, Judge, and my sympathy for serving in a juvenile court. That is a tough area in which to serve.

But, in this country, we have to come to grips with this problem. This is one of major magnitude. It has got to be one of the top priorities facing the Nation. We literally have to turn around this matter of juvenile justice, or as a society we are going to go down the tube. And I hope that we can work together. And I hope that you can forgive my longwinded statement. If it seems to be critical, it is not really critical.

I am trying to portray the problem from the point of view of one who has served in the field for 10 years. And I thank you for your statements and I thank you for your patience, Mr. Chairman and my colleagues.

Mr. KRAMER. Mr Chairman, may I comment for a moment? Let me respond in a couple of ways. I think that I would like to give you a point of view that joins you in some instances and perhaps parts of others.

First of all, what I have been talking about is serious crime. Let me put it this way. I know of no fourth offender who has not been a first offender. And that is the time to begin to deal with serious crime, at that stage. In fact you suggested something better. That is we can deal with it in school. So we are talking about serious crime.

What we find is that 50 percent in our probation, adult and juvenile, commit serious crimes such as robbery because of problems like alcohol and drugs. And these kinds of problems also come from the same kind of background problems. It may be one of low self-esteem or one of vulnerability in which they find other ways to deal with those particular problems. So whether it is a serious offender or light offender, we are talking about the same thing.

The question about moving juveniles to adult court. You know when I got into court I expected to see a lot of Kojak-type criminals. I was surprised to find I did not see them. I saw some with character disorders, but most of the people there involved with serious offenses were not the kind of stereotypes that I thought.

I watched them go through jail because if you know when our social technology fails we have to take them out of the community. It makes no sense to keep them there.

I watched, as you suggested, the 77 percent that failed. It reminded me of a doctor and a good friend of mine who said, "Judge, when you get sick do not go to a surgeon right away. He will operate and there is a lot of risk involved in that. Go to an intern, he is concerned about you." I think of jail in the same way. I do not rush to it because I know the risk there.

I know 77 percent will fail, young people will harden, but if I need it, like surgery I will use it. But I am going to do a lot of other things first. So the alternative seems to me, if you look at the two systems, both of which have been bankrupt, a lot of rehabilitation programs have not worked. A lot of jail systems never worked, but we must use both.

But what I do find in the area of the funds that your committee is now looking at and which has presided over, and I think in the proper manner, just as the Office of Juvenile Justice and Delinquency, you have engaged in that, we are all engaged in venture capital, not operating money. It is like an investment in cancer. You are going to spend an awful lot, but if we find a cure, as you suggest, it is going to pay off.

But we can expect a lot of rage. We can expect a lot of criticism, because we are investing in the areas of human complexity that are so involved that they do not admit to simple answers.

Let me just suggest, you say, "crime begins in our court and I have a hard job, but yours is the hardest." And yours is the most difficult.

The fact is, as has been suggested by my colleagues who are here, and it is such a multiple problem, we must improve our education. We must improve our economy, we must provide means for people to be employed, and unless we do that, because those are the root causes of crime, no system of remediation in court or any other place will solve it.

So I think with that perspective we are beginning to make some progress in a great deal of ways. They are ways that must come out of venture capital because we do not know the answer. But I am so delighted to be here because it gives me an opportunity, and I think others, to express to you who will find the answers, I am sure, some of the point of views that have to be considered and sometimes discarded. And I just think that is why I am so grateful to be here, because I think the answer lies within the Congress and within the legislatures across the country.

Mr. STACK. Mr. Chairman, may I make one brief remark? I hope, Judge, that you do not take from my remarks that I think that jails or prisons cure anything. All they do is take dangerous people off the street.

The concept of rehabilitation has not proved to be productive in our jail or prison system. And I think of jails as a last resort and I would much rather join with Mr. James in trying to get the child early on.

Admittedly, much of what I said may be oversimplistic and I perhaps did not emphasize the fact, but I do believe this is a very complex problem and we are not going to find ready answers.

But one of the things that concerns me very much is the fact that I find in my own State a very disproportionate number of those who are in jails or prisons are black. And there are those perhaps who believe that blacks are committing more crimes than whites. The fact is that teen-age unemployment among blacks in our country is 35 percent.

The educational achievement of the young black has been indebted by social and economic conditions over which he has no control. But I mentioned this simply to bring out this point, that there is a strong relationship in my opinion between achievement in the school and employment and the commission of crime.

But please understand that I do not see the referral of the child to the adult system as one that is going to cure. It is simply as a matter of last resort because we do not know what else to do with them. We have to treat them as adults in the adult system.

But then the process is that that child will become for the rest of his life a criminal. Three out of four do precisely that once they get into the prison system. And it is not a very happy prospect and we have got our work cut for us. I hope that I have clarified that one point for you.

Thank you, Judge.

Mr. JAMES. Could I make one quick comment? I think there are some things being done. The Office of Criminal Justice whose special emphasis this year is in investigating new crimes will be tackling the serious offender. They will meet, starting a number of programs that are based on the New Pride model around the country. And I think that will have a dramatic impact in our efforts to try and reduce the amount of juvenile delinquents.

Mr. STACK. I just one other observation. If you could get the child early on with a tutorial system to keep him current in school, do you not think, Mr. James, that this would have a dramatic impact?

Mr. JAMES. Yes.

Mr. STACK. I certainly do.

Mr. COLEMAN. Mr. Chairman, I have a couple of specific questions to the judge in this program. What percent of offenders you have in the court system do participate in the current program?

Mr. KRAMER. I do not know that answer, that is interesting. I know that we have put 1,200 through the program which are both juvenile and young adult. And I cannot break that down, but I can tryto get that figure because we run both. I obviously do not have an answer, but I will be glad to submit it to the committee as soon as I get back.

Mr. COLEMAN. Your participation with the private sectors, do you find that Quincy—I am not familiar with Quincy, I assume that is a suburb of Boston or Boston area?

Mr. KRAMER. Yes.

Mr. COLEMAN. Is there a sense of community so that the people who have businesses who provide jobs for these offenders feel that they are doing something for themselves and their community as opposed to a large metropolitan complex?

Mr. KRAMER. If I take your question in a broader sense, I do not think there is anything special about the community. I do not think there is anything special about it, although it has a very strong Chamber of Commerce. Because the jobs that we are talking

about are jobs in bakeries, jobs in McDonald's, which exist everywhere, jobs in local newspapers, et cetera. And the public projects and even national concerns are stops for jobs.

The public projects, I think, are all over the country as well, such as Red Cross, YMCA, and the libraries to do work of that kind. I am now assisting about 17 communities in Massachusetts develop their own style on the program. They are able to do it in urban centers as well as in the outskirts in suburban areas.

In New Hampshire, for instance, I talked with 45 judges and their Chamber of Commerce. I cannot consider New Hampshire a liberal State by reputation, and they have their business community coming in and providing jobs and they are about to start a program. The Pautucket police came down to visit Quincy a while ago because they wanted to start a program.

I suggest that as long as you have got the sense that this is not a soft program, It is the responsibility in tight administration that people of all walks will support it. And I think the community in Quincy in this sense is not exceptional, although it has been of great support to me.

Mr. COLEMAN. Do you have an estimate of your administrative costs for this program?

Mr. KRAMER. Let me tell you of the hard money that we spent. Initially we began with nothing, in 1975. We then received a small Juvenile Delinquency Prevention Act grant of $48,000 for our juvenile project. And then we received a similar amount for our adult project.

Our adult project is now concluded and we have incorporated that into our regular probation people and they have assumed the whole role. And we are proceeding now without funds. We have gotten one or two positions to continue with. We have a lot of volunteers, I must say, and a continuation of CETA employees who come in off and on during the year.

Now in the juvenile area our grant has run as well, but we have just received one of the large $200,000 grants for our juvenile project, not because we needed to run the program but because we are going to do a lot of new things and a lot of evaluation.

One of the things we need desperately is to evaluate the recidivism in a real sense. We n ed to evaluate the attitudes of victims and how they are affected in a real sense. So a good deal of that money, because of the evaluation proponents, will be spent in that direction.

But I think the restitution that we receive alone just about meets the kind of money we spend. And many States have opted to victim compensation programs where the States pay victims directly, which I am opposed. I prefer to spend the money to have the supervised programs where the defendants do it. So those are the statistics financially.

There is an added cost. We do use CETA workers that become available, and jobs become available in court, sometimes in 5, sometimes in 8 or 10 different places. Some are on this project. I have never broken that down.

Mr. ANDREWS. Let me ask a question that I think is related to this. Perhaps it is rather tangentially related, but I would just like to have the benefit of your opinion about it, if you will.

There is in the country today an expression of two different opinions with regard to education in the public schools. I am thinking primarily about the lower grades.

In former times, and even now in some places, it was thought that the individual student is better assisted by promoting him from one grade to another regardless of that child's competence, thoroughness, or mastery of whatever subjects were taught. The school just automatically passed him to the third, fourth, fifth and sixth grade.

This was done because it was thought that to do otherwise would create some stigma within the child. He would then become a problem child. Other people, of course, take just the opposite view. And I heard recently some parents and teachers arguing this point back and forth.

Some teachers say, no, when you take the child who did not learn to read at all, who is ignorant even at the third grade level, of basic addition or subtraction, and you just pass the child anyway, you harm the child, because he cannot learn geography and history and other advanced courses as he moves on up through the grades.

He cannot learn these subjects because he does not have the basic skills, and hence, you are just magnifying the problem. That child either drops out or is non-attentive, and disruptive within the classroom because he did not acquire the basic skills. Hence, some people think that the best thing to do is to hold the child back.

If the child cannot do second grade work, let him repeat the second grade. Otherwise we graduate teen-agers, who lack these basic skills.

Related to that is the question of administering uniform district-wide or state-wide competency tests to determine which students ought to be directed on to college. Perhaps those who do not demonstrate college potential ought to be encouraged to take remedial courses at that time.

Perhaps such students ought to be informed that they lack basic skills and ought not waste their time or money in college where such skills are necessary.

Should students be automatically passed from grade to grade regardless of their achievement, or should they be held at each particular level until they master, reasonably well, the courses at that level?

Should competency tests or something of that sort be given to students irrespective of whether the school system has automatically passed them or held them? What are your thoughts as to those two questions?

Mr. WHITAKER. I think the issues of competency tests are interesting, and are just now happening in Tennessee.

I lived in south Florida for 5 years and we started giving the competency tests in our schools. And I thought it was interesting because the first time everyone failed reading. So they retook the reading program and the next year everyone failed math. So it is just where the focus comes from.

And there is legislation, I believe it is Federal legislation, but I am not positive, that says that all handicapped children have to have an individual education plan, an IEP. And in the State of

Tennessee, socially maladjusted kids, which is what the educational people call delinquents, are not entitled automatically to an IEP. So what we have done is funded a position with the Memphis city school system to do IEP's on all of our kids and then assure that that placement is made once they do the IEP.

And what we are finding is that they can bypass the either/or issue. They do not have to hold them back or they do not have to pass them, they can put them in an alternative program. And something like 90 percent of our kids in that school program are staying in school now, which is only one component of our overall project. But the school is sort of taking a different look at it.

For instance, my favorite story is a kid that quit going to school and was one of the 20 delinquents that we have, he was one of the 20 status offenders that we have out of the entire 1,800 population. We brought the kid in and talked with him and we said, why aren't you in school? It seems sort of critical that the judge sent you to us. We normally do not get this kind of case.

He said "I am not going anymore because they have had me in special education since I was 6 years old and I am not a special education kid." So we referred him to the school board and did an IEP on him. And sure enough he was not a special education kid, and he had been in that class since he was 6 years old. He was now 15 years old.

We looked at his resources, what he was doing, and they did an alternate placement on him. He is now in a vocational program. So I think there are other alternatives to what we are doing with the school system and where we can move kids.

I am not real sure how the competency thing fits in. There are all sorts of issues to that and we are currently struggling with them in Memphis. Because such a large percentage of our kids, something like 60 percent of our graduating seniors are reading on an eighth grade level, so now we are discussing like what we did in Florida about in the early 1970's. This is giving a certificate of attendance as opposed to high school diplomas. But I think we need to deal with them.

In the school system in which my wife teaches, if they decided to hold a kid back, they had to call and get the parent's permission to hold the kid back. So Florida has been doing some similar and different things.

Mr. ANDREWS. Well now, let me thank you for your answer, but let me go back and ask you what you do if there is no such alternative.

You have a student in, say, the third grade who does not know the capital of his or her State and who cannot read a relatively simple sentence. Should you promote the child to the fourth grade if your only other alternative is to fail the child?

Mr. WHITAKER. I do not think you should promote the child. All you are doing is passing the problem to another level. So the third grade teacher sends him to the fourth grade teacher and it goes on until they give him to the judge some day. So I think you have to deal with it on the level where it occurs.

Mr. ANDREWS. What do you think about that?

Mr. KRAMER. I was going to call on my colleague about that.

Mr. JAMES. I am going to be rather blunt about it. I think you are doing a disservice to both the child and the community by arbitrarily passing them on.

I think in our society it is almost impossible for a person to function if he cannot read or write. I think you are setting that person up for life-long failures by not getting him and teaching him how to read and write.

I do not think we have too many options in that matter. Almost any employment opportunity demands the ability to follow basic instructions, and if you do not have the skills to do that, you are creating a burden to society. And to pass a kid on from one grade to another without really giving serious consideration as to whether or not he is going to be able to effectively produce is a mistake.

Mr. ANDREWS. Thank you sir.

Mr. KRAMER. I would agree, too. I would not promote, and I think of education in a broad sense as John Dewey did, which is basically the sense that while you think you are teaching somebody math, if you yell at him, you are also teaching the way that you deal with frustration.

If you yell at him, you tell of the hidden curriculum. And the hidden curriculum here is, that you are saying to somebody that what you ought to learn is that no matter how poorly you do, you will be promoted. No matter how badly you do, whether you reach competence or not, we will risk you. So there is no reason that you have to struggle.

That is being taught as a lesson in the school and that is the problem. Until they face real life and they get out and they realize that when they face the problem it does not happen that way anymore. So we are teaching them unreality, and promoting them into social promotion only to find later that they will reach frustration. So as an educational system it is a lesson that is happening on a hidden curriculum that is poorly done in my view. And I think that we see the results.

If you go to the prisons you will find that 50 percent of the individuals that are there cannot read, as Project Pride has found out. And I would rather that they concentrate in the third grade over and over again until they read.

Even I know that it is a trade-off on the social promotion, there is kind of a stigma of not going with your peers. But better than that, they should go up and then realize in the sixth grade not being able to admit that you cannot read anymore until you bury it, and then you have to act out in ways in which you are not ready for work and you have anti-social behavior.

I think we have traded off in our psychological frenzies over the past decade to promote social integration in the sense that we have lost some substance. There is no problem obviously that has to be faced.

We have a problem which is racial. Because of the past behavior of society, and keeping race down, the question is whether there is a need for role models for the people to achieve positions? Should we not begin to promote people up to positions so there can at least be some role model for those in their race among blacks, and I am sure it is also true, I think, among Chicanos?

I think the answer to that has got to be on a lot of funds spent on tutoring and a lot of funds spent on providing the kind of opportunity for the achievement they can have, so when they reach their position probably the role models will be real. I think it is important to provide these opportunities with these funds spent in areas where people have been deprived.

I think the answer is not merely to promote people because of age or whatever without the basic skills. I think it would be a disservice to all.

Mr. ANDREWS. One reason that I asked and emphasized that, I must admit is a little personal.

My wife is a teacher. She taught the first grade. A couple of years ago, because of our frequent conversations on this matter, I started asking that question of many people that I meet: classroom teachers, parents, superintendents, people in law enforcement and so forth. I do not believe that I have found two out of a hundred who would not agree with your statement. Yet many jurisdictions go right on with the policy of automatically passing students.

I am inclined to take the other side, not because I know what is right or wrong, but because most of those people whose opinions I respect are of that view. Yet, as I said, in many areas it is considered proper to pass students simply because they were physically present for "X" percent of days during the scholastic year.

Basically it has to be the role of the public school or private school to educate our young people. There are others who can and should assist, but basically it is the duty of the school. I think that it is a great disservice not to really educate the kids. If it means they must repeat a course, then repeat it. If special tutoring is necessary, then that is where emphasis ought to be put.

I would like to see emphasis put in this assistance to the teachers and the schools and education and cause the parent to have the student understand that they are not being penalized. They are being specially treated, given a special opportunity to repeat if necessary and learn in stages, so that when you reach a stage you are prepared for that stage. Otherwise I do not think that they have much of a chance.

The second question I would like to raise with you is this: Why should the Federal Government take a direct role in juvenile delinquency. My good friend down here said, and I quote, "If we can get the children to perform well in schools the whole situation will be better."

Well, education is a State function, a local function. It is not a Federal function. It never has been a Federal function. The Federal Government may provide the money on top of local efforts, but education is a state function. Therefore what is the reason for the Federal Government to be involved in the matter of juvenile delinquency?

Can you give me a quick answer, Mr. James, as to the justification for Federal involvement?

Mr. JAMES. Very quickly, I would hope that we do not make the mistake of trying to isolate the problem. I agree with you that education is a state problem if you live in a highly mobile society where people transfer across State lines quite frequently.

Crime is a national problem. Part of what I had been trying to say is that education is one piece of that problem. In order to address the kinds of problems that we are talking about, you have to do it with a number of variables, education being just one.The others are unemployment, supervision and strength and then the parent unit. All of those factors have to be looked at. But you cannot tear the population down to one city and say you are going to remain forever.

We do see differences in the various jurisdictions across the country as people move from one jurisdiction to another. That, too, compounds the problem.

But I think it is an oversimplification to say that education is the single key issue. I think there are a number of issues that are interrelated and those have to be addressed.

Mr. KRAMER. Congressman, I would respond this way: When I graduated from law school I ran for the Board of Alderman and I made it because I knew that the power was in the city government. I served and I ran for legislature and I made that because I knew that I had to go to State house to get some help and I realized my limitations.

After I served there, in the 1960's when I went into law practice in public service law, I then went to the Governor's office as a chief assistant because I knew that the power was there. And after I failed to find the power there, I went to the judiciary chair and I am now here at the Congress. And what I have concluded is that we all I think know, is that we have a very pluralistic society with lots of powers in lots of places. And the Board of Alderman, State legislature, judiciary and the Congress together obviously share a lot of resources that they must combine with.

And the answer is not in Washington but is also in Washington, it is not in the State, it is also in the State. For in this one particular area being very specific, I worked 4 years on this particular project in trying to stimulate this process in sentencing procedures and the grants obviously are now received. This gives me a chance to test it, maybe replicate it and so if this experience helps in some way in some other places some defendants, it will help.

Through the two projects here, I think it is the job of the Office of Juvenile Justice, and I think they are doing is to try to pinpoint those programs that are working, experiment and do not replicate those that are not working, and disregard them when they prove that they are not working as well and then replicate those that do. And that is a process that I think is going on. With some failures are some successes, it is a very difficult area.

So I think that this committee in oversight must also check that office and see if it is doing its job and then decide where the next problem must go. So I think the Federal Government has a role to provide its resources and its evaluations nationally and to assist the States and cities. It has to be a mutual effort.

Mr. ANDREWS. Mr. Whitaker.

Mr. WHITAKER. My only comment is that I have very strong feelings about this both in the role of the legislative branch and then the Office of Juvenile Justice.

As far as legislation, the thing that comes to mind is that I relate back to Florida again. We had a thing in Florida called the mini-

mum standards for detention. I ran 2 of 23 detention centers. And we knew what the baseline was, and we dropped below that and it was not acceptable.

I think that the reason why you need minimum standards is because there are different levels of motivation for dealing with kids. I think it is reality that our system now, a lot of people talk about being burned out, and there are a lot of people leaving the system to go somewhere else. As you can find out in your motivation drop, you have to have some level from which to monitor what you are doing.

I see Federal legislation as providing that minimum standard, helping us all stay above the line being concerned about kids and maintaining the kinds of programs that kids should be involved in.

As far as the Office of Juvenile Justice, I will agree that I think that their money should be seed money. I think their efforts should be demonstration. We have some different opinions on the nature and responsibility of research, which I feel strongly about. But I think that their money should be the seed money to demonstrate what works and what does not work. And then back out and make the local communities pick them up.

I think there should be a match attached to all of the programs. But I think the answer and the solutions are at the local level.

It is almost like the Federal guidelines are now the negative thing, and there are people in Tennessee who would like to drop out of the juvenile justice act and just let them keep the money. There are not very many who would support the institutionalization in Tennessee.

And what our approach now is, is to try to show the people the credibility of the institutionalization beyond and above Federal guidelines. Because at this point they are saying it is bad because it is Federal, and we are saying it has credibility because it is a good program.

I see the Federal people coming on two levels and setting the guidelines and setting the standards and then stepping back. And I think we have demonstrated in Memphis 25 agencies which never before worked with delinquent kids are now doing it. They have the capability.

I will go out on a limb and make a strange statement. I think there is current funding in Memphis to support the diversion project without Federal money, and we are working toward that. I have worked with several other communities, and I think that other communities have the money. It is just a matter of showing people what can work and what can be directed and what can be expanded. At that point you do not need the Federal Government, so you can complain about them all you want to.

Mr. ANDREWS. I tend to agree with all of you.

Thank you very kindly. We will adjourn now until 2 p.m.

[Whereupon, the hearing was recessed, to reconvene at 2 p.m. this same day.]

AFTERNOON SESSION

Mr. ANDREWS. Let us take seats, please.

I am pleased to welcome all of you to the afternoon portion of the session. We should be finished by about 5.

I would like to, if I may, take note of the fact that Barbara Sarudy, Chairman of the North Carolina Juvenile Delinquency Committee is here.

Jack Gulledge is also here. He is from the North Carolina Association of Community Alternatives for Youth. Jack, we are very pleased to have you.

Our panel for the afternoon also includes a gentleman from North Carolina, Dr. Ian Morrison from Charlotte. He is representing the National Association of Homes for Children. If you come around, Mr. Morrison, you can select yourself a seat.

And Dr. Jerome Miller, director of the National Center for Action on Institutions and Alternatives of Washington, D.C. is here today. It is nice to have you, Doctor.

And we have Gary Baker, Child Welfare League of America. He is the executive director of their center in Kansas City, I believe.

Peter B. Edelman is also with us. He is the past director of the Division For Youth, State of New York.

Good, we are pleased to have all of you here, and if you have written statements, please submit them for the record and without objection they will be entered in the record in full as presented. As you speak, it is your option as to whether you read from your statement or paraphrase it. I prefer the latter. But some people prefer the former so we will let that be at your option.

If it is agreeable, I suppose we will call on you to make your presentation, in the order in which you were invited. And that means, Dr. Morrison, you would be first. We are pleased to hear from you.

[Prepared statement of Dr. Ian A. Morrison follows:]

PREPARED STATEMENT BY DR. IAN A. MORRISON, PRESIDENT, THE NATIONAL ASSOCIATION OF HOMES FOR CHILDREN

The National Association of Homes for Children is composed of small, campus-type non-profit institutions and community-based homes. Within its membership in every state it represents the major religious denominations which care formally for children.

The National Association of Homes for Children did not exist when the Juvenile Justice and Delinquency Prevention Act was passed by Congress in 1974.

For that reason and because so few of our member agencies are correctional or detention facilities, the now associated members were only dimly aware at that time of the Act's existence.

As we grew as an organization in 1975 and 1976, so did our perception of the Act and thus our approval of the congressional intent: to remove juvenile offenders from adult correctional facilities and status offenders from juvenile correctional and detention facilities. That intent we continue to endorse wholeheartedly.

We came to believe that the Act if implemented (despite the then existing administration's apprarent ennui) would correct the inequities which improperly labeled children and wrongly incarcerated many in prison type facilities. Our belief was premature.

In 1977 as our limited resources were directed to areas more pertinent to the care and treatment of dependent, neglected and abused children, our historical metier, we became uneasy with amendments to the Act, specifically the Miller amendment, which appeared to change and widen the original intent of Congress. The amended language permitted inclusion of children to the purview of the Act not conceived of in the original Act. The amendments appear to have been designed to achieve other goals than those understood to be included by Congress in 1974.

When OJJDP guidelines were published in March 1978 it became absolutely clear that the regulations were intent on achieving goals beyond the apparent original

intent of Congress and perhaps even more ambitious than the intention of the amendments. These goals are so far reaching that if they merit enactment into law, they should be accorded the full deliberative process of Congress. Radical change, no matter how meritorious it is thought to be by some, cannot be permitted in a democracy by administrative fiat. The loudly proclaimed self-righteousness of some of the proponents of changes mandated by the guidelines of March and August 1978 seem designed to obliterate other reasonable voices representing years of experience and realistic assessments of children in trouble.

The cause of the welfare of children quite naturally is one that universally arouses strong emotions and, at times, intuitions. The proper care, rearing and treatment of children is more an imperfect art than a science. Since children are universal, however, almost everyone considers himself an expert. In today's society those who can command the attention of the media because they possess the time and the money to present graphic public dramatazations can, with little further effort, appear to be superior experts.

Unfortunately a great many self-styled superior experts fail repeatedly to dispassionately evaluate data. Children are the victims again if the uncertain art of caring for them properly is itself pilloried because of the lack of forthright discussion or the failure to use unassailable facts fairly and dispassionately.

Evidence of these factors is present in the OJJDP March guidelines as "Modified" in August 1978. Although it is abundantly clear that Congress wished juveniles to be diverted from traditional reformatories and a traditional correctional system [1] and expressed its desire to see jurisdiction of as many youths as possible transferred from the "traditional correctional system" to the "social services and human resources networks,"[2] the guidelines referred to actually would prohibit the use of such alternate services. The August guidelines define a residential agency as "correctional" according to the number of beds or the presence of one or more adjudicated juvenile delinquents. This conflicts with the stated intent of Congress to provide social service alternatives for troubled youngsters.

The intent of Congress was to provide appropriate services for troubled youngsters. The March/August guidelines in their definition of "correctional" make the judgement, for instance, that all over-40-bed facilities are inappropriate for all status offenders.

Such a judgement immediately eliminates the utilization of such well-regarded treatment agencies as Boy's Ranch or Girl's Villa in Florida, Starr Commonwealth or Boysville in Michigan, Yellowstone Boys Ranch in Montana, the Elon Home or the Methodist Children's Home in North Carolina, or the Hershey School in Pennsylvania. Some of these very agencies which are directed by the Act to accept and care for troubled youngsters will be labeled "correctional" by the guidelines and will thus be ineligible to receive such children.

Rather than prolong here this discussion of the ramifications of the March/August OJJDP Guidelines, you will find appended to this testimony Appendix A, a position paper prepared by the Minnesota Council of Residential Treatment Centers in October 1978 which addresses itself to the specific areas affected by those guidelines. While the locus of the paper is Minnesota, its findings and sentiments are totally shared by all members of the association I represent and have been conveyed in one form or another to Congress by our individual members throughout the United States.

A few weeks ago, it came to our attention that the great concern aroused about the country by the March/August guidelines had resulted in the issuance of a draft of proposed new guidelines. The language, and apparently the intent of these proposed substitute guidelines appear to solve many, but not all, the problems created by the existing guidelines: guidelines that the OJJDP director now publicly states are "probably illegal."

It is our understanding that these newly proposed guidelines are being distributed for internal review. They almost repeat the language of the Act, as amended. Since we presume the language in these proposed guidelines is still being refined, we here address ourselves to it. At the same time we shall bring to your attention our continuing concern about some of the language in the statute as amended in order that you be fully aware of all the effects the statute will have.

I preface my comments about the draft of the new proposed guidelines by expressing our Association's thanks to Mr. Andrews and other members of this Subcommittee, as well as to numerous other members of both Houses, who, responding to their constituents' voiced concerns, were instrumental in having the OJJDP draft these revisions of the March/August 1978 guidelines.

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[1] Senate Report No. 95-165, p. 39.
[2] Ibid., p. 19.

The new proposed guidelines restrict the definition of correctional and detention facilities to "secure" facilities as defined in the August 16 Federal Register. The guidelines prohibit placement of status offenders and non-offenders in such facilities. We concur with this proposal and we consider it to fulfill the laudatory original intent of Congress to remove juvenile offenders from adult correctional facilities and to remove status and non-offenders from juvenile correctional facilities.

However, they also require that status offenders and non-offenders be placed in the least restrictive small, open group home settings near the youths' home communities. Just as the intent of Congress can be misinterpreted and distorted by the Federal Agency Regulator in writing Federal Guidelines, so the 50 different state regulators can misuse the following loosely written, open-ended Federal Guidelines:

For the purpose of monitoring 223(a)(12)(B) of the Juvenile Justice and Delinquency Prevention Act regarding out of home placement for juveniles described in 223(a)(12)(A), such juveniles, if placed in facilities, must be placed in facilities which:

(I) Are the least restrictive alternatives appropriate to the needs of the child and community;

(II) Are in reasonable proximity to the family and the home communities of such juveniles; and

(III) Company with 103(1) of the Juvenile Justice and Delinquency Prevention Act, in that they must be community-based which means a small, open group home or other suitable place located near the juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, and other rehabilitative services.

What is "small"?

What is "least restrictive"?

What is "open"?

What is "near"?

What is "reasonable proximity"?

If the definitions of these terms remain those of the August 16, 1978 Federal Register, then:

The Florida Sheriff's Youth Ranch is—

Too "big".

Too "far" to receive from, for example, Broward or Dade Counties.

Within the Guidelines and definitions, the Florida Sheriff's Youth Ranch programs could not care for youth any longer.

Even though it encourages, promotes and facilitates the maintenance of family relationships, parent and child bonds, visiting between youth and families both at home and in the programs.

Even though it maintains Family Service offices throughout the State which work with the families of youth in care to enable the families to receive the youth back into a stable, well-adjusted home environment.

Even though it cares for its youth in small, home-like well-supervised cottage settings.

Yellowstone Boys Ranch in Montana is likewise "too big" "too far" and "too restrictive" to continue to serve troubled youth who happen to be labeled status offenders or even to serve unfortunate dependent/neglected children. It does not matter that Yellowstone Boys Ranch is the only repeat only program accredited by the Joint Commission on Accreditation of Hospitals in the entire vast area bounded by Minneapolis, Denver, and Seattle.

This sophisticated and effective program would be unavailable to youth throughout this entire area because it is "too far" from their home communities—too far even from a community within the State itself, such as Libby, Mont. What are youth in need of such a program to do? What are the many communities within this vast area to do? Each establish a JCAH accredited program? For the two or three youth in each community who need such a program?

The Guidelines and definitions would include as "too big", "too far", or "too restrictive" such programs as:

The Baptist Children's Homes of North Carolina.

The Methodist Home for Children in Raleigh.

The Elon Home for Children in Elon College, North Carolina.

The Episcopal Child Care Services of North Carolina in Charlotte.

The Boys Home of North Carolina in Lake Waccamaw.

Anyone familiar with these programs knows the voluntary support they receive from North Carolinians and the esteem in which their services are held. Does

Congress really intend that troubled and unfortunate children and families in North Carolina can no longer avail themselves of the services of these voluntary, non-profit agencies?

Starr Commonwealth for Boys in Albion, Michican, is "too big" to continue to admit troubled boys to its unique, nationally recognized program. It is "too far" to continue to admit boys from Flint, Michigan or Detroit who might profit enormously from the services it provides.

Ironically, these non-profit, citizen-controlled Agencies with long established reputations for effective service supported by voluntarily contributed dollars would need to be closed and in their place would probably be substituted:

More expensive, wholly tax-supported programs at a time of fiscal conservatism.

Government sponsored programs at a time of recognition that government has expanded far enough.

Public agency operated programs at a time when voluntarism and citizen involvement are crucial to our nation's interests.

In effect, those "human service and social service networks" to which Congress wanted youngsters diverted would be prohibited from doing what Congress intended. Our member Agencies constitute much of the "human service and social service network" which is the alternative to the traditional juvenile correctional system. In draft language for the Federal Register to accompany the new proposed Guidelines, the OJJDP Administrator confirms this by stating that "* * * it is inconsistent with the deinstitutionalization mandate of the JJDP Act to classify large, non-secure, non-community-based facilities as being juvenile detention or correctional facilities."

Having heard our concerns about the new proposed Guidelines, you deserve to hear our recommendation for improvement. Since the new draft Guidelines propose to follow the statutory language we recommend that OJJDP delete the mandate in 52n(2)(b) that youth must be placed in small facilities near their home (as opposed to larger facilities, or facilities not near their community). A reading of the JJDP Act does not reveal this mandate although it does seem to reveal congressional intent to place youth in such facilities whenever possible and appropriate. Recommended wording of such a revision appears as Appendix B. Our recommended wording would remove the mandate which does not seem part of the Statute while, at the same time, retaining the statutory language. It leaves the judgement about appropriateness of placement to the responsible professional placement authorities. A mandate leaves no room for professional judgement; a mandate ignores the individual needs of children; a mandate disregards the varying resources of individual communities.

Finally, it should be noted that our recommendation for improvement is constrained by the wording of the JJDP Act itself which, with the above exception, is reflected in the new proposed Guidelines. We must, therefore, briefly address the Statute itself—specifically the so-called Miller Amendment which constitutes Section 223(a)(12)(B) and relates to the definitions in Section 103(1). This Amendment and the Guidelines which flow from it have the effects described elsewhere in this testimony. Congress must answer the obvious questions: Does Congress intend to make unavailable to families and children the services of The Florida Sheriff's Boys Ranch, Starr Commonwealth for Boys, Yellowstone Boys Ranch, The Baptist Children's Homes of North Carolina and hundreds of other like Agencies? Does Congress intend to declare them "too big," "to far," "too restrictive" to continue to serve families and children? Does Congress intend to declare this part of the voluntary non-profit sector inappropriate, unneeded, and even counter to the best interests of children and families? Are such Agencies and programs not part of the "traditional human service and social service networks" that Congress intended to encourage? The answers represent a watershed in the proud 150 year history of voluntary services to children and families in the United States.

Before I conclude, I must express our Association's very deep concern that the OJJDP be continued at its present $100 million funding. Our member agencies are concerned that the proposed 50 percent reduction in funding will severely impede the Office's ability to fulfill the very important and desirable original intent of this Congress to protect youth from association with adult criminal offenders and to remove status and non-offenders from correctional facilities. It is unthinkable that Congress should allow progress toward this goal to be aborted and undone. Thank you.

APPENDIX A

MINNESOTA COUNCIL OF RESIDENTIAL TREATMENT CENTERS POSITION RELATIVE TO REQUIREMENTS FOR STATE PLANNING AGENCIES PARTICIPATING IN THE JUVENILE JUSTICE DELINQUENCY PREVENTION ACT

(Paragraph 52 issued July 25, 1978, by the Office of Juvenile Justice and Delinquency Prevention)

MAJOR CONCERNS OF THE MINNESOTA COUNCIL OF RESIDENTIAL TREATMENT CENTERS ON LEAA GUIDELINES

1. The LEAA Guidelines will discourage private philanthropy and support in the field of child care (see addendum No. 1).
2. If the residential treatment centers are able to continue operations in spite of the LEAA Guidelines community-based definition, the State will lose over half of its residential treatment beds and approximately half of the state will be totally without residential treatment service (see addendum No. 2, page 1 and addendum No. 8).
3. LEAA Guidelines erroneously assume that maintaining the child's linkage with family and the least restrictive alternative can only be achieved by limiting the area of service (see addendum No. 2, page 3 and addendum No. 3).
4. LEAA Guidelines erroneously assume that big institutions are bad and ineffective for serving problem children (see addendum No. 3).
5. LEAA Guidelines erroneously assume that community-based treatment is superior to institutional care of emotionally disturbed children (see addendum No. 3).
6. LEAA Guidelines erroneously assume that labels clearly distinguish the treatment needs of children (see addendum No. 4).
7. LEAA Guidelines erroneously assume that small individualized residential programs can only be achieved by limiting the total size of an institution (see addendum No. 5).
8. LEAA Guidelines will be extremely costly to Minnesota if implemented (see addendums No. 1 and No. 6).
9. The continuum of institutional services for children in the State, whether dependent neglected or offenders, would be totally disrupted (see addendum No. 7).
10. LEAA Guidelines discriminate against children who are mentally ill or emotionally disturbed (see addendum No. 10).
11. As Minnesota organizations and groups discover the impact of the LEAA Guidelines they support the MCRTC position that private institutions must be excluded from the Guidelines (see letters of support).

ADDENDUM 1

Historical philanthropic development of residential treatment centers in Minnesota—How would LEAA guidelines impact on private giving?

Historically, major religious groups were the first in the State to address the problem of caring for dependent and neglected children whose parents died or became dysfunctional due to the rigors of settlement in the State. In the 1850's these children were first cared for in convents or private homes that were recruited by priests, nuns, or ministers of the communities. As numbers of children increased, this method of dealing with the problem became inadequate. Therefore, in the late 1800's local congregations raised funds to build and sustain orphanages. These orphanages cared for the children until they could find families who were affluent enough to adopt them.

When the juvenile court system was developed the State built the Red Wing State Training School for Boys and the Minnesota Home School for Girls to provide correction for adjudicated delinquents. This occurred in the early 1900's. Somewhat later the State developed adolescent psychiatric units in the State Hospitals to receive children who were committed as mentally ill.

As Minnesota families became more affluent, more families became available to adopt children from the orphanages. The children who were placed, however, were the normal children in the population who could adapt to new parents and normal family living. This left children in the orphanages who required the help of special services if they were ever to be able to adapt to normal community living.

To respond to the needs of these disadvantaged children the orphanages added mental health services to the existing services of nurturing, care, and education so they could return even more of the children in their care to normal community living. In the 1950's their model of service became what came to be known as residential treatment, and they began identifying themselves as residential treatment centers rather than orphanages.

With the residential treatment model of service they were able to eliminate the need for children to stay in their centers for numerous years of their childhood before they returned to normal community living. As their effectiveness in habilitating and rehabilitating children for normal community living became apparent, they began to receive requests from welfare protection services to help treat children who could not adjust to normal community living due to dependency and neglect, and who had the potential to respond to residential treatment. In addition, they received referrals from juvenile courts, probation officers, and professionals in correctional institutions who found children in their system who were more likely to be rehabilitated by residential treatment rather than a more restrictive or punitive correctional approach. Further, schools who could not educate a child because of the child's inability to relate to normal social situations began to refer children. Also, psychiatric wards who found children in their midst who needed longer term development than was financially feasible in the expensive hospital setting would refer children. Even parents, in hearing from other parents of the success of these centers in helping their problem children to adjust to family living, began to seek services.

Over time, the demand for their services became so great that private philanthropic giving could no longer sustain the services that were demanded to help the children that the centers were being asked to serve. In order to maintain their goal of serving and returning children to more normal community living rather than becoming dumping grounds for disabled children, the residential centers required that public dollars accompany the children who were referred so they could provide the services and accomplish their goal.

Residential treatment centers have also wanted to maintain the position of helping parents raise their children rather than become substitutes for parents. They have required that parents ready themselves to receive the child home by involving themselves in services that would enable them to do this. When parents were totally disabled in this regard, foster care is a condition of placement.

Residential centers in Minnesota have avoided becoming a substitute for the development of other community services that could better serve children by accepting for placement only those children whose symptoms are such that they require the total care approach of the residential treatment center. Further, residential treatment centers have maintained a respect for the rights of every child in their centers, for health, safety, and the opportunity to grow. Consequently, they have not accepted or retained children in placement that are so beyond the control of the center that they jeopardize the rights of other children.

It is within these conditions that residential treatment centers have become what they are today. Namely, a service system that has historically adapted to serve the needs of dependent and neglected children in the community. They have served such children regardless of the service system which identifies them without becoming subordinate to any one system.

Whereas only the largest centers (7) in the State remain under the direct auspices of the boards of major religious groups, most of the centers have their roots in that sphere and have community boards who conduct the programs based on traditional Judeo-Christian values concerning (1) the right and responsibility to serve one another, (2) to preserve family life, and (3) to protect the right of every child to the opportunity for full human development.

These institutions, along with others, have formed an association known as the Minnesota Council of Residential Treatment Centers. Membership in this organization commits the members to a common philosophy of child placement (see addendum No. 9). Within this philosophy these centers have developed a variety of residential treatment modalities that respond to the needs of a variety of disturbed children. With the common practice of receiving any child who can benefit from their service these institutions offer, in combination, a wide variety of residential treatment options. This diversity of residential treatment practices is needed in the State to respond to the wide range of problems that are exhibited by children who are in need of residential treatment.

It is our conviction that the value base of these institutions is responsible for the fact that Minnesota has a national reputation for having the highest quality of private institutional care that can be found anywhere in the nation. The scandals in institutions of abuse and misuse that have occurred in other states and that are responsible for the current attacks on institutional care have not occurred in Minnesota in any of the MCRTC residential treatment centers.

Although most of the current operations of these institutions are funded by tax paid per diem rates, millions of dollars worth of capital, volunteer services, and private contributions are drastically reducing the cost of this care to Minnesota Taxpayers.

It seems inconceivable that the law intended that this work of love by so many Minnesotans be dismantled.

It seems unlikely, however, that private supporters of these institutions would be likely to continue the level of support that currently exists if they cannot determine the nature and quality of the service that they support or open their door to any child who can make use of their service. LEAA guidelines would be in conflict with their values and would be very demoralizing to their efforts.

ADDENDUM 2

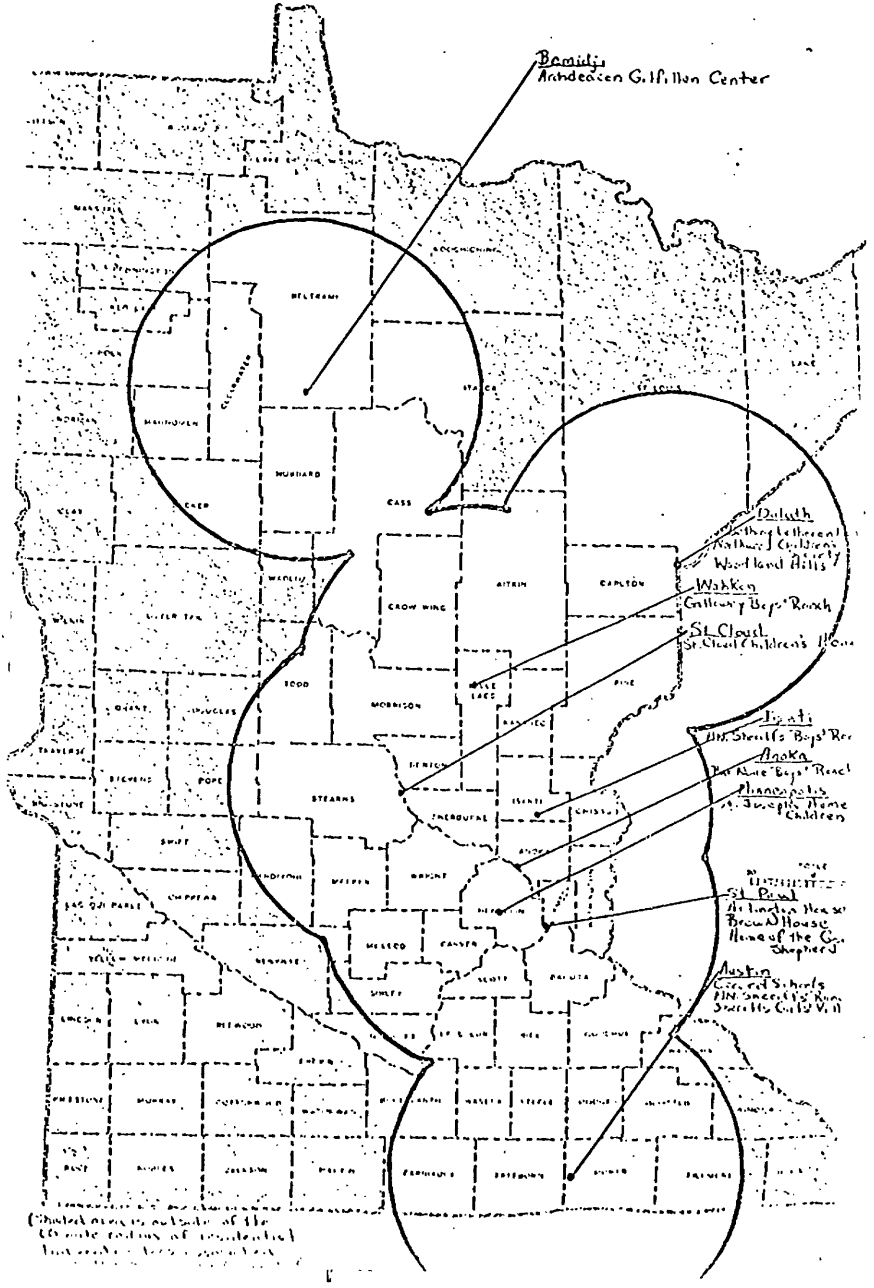
The Minnesota Council is very concerned about the current definition of community based as contained in the LEAA guidelines

It is our understanding that this definition means that a child placed in a residential facility would not be further from his home while in placement than sixty miles. We believe that this definition is extremely restrictive, particularly for a rural state such as Minnesota. We believe that the rationale for the community based need was developed with the concept that a child should be worked with along with his family in order to have a more successful integration back to their family and community living. We concur that family involvement as a part of the treatment process is an essential ingredient and have made several efforts to include families as well as to upgrade services available to the total family while the child is in treatment. The arrangements currently are either for programs to do this through their own services or through contractual arrangements with other agencies.

To illustrate our concerns more graphically, we are attaching a copy of a map of Minnesota which will outline for you the names and locations of residential treatment centers and the geographic area that would be served with the sixty mile radius if this definition were enforced. You will note from the map that a good deal of the State of Minnesota would be without service, which would be a disservice to the people in the area as well as to the children in need of care. In reviewing the map, I would also ask you to note that not all centers deal with the same age group and therefore, the possibility of the geographic area being made even smaller is well within the realm of possibilities. Another factor which should be considered is that in surveying the five metropolitan counties, it was determined that they make placements in residential treatment centers in excess of 800 youngsters per year and there are an insufficient supply of beds in the Twin Cities metropolitan area to handle that need under the community based definition. Therefore, the restrictiveness of this definition becomes even greater even in those areas that have a residential center within sixty miles.

Also attached you will find a list of residential centers and their policies and services related to working with families and attempt to maintain and support the family unit. These services are currently provided regardless of the location of the family or distance from the treatment center.

MINNESOTA ADDENDUM 2, page 2



Information regarding family involvement in treatment

Archdeacon Gilfillan Center.—Families are expected to be involved from the very beginning and a child will not be seen unless the family is involved with the exception of instances where it can be documented that the child has no parents, they are incarcerated or not available. In cases such as this they will insist that any relative of the family become involved. They expect that the family is involved in family therapy on a regular basis—if the family later decides not to support the placement, at times the Agency will attempt to obtain a court order to get the family into treatment. At other times they may hold the family to their committment by offering therapy in their own home. They offer family unit parent education, awareness sessions, chemical dependency (sometimes), parents retreats which last 3-4 days, weekends for parents to deal just with their own issues which may not necessarily be related to the child in placement, and family camps for a number of days during the summer. He stressed the fact that they spend a lot of time on the road visiting with families.

Arlington House.—Families are not expected to be involved but are strongly encouraged to attend intakes and quarterly staffings. Family involvement is based on the decision of the family as well as the diagnosis. Attempted to set up a parents support group a year ago, however, most parents did not attend. Any therapy that is done is done on an individual basis although there is often a struggle with setting a time and location to meet. Majority of referrals come from the metro area—Dakota, Ramsey, Hennepin and Scott Counties. Require family involvement if a child is returning home.

Bar-None Boys' Ranch.—Family involvement is more of a philosophy than a method and this is very strongly encouraged, particularly if the plan is for the child to return home following placement. If the family refuses involvement during the entire length of the placement, they will not accept the child. They offer parent education groups, parent discharge groups, parent psycho-therapy groups, marriage counselling, conjoint family groups and individual family group counselling. They also have an office in South as well as North Minneapolis. They will meet with parents at the Ranch or, if necessary, go to their homes.

Bethany Lutheran Home.—Agreement to be involved in family therapy does not affect placement of the child, however families are strongly encouraged to be involved. Methods they use to obtain family involvement are to visit the family home and offer pre-placement visits. The majority of their clients come from the Twin City area. They do utilize Lutheran Social Services in the cities and will probably be using them more and more.

Brown House.—The majority of clients have very little family involvement, however, if a girl is to return home, prior to discharge 4-6 sessions are set up specifically for family involvement. After one month in residence, a contract is set up to determine how much the family will be involved. (Out of 14 girls in residence, approximately 6 of them have their families involved in therapy.) Others have families involved in staffings and visits only. The Agency does have a parents group which meets every other week and on alternating weeks they offer individual family therapy sessions. On occasion they have gone to family homes, however, transportation is not provided so this occurs only on a limited basis.

Galloway Boys' Ranch.—Placement of a child is not contingent upon family involvement but involvement is strongly encouraged. The majority of referrals come from the five-county metro area (Hennepin, Ramsey, Dakota, Scott, Anoka).

Gerard Schools.—They offer individual family sessions both at the Agency and in the family's home community. There is a parents' group in the community where a number of parents who have children in placement are located and this is more therapy oriented. They also have a parent organization which meets 6 times a year and this is more total and global in nature in that they have officers and may make recommendations to the center regarding various aspects of treatment. This involves parents with children in residence as well as those parents who have had children in residence. They also have a transition group which is a follow-up program where parents begin involvement in the last month or two prior to discharge of the child and continue to be involved for some months following discharge of the child.

Home of the Good Shepherd.—Family involvement is not required at placement, but is strongly encouraged. Have difficulty with parents who live further away and are not readily accessible. They offer a parent support group which deals with the pre-release phase of a child in residence and making a smooth adjustment in returning home. Periodically they offer a series of parent education sessions. Majority of referrals come from the surrounding five metro counties—Ramsey, Anoka, Washington, Scott, and Hennepin.

Minnesota Sheriffs' Ranches.—Families are highly encouraged to get involved but do not place a heavy emphasis on therapy. They attempt to determine during placement if going home is an alternative and if so, they try to work out the dynamics prior to discharge. They had a staff person who was doing some family work (she has now gone back to school) but this was primarily at the Girls Villa. The majority of referrals are from the Twin Cities and Southern Minnesota.

Minnesota Sheriffs' Girls Villa.—This Fall they hired a part-time family coordinator who meets with families in the metro and Austin areas. Families are notified of when the meeting will be held—is primarily a support group. Family involvement is not required but highly encouraged. Families are involved in the staffings of clients and as needed. A great number of contacts are made by phone. The majority of referrals are from the metro area and the Southeastern part of Minnesota.

Northwood Children's Home Society—A contract is set at intake stating whether the parents prefer to have conferences at the Agency or elsewhere. The contract is set in order to: (1) stress the importance of their involvement, and (2) educate the parents about the child's problems. The social workers at this agency are exploring the possibility of developing a parent group. They try to maintain at least monthly or bi-weekly contact with the family. 75 percent of their referrals are from the Twin Cities.

St. Joseph's Home for Children.—Parental involvement is a part of treatment and they will not accept a child unless parents agree to be involved. Families are seen at least once a week and are seen as family units. The majority of referrals come from the metro area—Hennepin, Ramsey, Washington and Scott Counties.

Woodland Hills.—The Agency has a policy that requires the family to meet with the social worker of their agency at least once per month. If the family cannot meet at the agency, the facility will arrange to meet them in their home. Some staffings are conducted in the cities for the benefit of parents who cannot travel to Duluth. These staffings are conducted on a monthly basis and in some instances, weekly sessions are scheduled. It was noted they have a surprising number of family sessions and all are documented. Almost 100 percent of them are conducted at the agency or in the county of the referring agency. They will accept a child for placement if the parents refuse to be involved. They offer sessions for the parents, child and social worker; social worker and referring worker; and, at times, a staff member and referring worker will co-hold family sessions. The majority of referrals are from the Twin Cities—which is 150 miles away.

St. Cloud Children's Home.—Family involvement is highly encouraged, but not required when placing a child. Therapists meet with parents and/or have phone contact with them at least once per month. Parents are invited to staffings and reviews. A Family Day is scheduled during the summer for families of all students in residence. The majority of referrals are from Hennepin and Anoka Counties.

Minnesota Sheriffs Boys' Ranch (Isanti).—The center has placed very little emphasis or pressure on counties to insist that families become involved as over half of the clients in residence will not have an opportunity to return home. It is essential that therapists contact families prior to and following home visits to review what has occured, to review the goals and the child's behavior during the home visit as well as while in residence. They have attempted scheduling voluntary family sessions, however, this has not been very well accepted. The majority of referrals are from the metro area.

The following counties were contacted to determine the approximate number of clients served in residential treatment on a yearly basis: Ramsey County—255; Anoka County—125; Washington County—112; Dakota County—125-150; and Hennepin County—250.

ADDENDUM 3

Community based treatment—deinstitutionalization—the least restrictive alternative: Let's build these concepts without hurting children

The above mentioned concepts of care are very sound and deserve the support of everyone who is interested in the care of problem children. They were supported by the Minnesota Council of Residential Treatment Centers long before they were articulated as policy directions by Federal direction setters. They are new concepts, however, and programs that have been designed to carry them out are still in the process of proving themselves. As much failure as success is reflected in studies of these new programs. Where failure has existed in communities that have abandoned traditional services in favor of these concepts both children and communities have lost because of lack of service, but children have been the big losers. Frustration by the community at the ineffectiveness of these programs has expressed itself

in a regression to the more punitive approach to offenders that proved so ineffective in the early days of corrections.

One extensive study that was prepared for the Illinois Law Enforcement Commission by the American Institute for Research (UDIS: Deinstitutionalizing the Chronic Juvenile Offender, Jan. 1978) strongly challenges earlier assumptions that community based treatment is cheaper and more effective than institutional care. According to the study, both modalities were equally effective—cost differential was insignificant—institutional care was as effective and with what was judged to be a more difficult population to serve.

MCRTC believes, based on its collective experience, that under proper administration both modalities are humane, cost effective forms of help for problem children whether they are identified by the Correctional system or other systems and that both modalities of service must co-exist for the cost effective care of children. To dismantle the private institutional system in Minnesota in the absence of a proven community-based system would be very costly in terms of dollars, the welfare of children, and the tranquility of Minnesota communities. It is far easier and cheaper to dismantle an institutional system than it is to rebuild it. We urge Minnesotans to look before they leap.

ADDENDUM 4

Artificiality of labels for determining the treatment needs of children

An examination of data collected on residents of St. Joseph's Home for Children and the Hennepin County Welfare Department revealed no statistical differences existed between children who are labeled "dependent and neglected," "status offender" or "offenders."

ADDENDUM 5

Artificiality of numbers for judging an institution suitable for correctional versus status offender and dependent and neglected children

Through concepts of centralized decentralization many residential treatment centers in the State have achieved small individualized treatment units (8 to 12 children) within the context of a larger total number of beds (40 to 60). Through this concept several programatically separated units that share a common administration and a centralized support system are established.

This concept allows much higher quality services to be afforded to children in the individual units at a much cheaper cost than would be possible if the same quality service were offered in an isolated program that is 8 to 12 beds in total size.

Furthermore, there is no data to suggest that large residential treatment centers that employ the concept of centralized decentralization are any less effective than small isolated units. To the contrary, a study conducted by Hennepin County Welfare Department and published in the recent Hennepin County "Youth in Crisis" Study revealed that children placed in residential treatment centers in the state achieved a higher rate of goal attainment than those placed in small group home programs. This is in spite of the fact that residential treatment centers traditionally serve a more disturbed population than do group homes.

ADDENDUM 6

Cost of providing residential treatment based on size of population

1. *Program on which basing comparison.*—For the year 1979 the budget was based on maintaining an average daily population of 51.5 children, with licensed bed capacity being 55, or budgeting at 93.64 percent of capacity. The per diem on this basis is $51.50. The children reside in 7 separate cottages, with 7 or 8 children per cottage. Administration, social work and other staff offices, classrooms, gym, etc. are located in other buildings.

2. *Per diem cost based on providing same services and care for 40 children in same location.*—Two of the existing cottages would be closed, leaving 5 cottages housing 8 children each. Staff positions that would be eliminated: 10 child care workers, 1 social worker, and 1 support staff. In addition to these salary and benefit cut-backs in the budget all other line items were adjusted according to what would still be needed to provide the same level of services and care as with the larger population. The final budget figure divided by 38 children average per day equaled a per diem of $58.78. Budgeting on 38 would be budgeting at 95 percent of capacity. Budgeting at 40 or 100 percent, would mean a per diem of $55.84.

3. *Per diem cost based on providing same services and care for 20 children in same location.*—Four of the cottages would be closed, as well as closing off some of the classrooms and offices. Three cottages would be used to house the 20 children with 6

or 7 children per cottage. Staff positions terminated would be: 20 child care workers, 2 social workers, Director of Social Services, and 4½ support staff. Psychiatric, psychological and other consultants' time would also be cut back. All the other budget line items would be cut to the point of matching up to meet needs at the same level of service and care to 20 children. After these cuts are made the per diem required to meet budget would be $73.21 budgeting on 20 children per day average, or at 100 percent. Budgeting on 18.5 average population or at 92.5 percent of capacity the per diem would be $79.15.

4. *Summary.*—There are given line item costs such as: building and grounds, equipment, vehicle, utilities, insurance, accounting and auditing, clerical, etc., that cannot be reduced beyond a given minimum related to population size if the same level of services and care is to be maintained. With reductions made, especially with budget figures for serving 20 children, one is already realizing some loss in providing as much consistency in programming. This occurs because of less consultant time being available to program and staff time related to some positions having to take on a broader range of responsibilities to total program.

ADDENDUM 7

Residential treatment should be protected as a right of any child in the State who is in need of this service—regardless of which system identifies his/her need

As the LEAA Guidelines were last published, residential treatment centers would be forced into specializing based on serving those children labeled "status offenders" and "non-offenders," or "juvenile delinquents." To do this would lessen the alternatives available to children versus increasing the alternatives. Persons in county welfare departments, county probation departments or court services, mental health clinics, schools, psychiatric settings, etc. who have responsibility for finding appropriate placements for children based on the children's and their families' needs would find fewer options available and in all probability some children having to be placed at an even greater distance from their home and community. This is one way that the continuum of services for children, based on individual needs, could be affected negatively should the guidelines be promulgated as written.

The other side of this same issue, relating to many options being preferred as a continuum of services for children, is that in some situations the preferred approach for children is to have them at some distance away from their home life, community, and peers. The distance barrier is utilized to aid in helping them initially feel emotionally detached from their former disturbed and/or disorganized world and relationships. The various forces and relationships that were a part of their daily life no longer loom as a big threat or something they need to challenge or seek out to protect their own emotional and/or physical well-being. They can then more objectively look at their daily behaviors, and what and how they communicate with adults and peers without it endangering their position further with family members, peers and significant others in their home community. They are provided the opportunity to first reorganize and make some decisions about their own lives before moving gradually back into their family and/or community.

What the distance factor must be for these children differs based on how disruptive the family or peers might be to the child or program, or how disruptive the child might be in trying to use the family or former peers. To close an institution simply because of the distance between an institution and some of the communities from which children have been placed could be removing one particular option—it does not guarantee that better care or treatment service options will be provided in its place for these children.

ADDENDUM 8

The autonomy of private institutions to control intake is necessary in the interest of effective institutional care.—LEAA Guidelines would diminish that control by narrowing the population which can be served by a center.

Private institutions as private corporations have a right to deny the placement of children in their settings on the basis that the program offered is not adequate to meet the needs of the child and will result in harm to the child and/or the children who are already in residence. This right to deny admission exists even in the event that the child is committed by the court. The court commitment merely means that the child and family must accept placement—not that the center must accept the child.

This right has prevented our programs from being rendered ineffective by becoming over-populated or by having children in the group who disrupt the lives of other children because we are unequipped to provide needed services. It also allows us to

maintain a homogeneous grouping of children which is often as important to effectiveness as is the design of the program itself.

This practice of controlling intake is widely misunderstood as taking only the cream of the crop to enhance our effectiveness. In reality we can serve the most difficult to manage child because we have the latitude of homogeneous grouping and to deny inappropriately referred children. Many public institutions have failed because they have not been permitted that latitude and have had to attempt to be all things to all people.

ADDENDUM 9

Philosophy of child care and child placement

The Minnesota Council holds the belief that placement of the child outside of his family unit must be based on a sound professional diagnosis, that this action is in the best interest of the child, and, further, that as this diagnosis is made, the child and his family have a right to such services. In this context, the child has a right to placement in a setting that has the capacity to respond to the major service needs that must be met to insure the child's healthy growth and development as determined by competent diagnosis.

Placement decisions should be guided by the following principles:

(1) Placement decisions should safeguard the child's need for continuity of relationships. Particular attention should be paid to the relationships that contain the elements of psychological parenthood.

(2) Placement decisions should reflect the child's sense of time.

(3) Child placement decisions must take into account the laws in capacity to supervise interpersonal relationships and the limits of knowledge to make long range predictions.

(4) Placement should provide the least detrimental alternative for safe-guarding the child's growth and development.

(5) The child, in any contested placement, should have full party status and the right to be represented by counsel.

The Minnesota Council of Residential Treatment Centers holds the belief that the family is the basic unit of support and nurturence for the child. It is in this perspective that its various programs are designed, wherever possible, to promote the reintegration of, or strengthen the child's basic family unit.

The Minnesota Council of Residential Treatment Centers assumes that when a child is referred to one of its member programs that it is not necessarily because of a broken or irreparably dysfunctional family unit. Many children are referred to its centers because of other problems that require attention which is available through a residential service agency. It further assumes that no child can be treated out of the context of his family, where he lives, and where he will be returned to following placement, and that it is a professional responsibility to insure the continuity of meaningful, growth producing relationships in the best interest of the child.

The Minnesota Council believes that growth of individuals stands to be impaired and cannot be facilitated outside of an environment that does not afford respect for the individual and his needs. This includes the need for safety from physical harm and health hazards. In this context, it perceives basic child care as the foundation for all treatment planning and implementation with the goal of a healthy, safe environment that even surpasses legal and county administrative expectations. Further, particularly in the context of respect, that children be held free of labels that serve to harm the child's identity, self-concept, and that promote negative responses from other individuals.

The Minnesota Council believes that professional responsibility to insure the best interest of the child is superseded only by legal boundaries and that it is a professional responsibility to address all boundaries, however well intentioned, that interfere with the best interests of children.

The Minnesota Council of Residential Treatment Centers believes that legal regulations are necessary to define and reinforce minimum standards of child care. However, such regulations cannot insure quality child care, and may, in fact, interfere with same unless administered with an adequate appeals process that is geared to weigh professional opinion. It believes that quality child care is a professional development of the art. Further, that quality child care is best achieved by mechanisms which award self-responsibility for achievement on the part of professionals and organizations who endeavor to care for children.

The Minnesota Council of Residential Treatment Centers holds that its philosophy is grounded in the most advanced professional knowledge concerning the best interests of children. Further, that all legal, administrative, and financial issues that serve as barriers to implementation of this philosophy must be addressed in all

seriousness in the best interest of the child and the community. As an organized body of professionals who specialize in child growth and development, it holds itself responsible for positive action concerning its members, the community, and various legal and organized bodies in the community that impact on child care in order to insure the best interests of children.

ADDENDUM 10

The Minnesota Council believes that the enforcement of these guidelines on residential treatment centers is discriminatory against youngsters who are mentally ill or emotionally disturbed.—We believe that mental illness or emotional disturbance is identifiably separate and apart from juvenile delinquency and that the two should not be lumped together.

It is our understanding that there is no attempt to enforce these rules on facilities who care for the mentally retarded, the chemically dependent, the physically handicapped, hospitals, or private boarding schools. Yet, in these facilities I am sure that you could find adolescents who have committed juvenile offenses and who may be considered a juvenile delinquent. It would appear that when these youngsters are placed in those facilities, it is determined that they need help for those specific disabilities and/or problems and the status of a juvenile delinquent is disregarded. We therefore believe the disabilities associated with the mentally ill or emotionally disturbed should be treated likewise. This would go along with the theory and concept that you treat the problem as is needed by the individual and that you do not treat the symptom. We believe that children with mental illness or emotional disturbances have the needs for specialized care as much as any other disability.

APPENDIX B

52(n)(2)(b). For purposes of monitoring 223(a)(12)(b) of the Juvenile Justice and Delinquency Prevention Act regarding out of home placement for juveniles described in 223(a)(12)(A), such juveniles, if placed in facilities, must be placed in facilities, which in the judgment of the referring authority,

(I) Are the least restrictive alternatives appropriate to the needs of the child and the community;

(II) Are in reasonable proximity to the family and home community of such juveniles; and

(III) Provide the services described in Section (103)(1) of the Juvenile Justice and Delinquency Prevention Act.

STATEMENT OF IAN A. MORRISON, PRESIDENT, THE NATIONAL ASSOCIATION OF HOMES FOR CHILDREN

Dr. MORRISON. Thank you, Mr. Congressman. We are pleased to be here, we thank you for inviting us. I represent the National Association for Homes for Children which is composed of small campus-type, nonprofit institutions and community-based homes through the United States and within the membership of every State it represents the religious denominations which care formally for children.

It is a new organization. It did not exist when the Juvenile Justice and Delinquency Act was passed in 1974, and I must say for many reasons in the intervening years we did not have much occasion to pay attention to that act until the amendments were made in 1977 and guidelines were issued earlier this year. When those guidelines were published in March of this year, it became clear to us that the regulations were intent on achieving goals beyond the apparent original intent of Congress. And they were perhaps even more ambitious than the intent of the amendment.

It also seems clear that Congress wished juveniles could be diverted from traditional reformatories and traditional correctional systems, and they expressed a desire to see jurisdiction of as many youths as possible transferred from that traditional correctional system to the social services and human resources network.

The guidelines referred to actually would prohibit the use of such alternative services. The August guidelines, for instance, defined as a residential agency as correctional according to the number of beds or the presence of one or more adjudicated juvenile delinquents. This seems to conflict with the stated intent of Congress to provide social service alternatives for troubled youngsters.

We believe that the intent of Congress was to provide appropriate services for troubled youngsters. And those August guidelines in their definition of correctional make the judgment, for instance, that all over 40 bed facilities are inappropriate for all status offenders.

Such a judgment immediately eliminates the utilization of such well regarded treatment agencies as Boy's Ranch or Girl's Villa in Florida, Starr Commonwealth or Boy's Villa in Michigan, Yellowstone Boys Ranch in Montana, the Elon Home or the Methodist Children's Home in North Carolina, or the Hershey School in Pennsylvania. Some of these very agencies which are directed by the act to accept and care for troubled youngsters will be labeled "correctional" by the guidelines and will thus be ineligible to receive such children.

Certainly it is not my intention today to prolong a discussion of those particular guidelines. We have appended to our submitted testimony a position paper prepared last October by the Minnesota Council of Residential Treatment Centers which addresses itself very well to the specific areas affected. And in finding some sentiments are shared by all members of the Association I represent and have been conveyed in one form or another to Congress by our individual members throughout the United States.

A few weeks ago it came to our attention that the great concern aroused about the country by the guidelines resulted in the issuance of a draft of proposed new guidelines. And that language, and apparently the intent of the substitute guidelines appear to solve many, but not all of the probelems created by the existing guidelines. These are the ones that the director of OJJDP now publicly states are probably illegal.

It is our understanding that these guidelines are being distributed for review. They almost repeat the language of the act, as amended. And since we presume the language in these guidelines as still being refined, I will here address myself to that language. Because we have continued concern about some of the language in the statute as amended, and I think that the committee should be fully aware of what we believe the effects will be of that language.

The new proposed guidelines which Mr. Rector referred to this morning restrict the definition of correctional and detention facilities to secure facilities as designed in the August Federal Register. The draft guidelines prohibit placement of status offenders and nonoffenders in such facilities.

We concur with this proposal and we consider it to fulfill the laudatory original intent of Congress to remove juvenile offenders from adult correctional facilities and to remove status and nonoffenders from juvenile correctional facilities.

However they also require that status offenders and nonoffenders be placed in the least restricted, small open group home settings near the youths' home communities. And just as the intent

of Congress can be misinterpreted and distorted by the Federal Agency Regulator in writing Federal Guidelines, certainly the 50 different State regulators can misuse the loosely written open-ended wording.

For instance, the guidelines as adjusted say:

> For the purpose of monitoring, juveniles must be placed in facilities which are the least restrictive alternatives appropriate to the needs of the child or in reasonable proximity to the family and the home communities. They must comply with the act in that they must be community-based which means a small, open group home or other suitable place located near the juvenile's home or family and programs of community supervision and service.

We have to ask, as will every State, what is "small"? What is "least restrictive"? What is "open"? What is "near"? What is "reasonable proximity"?

If the definitions of these terms remain those of the August 1978 Register, then the Florida Sheriff's Youth Ranch is too big. It is too far to receive from, for example, Broward County or Dade Counties. The Sheriff's youth ranch program could not care for youth any longer, even though it encourages, promotes, and facilitates the maintenance of family relationships, parent and child bonds and allows visiting between youth and families both at home and in the program.

And even though it maintains family services offices through the State which works with the families of youth in care, even though it cares for its youth in small, home-like, well-supervised cottage settings.

The Yellowstone Boys' Ranch in Montana is likewise too big, too far, and too restrictive to continue to serve troubled youths who happen to be labeled status offenders or even to serve unfortunate dependent and neglected children.

Thank you very much.

Mr. ANDREWS. Thank you, sir.

You posed some very good questions. When you referred to the more expensive, fully public supported programs, how were you spelling "wholely"? [General laughter.]

All right. Dr. Jerome Miller, director of the National Center on Institutions and Alternatives.

STATEMENT OF JEROME MILLER, DIRECTOR, NATIONAL CENTER ON INSTITUTIONS, AND ALTERNATIVES

Mr. MILLER. Thank you. I want to open my remarks by saying that I have previously been commissioner of youth for the State of Illinois and commissioner of youth for the State of Pennsylvania. So I am speaking as well from an administrative, governmental viewpoint as well as from a viewpoint of an advocacy group formed within the past year.

I do not agree that the Office of Juvenile Justice and Delinquency Prevention has moved that far from the intent of the original act. The intent of the original act was to remove juvenile offenders from the adult correctional system and to remove status offenders, so-called status offenders and truant children that have not committed any crime from the juvenile correctional system.

But what seems to have been lost in this is the least restrictive alternative focus of the act. The act makes very clear that for

delinquent juveniles, one should not prematurely be moved toward locked settings. They should be used only as last resorts. And indeed in some of the States in which I have had the honor to serve on governor's cabinets, we have been able to move in those directions.

I think perhaps the intent of the law has been lost. We are making a distinction between deserving delinquents and undeserving delinquents, the deserving being the truant and incorrigible children. The undeserving are the delinquents who are involving themselves in burglary and car theft and what-have-you.

I am not suggesting that these children should run free. But I am suggesting that most of the research and most of the experience in this field shows that the large majority of incarcerated juvenile delinquents in State training schools and incarcertated in some of the so-called nonprofit training schools could indeed be in much less restrictive alternatives where the same amount of money is spent on the alternative as is spent on the institution. And of course that is the crucial issue. But that in fact, that is not done.

When one hears that we have tried all of the alternatives therefore we are now moving the kid into the institution, they very often mean that they have tried probation, they have tried warning the child, they may have even tried foster care at $150 a month. What they should be saying if they were following the intent of this law is that they have indeed tried spending the $20 to $70 a day that it costs to keep a kid in an institution in a community-base program. And of course at that point many more of the juveniles would be much better in less restrictive alternatives.

The reason for the least restrictive alternative approach is based on very sound research which shows that one of the greatest single predictors of later recidivism or delinquency is whether a youngster is prematurely kept in a locked setting at age 13, 14, 15, or 16. That in itself has something to do with setting a juvenile on a later delinquent career.

I refer the panel to the research done by Robert Coates at Harvard Center for Criminal Justice. He outlined very clearly in their research done in that State.

I do not agree that the issue of size is not important. I fear that the Office of Juvenile Justice, as a result of much lobbying by the child care industry, and I do not mean to denigrate those altruists in that field, but I think in terms of its structure and function, the groups represented from the child care industry today should be seen as part of an industry.

They are to child care what Lockheed and Westinghouse are to the Defense Department. They, in fact, the National Association for Homes for Children, have spent $65,000 a year for a P.R. firm. They have a lobbyist here in Washington. I am not suggesting that they should not have that. I am just suggesting that they do have certain interests.

The nonprofit issue, I think, is open to question. When you have a nonprofit agency such as the LeRoy Home out in California that is a member of the National Association Home for Children, spending something over $1.2 million every year. When you have Boys' Town, I am sure a very good place, but with over $250 million in

assets, we are not talking about small potatoes in terms of the money. We are talking about a good deal of power, which I am sure you are aware of.

Now I want to stress that I do not mean by that to denigrate them or to suggest that they do not have the best of motivations and intentions and do not have good programs. I am suggesting, however, that they do not come here entirely disinterested.

The matter of secure care is an important one. It is difficult to speak to because the regulations just made reference to by the previous person testifying have not been published yet. But they have been explained in some detail apparently by the present administration of OJJDP. I understand that Mr. Shine met with the executive board of the National Association for Children to outline what will be the new proposed regulation.

I understand that the Office of Juvenile Justice and Delinquency Prevention will be backing off on the issue of size. They will say that size is no longer an important issue, and they will back away on the issue of mixing of youngsters in facilities. And they focus entirely on the area of secure care.

I view this as a tremendous setback. I can understand it coming as a result of the tremendous lobbying pressures going from the child care industry.

If it is going to happen, then the matter of secure care becomes extremely important. What is secure care? If you look at the Federal Register definitions in the original Regulations Circulator, secure care in a facility, locked facility, is defined this way:

Secure facility is one which is designed and operated so as to insure that all entrances and exits from such facilities, whether or not the person being detained has freedom of movement within the parameter of the facility or which relies on locked rooms and buildings, fences or physical restraint in order to control behavior of its residents.

I submit that if we are going to simply rely on secure care as the touchstone as the lynchpin of this system, that definition will have to be much widened. Because in fact, there are large institutions in this country that are open to all intents and purposes because of procedures that occur should someone leave.

It seems ironic to me that we have here child care institutions wanting to have the ability to lock juveniles in facilities who have not committed crimes for treatment purposes. Lionel Trail commented long ago that one should be aware of altruists in that sense. Because people who become first objects of our concern, then of our care, ultimately become objects of our coercion. And I think we are seeing a bit of that happening now in the child care field.

Let me give a couple of examples from my own experience. If one were to visit George Junior Republic, which is one of the larger private nonprofit institutions in Pennsylvania, one would find an open campus with many good programs. It is an interesting place. But I know when I was commissioner of youth in Pennsylvania in 1975, 1976, and 1977, in those early years of my office there, we found that runaways from George Junior Republic were handled by bringing them back, shaving their heads, putting them in a locked cottage where they then did shine time. This amounted to putting wax pads under bare feet and standing in a long row and

going back and forth with your feet for 8 or 10 hours during the day.

Now that institution was an open institution which would be viewed as secure, but the youngsters there certainly knew that if they ran from there then other procedures came into effect. That in effect made the institution relatively secure.

Let me give a more dramatic but real example from Massachusetts. Our State training schools in Massachussets were open. Yet if juveniles ran from them, they were subject to a discipline cottage or discipline procedure which was quite brutal. It included beatings, isolation, stripping in the nude in a place that was called the tomb. And a number of these things we did away with while it was there.

In fact in the 1960's, the Shirley Industrial School which was for delinquent boys, we noticed that they had only five or six runaways all year from that open facility. We wondered why, and when we looked through the old records, we found that approximately six youngsters have had their index fingers broken when they returned. Now it only took that procedure with six youngsters to keep that open facility secured.

So what I am suggesting is that one has to be very careful of what we mean by security. One has to be very careful of euphemisms around intensive treatment units, medication rooms, time-out rooms, et cetera, because in fact security in many of these so-called open institutions is related to procedures which are very destructive to youngsters kept there.

The issue of size is not important if one is not talking about security. Obviously there are very large institutions which are quite good. Philip's Academy, Choat, Ohio State University, these are open institutions. They are large. Ohio State University has 55,000 students. I taught there for a couple of years, it is a very nice place. But I think that the difference is you can walk off of the campus and nothing happens to you when you are caught for it.

The difference has to do with whether one is a captive or not. And one has to be very, very careful about what we do in large facilities which are captives. If indeed the child care industry can run open institutions and keep their clientele voluntarily, I am for it. The larger the better, if the youngsters wish to stay there.

But if in fact, they are not able to keep them there for those reasons, we may have to look to other settings. This is not to suggest that certain juveniles do not need security or even to be in locked settings. Obviously violent juveniles need to be in locked settings if they hurt someone and are dangerous to the community. But the matter then of size becomes crucial because one cannot guarantee decency in locked facilities with large populations. Simply in terms of the needs of the bureaucracy, they will take precedence over the individual needs of the juveniles involved.

I submit that that has to be looked at very, very closely. And the matter of size is important when one is talking about captives.

I would like to say something about the mixing issue, the mixing of delinquents and nondelinquents. I do believe, based upon a lot of experience in this field, that it is dangerous to mix delinquent and nondelinquent in institutional settings. I do not believe that it is

dangerous to mix them in community-based settings, small community-based settings.

And the difference rests in the research and the sociology of large groups and subcultures. In institutions with captive populations, the delinquent subculture, there is a mix, the delinquent subculture tends to take over. In small community-based settings, 6, 10-bed units, that is less likely to happen. It still can happen but it is less likely to happen.

I am not suggesting that community-based programs are a panacea and is appropriate for everyone. I do think, however, even the institutional and the residential locked settings have to have large amounts of community input of linkages to the community if they are going to be useful.

The intent of the law is very clear. The intent of the law is to move toward smaller facilities, more community-based input and less long-term institutionalization.

The section that refers to the advance techniques, which LEAA is to fund in the States, is a virtual list of noninstitutional alternatives. The list incidentally derived from our experience in Massachusetts. We spent, I believe, 2 days testifying before Senator Bayh's committee on this and those advance techniques emerged to a large degree from that testimony of our department, Governor Sargeant, and a number of others that came down from Massachusetts.

Massachusetts, incidentally, has been able to place all of its, basically all of its, juvenile delinquents, not status offenders but delinquents, in community-based programs with the exception of those convincted of crimes of violence or those who are very repetitive and potentionally dangerous offenders. So that State, with a population of approximately 7 million, in locked settings with locked doors on them, would have approximately 60 to 75 juveniles. In settings that would be considered secure, that is with the kind of supervision that you would not be allowed to walk from, perhaps as many as 125 to 135 juveniles. But that in itself is quite a good ratio, given the population of that State.

So it seems ironic that we would have people asking here for the right to keep in locked settings for professional care, juveniles who have not committed any crime.

So I say the nonprofit issue is questionable and the private nonprofit is questionable. Because most of the private nonprofit agencies that deal with children, most are virtually, totally governmentally funded through per diems from States or other Federal supports.

There are exceptions, but the vast majority are not private or really nonprofit, if one looks at some of the salaries given and some of the land acquired.

The issue, then, I think is a matter of whether we are going to backtrack on the intent of this law because of lobbying efforts from the child-care industry. I think the child-care industry, many of their institutions obviously, and their administrators, have the best of intentions, but I think what in fact happens does not necessarily bear close resemblance to what is discussed here.

I notice, for instance, in the testimony given, that mention was made in the written testimony of the Sheriff's Boys' Ranch as one

option that would not be used. Well I think the Sheriff's Boys' Ranch of Maryland is an interesting group and it should be looked at closely.

There had been allegations, investigations made with reference to where some of the money was going in terms of entertainment for Sheriff's, and I think at the least it is something that should be looked at. I understand in other States some of the Sheriff's Boys' Ranches are quite good, but it is an interesting group and their literature is put through a P.R. firm in Atlanta. They are slick brochures, rather. They send out mailings under the Sheriff's signature to people in the phone directory and get quite a large return percentagewise on phone solicitation from the phone directory, as they have certainly done in Maryland.

One looks at the Boy's home in California, where in the literature, the National Association of Childrens' Homes, for instance, their regional committee member, Mr. Keetle is the director of the LeRoy Boy's Ranch. In February, 80 boys were removed from that branch for physical brutality. There are presently indictments against eight staff members with reference to allegations in this regard.

I understand most or all of the boys have since been returned, but I understand as well that the allegations in the indictment still stand and will go through trial.

So I would just suggest that this be looked at very closely and that this committee find time along the way to invite in juveniles from some of these facilities, chosen not by the facility but perhaps by committee staff or others who could locate juveniles or alumni of these facilities.

I would love to see a large number of alumni from George Junior Republic here, for instance, I would love to see a large number of alumni of other kinds of these institutions because one might get a different view. And I am not suggesting again that they are all bad or that they are all mistreating youngsters, but I do think that there is a tendency, even under professional offices to do this.

I think of a recent visit to a very fine institution in Tennessee. It is a beautiful institute, it looks every bit as nice as this brochure we see on the Crittenton Home. There is no lock-up in it, there is no use of isolation. But when we look closely in our interviews with youngsters, we find that they were being handcuffed to chairs for up to a week at a time so that they would not run away.

I look at the Green Mill School in Pennsylvania, it is a privately run training school which in 1973 or 1974 had the unfortunate tragedy of a couple of youngsters handcuffed to death together in an isolation cell. One of them died as a result of a fire set there. And then I look at the administrator of that facility and find him administering another large children's institution, doubtless connected with one of the groups testifying this morning.

So that I just wish to suggest that there is a need not to backtrack from the intent of this legislation which was to move juveniles as much as possible to homelike settings. The intent was to move them to settings to allow growth and a certain amount of freedom, and that allow them to keep ties with their own community. And I do not think that the large institutional settings can do this to the degree that they claim they can.

Thank you.

Mr. ANDREWS. Very good, thank you, sir.

And next we will hear from Mr. Gary Baker, Child Welfare League of America. All right, sir.

[Prepared statement of Gary Baker follows:]

TESTIMONY PRESENTED BY GARY BAKER, EXECUTIVE DIRECTOR, CRITTENTON CENTER, CHILD WELFARE LEAGUE OF AMERICA, INC., KANSAS CITY, MO.

The Child Welfare League wishes to thank the Subcommittee on Human Resources for inviting us to testify on the issue of the Implementation of the Juvenile Justice and Delinquency Prevention Act of 1974, and to discuss concerns which we have regarding the Guidelines for Implementation of the Act, and the definitions included in these Guidelines.

My name is Gary Baker and I am Executive Director of the Crittenton Center in Kansas City, Missouri. The Crittenton Center is a multi-service center providing residential care for 42 young women with a variety of treatment needs. Within the Crittenton Center we have a ten-bed on-campus group home, and we operate a Children's Psychiatric Hospital of twenty-five beds serving boys and girls between the ages of five and eighteen. In addition, we operate a Special Education School with a capacity of ninety, twenty of whom are enrolled in this agency's day treatment program, and we provide two off-campus group homes serving a total of eighteen. We serve a total of 115 children. Crittenton Center is an accredited member of the Child Welfare League of America and a member of the Missouri Child Care Association. I am a member of the Western District Regional Advisory Board of the Missouri Department of Mental Health.

I appear today on behalf of the Child Welfare League of America, (CWLA), Inc. and its division, the Office of Regional, Provincial and State Child Care Associations (ORPSCCA), of which the Missouri Child Care Association is a member. The Child Welfare League was established in 1920, and is a national voluntary organization for child welfare agencies in North America. It is a privately supported organization devoting its efforts to the improvement of care and services for children. There are nearly 400 child welfare agencies directly affiliated with the League, including representatives from all religious groups as well as non-sectarian public and private non-profit agencies. There are 1,480 agencies represented in ORPSCCA, including 17 member associations, predominately serving children in residential treatment settings.

The League's activities are diverse. They include the activities of the North American Center on Adoption; a specialized foster care training program; a research division; the American Parents Committee which lobbies for children's interest; and the Hecht Institute for State Child Welfare Planning which provides information, analysis, and technical assistance to child welfare agencies on Title XX and other Federal funding sources for children's services.

The Child Welfare League has long been an active participant in the struggle to support passage of legislation for a just means of delinquency prevention, diversion of juveniles from the traditional criminal justice system and critically needed alternatives to incarceration. We worked diligently for passage of the Juvenile Justice Act of 1974, and in 1975 submitted a proposal for the establishment of a Children's Rights Institute which would have educated professionals in the area of children's legal rights so that the spirit of evolving children's rights legislation and case law would be reflected in practice as carried out by those in the social service field. In January, 1976, the League sponsored a Group Care Conference in New Orleans. Approximately 200 professionals were in attendance, and as a result of their discussion and efforts, the book Group Care of Children: Crossroads and Transitions was published. The Child Welfare League has published Standards for Child Welfare Institutions, which are currently being revised, and Standards for Group Home Service for Children.

With the publication of the Guidelines for Implementation of the Juvenile Justice Act, M 4100.1F, the Child Welfare League has been forced into an adversarial position while still supporting the mandates of the Act. Our board took action on the Guidelines, adopting the statement which appears as Appendix A. For this reason, we come before the Subcommittee today, wishing to reaffirm our belief in the Juvenile Justice Act, while opposing those Guidelines for implementation of the Act. It is our hope that a careful examination of the problems which those Guidelines have brought about will lead to their revision so that the many concerned individuals and organizations who care for and about children on a daily basis can

turn their attention to the crucial problem of advocacy for this Act at a time when support for the program seems to be weakening.

On August 16, 1978, the Department of Justice's Law Enforcement and Assistance Administration published in the Federal Register, the "Formula Grant Provisions of the Juvenile Justice and Delinquency Prevention Act of 1974, As Amended; Final Guideline Revision for Implementation." Section 52n(2) contains the definitions which have served to reclassify a majority of the child caring facilities in this country as correctional facilities. Taken individually:

(2) *For the purpose of monitoring,* a juvenile detention or correctional facility is:

(a) Any *secure* public or private *facility* used for the *lawful custody of accused or adjudicated juvenile offenders or nonoffenders;* or

(b) Any public or private facility; secure or nonsecure, which is also used for the lawful custody of accused or convicted adult *criminal offenders;* or

(c) Any nonsecure public or private facility that has a *bed capacity* for more than 20 accused or adjudicated *juvenile offenders* or *nonoffenders* unless:

(1) The facility is community based and has a bed capacity of 40 or less; or

(2) The facility is used *exclusively* for the lawful custody of *status offenders* or *nonoffenders.*

(Guidelines, Federal Register, August 16, 1978, p. 36406)

We would like to describe the concerns we have for each of the criteria for definition presently designated in the Guidelines: size, commingling, community-based, and security.

Size

Under definition (c), taking the arbitrary number of 20 beds for non-community based facilities and 40 beds for community-based facilities for the exclusive use of status and non-offenders is not founded in statutory requirement or exemplary practice. The Child Welfare League Standards recommend that it is generally desirable for an institution to serve not more than 50 children in a single administrative unit. (Child Welfare League Standards for Services of Child Welfare Institutions, p. 37)

The Child Welfare League Standards specifically state:

The size of a living group should be determined by the nature and severity of the children's problems, their age, and the number of child care staff available at all times.

There should normally be not more than 10 children in a living group.

The living group must be small enough to allow maximum opportunity for—

Appropriate individualization of the child by the adult in charge;

Close observation as a basis for continued and flexible planning for the child;

The child to feel security and comfort through knowing that the adult is physically close and available both day and night;

The child to resolve individual and social conflicts at his own pace;

Meaningful interaction of each child with other members of the group;

Giving the child a feeling that he is important and special, yet part of the group;

The child to develop responsibility in carrying out activities of daily living; and

Flexible handling of routines.

(Child Welfare League Standards for Child Welfare Institutions, pp. 34-35)

Nowhere within the Guidelines does the Office of Juvenile Justice and Delinquency Prevention recognize the division of a child care facility into living units. The issue of bed capacity emphasizes the maximum population cited in administrative and licensing policies, and does not provide for the division into living units which child care workers and administrators have found to be the preferrable method of arrangement for more home-like settings for children.

We attempted to follow the process which the Office of Juvenile Justice and Delinquency Prevention (OJJDP) took in arriving at the number 20, as detailed in the explanation following the Guidelines as "Appendix A: Supplemental Material: Background Information on the Criteria and Compliance for Juvenile Detention and Correctional Facilities," (Federal Register, August 16, 1978). The rationalization for using the number 20 is that this number is mentioned elsewhere in the Act. Congressional intent regarding the size of a facility is found in reference to the size of facilities to be constructed under Section 227(a)2: "not more than 50 per centum of the cost of construction of innovative community-based facilities for less than twenty persons...," and in reference to the Runaway Youth Act, for which eligibility for funding is based partially on the criteria of having a maximum capacity of no more than twenty children (Section 312(b)(2), the Juvenile Justice Act). And the term, "small," is not included in the definitions of Section 103 of the Juvenile Justice Act.

In terms of assessing the impact of the Guidelines, the census literature would logically have led to an assessment based on the number 50 rather than 40. In the Mayer study on group care, the median size of the population was 49 and the range was from 15 to 300. (Group Care of Children: Crossroads and Transitions, p. 143) In order to assess the number of facilities operating, in the classic study of 1966 conducted by Donnell M. Pappenfort, the ranges for size of institutions in service to children were 1-5, 6-10, 11-25, 26-50, 51-75, 76-100, 101-250, 251-500, and over. The Pappenfort study found that 61.7 percent fell in the range of 1-50 and 28.3 percent fell in the range of 51 and up. These figures make it difficult to discern the exact impact of the Guidelines with their cut-off numbers of 20 and 40; however, they do suggest that the highest percentage of institutions serve 26-50 children, with the second largest percentage serving 11-25. (See Appendix B)

ORPSCCA, the division of the Child Welfare League, attempted to ascertain the direct impact of the Guidelines on its member affiliates as well as those associations which it communicates with. Of the 52 state associations which were queried, the response rate based on the size of the population of the state responding led us to believe that a high percentage of the facilities within those states responding would be reclassified as correctional facilities. For example the numbers ranged as follows: New York—175; Connecticut—10 out of 15; Michigan 10 out of 44; Colorado—22 out of 35; California 15. It should be noted that in all cases but one, the initial response provided us with incomplete information. This insufficiency was directly attributable to the fact that the Guidelines as written are confusing and ambiguous. Only New York was able to respond with complete information regarding the impact of the size limitations of the current Guidelines. While the Appendix to the Guidelines states that approximately 94 private facilities which have over 20 but under 41 youth could continue to serve status offenders and nonoffenders without being in noncompliance, (Federal Register, August 16, 1978, p. 36410), in New York state alone, there are 175 agencies which have over 40 beds and are not community-based. All are non-secure. And these statistics come from the only state which has sufficient information to represent the total juvenile population in care—a state which also removed its status offenders from training schools before the passage of the Juvenile Justice Act.

Commingling based upon labels

The Guidelines claim to have removed the original prohibition against commingling which stated that a correctional facility was "any public or private facility used primarily (more than 50 percent of the facility's population during any consecutive 30-day period) for the lawful custody of accused or adjudicated criminal-type offenders even if the facility is non-secure." (Guidelines for implementation, M 4100.1F, Change 1) The prohibition against mixing status and nonoffenders with adjudicated delinquents is still present by virtue of the fact that the facility can be of unlimited size provided it is used "exclusively for the lawful custody of status offenders or nonoffenders" (Federal Register, August 16, 1978, p. 36406). Professionals in the child caring field have long insisted that labeling of children and placement based on those labels does not meet the treatment needs of children. Labeling is not only arbitrary, but further serves to force children to bear the burden of stigmatisation. To have spent two months in the Crittenton Center is very different from having spent two months in the Crittenton Center Correctional Facility.

The fact that treatment and service are obscured by such terms is put very succinctly in Mayer's Group Care of Children: Crossroads in Transition:

The accessibility of treatment and education to all children and optimal self-development of all children must be the goal of all responsible adults inside and outside of group care. This goal was disregarded in the cases in which the child's rights were violated. This goal must not get lost in too simplistic a view of the children's psychological needs on the part of the very same advocates who strive so valiantly to satisfy them.

The assumption that status offenses—truancy, runaway, drug abuse, alcoholism—are different from car thefts and burglary may be correct legally. Psychologically, it may not be. There are many juvenile car thieves and burglars who are more readily amenable to treatment than are chronic juvenile drug abusers or vagrants.

(Group Care of Children: Crossroads in Transition, p. 261)

Paul Strasburg's study of violent delinquents brings to the fore the tragedy which would occur were child caring agencies forced to accept children solely on the basis of their label:

In most jurisdictions, courts have access to one or more "non-traditional" programs that attempt to provide delinquents with experiences leading to the development of self-control within a less restrictive context. More often than not, they are

operated by private, voluntary agencies, although a number of public-sector alternatives to old-fashioned incarceration are also being developed. In comparison to what has existed in the past, these programs offer hope of more humane and perhaps even more successful treatment of delinquents.

(Paul Strasburg, Violent Delinquents, p. 116)

The Juvenile Justice Act specifically states as one of its goals: "to develop and conduct effective programs to prevent delinquency, to divert juveniles from the *traditional* [emphasis added] juvenile justice system, and to provide critically needed alternatives to institutionalization." (102(b)(2), The Juvenile Justice Act). And the Miller amendments added to the Act in 1977 require that juveniles be placed in facilities which "provide the services described in section 103 (1) * * * medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, and other rehabilitative services.

While these are not areas which would easily lend themselves to monitoring for compliance, they should not be overlooked, and facilities which are able to offer these services should not be penalized simply because they offer these services to one delinquent in forty.

That children are subject to the societal ambiguities which are reflected in the court system of their community is best described in Brought to Justice? Juveniles, the Courts and the Law, which showed that:

The greater the proportion of low-income population and the more unstable the community, the greater the pressure on the court to adopt a "crime control" rather than "youth service" goal, and

In larger communities youth have a higher risk of being processed through the juvenile court, and the larger the court's jurisdiction, the greater the scope of its intervention, particularly through the use of delinquency petitions.

(Brought to Justice? Juveniles, the Courts and the law, ed. Rosemary Sarri and Yeheskel Hasenfeld, pp. 72 and 63)

Not only is the labeling process skewed in the courts, but the child, by virtue of economic and ethnic background, can also manipulate the labeling process:

The problems of substantive values and labeling are not serious in themselves, but they become serious when the cases of middle-class juveniles offenders are resolved differently from those involving their lower-class counterparts. The difference is that middle-class children have access to means of mediation through private resources that are not available to lower-class children through public resources. These means include intervention by parents, teachers, clergy, lawyers, and others skilled in interpreting offenders' behavior in a way that elicits a more lenient response from legal authority and in formulating alternatives to the sanctions of juvenile law—dispositions such as psychological treatment, or special educational plans, for example.

(Brieland, Lemmon, Social Work and the Law, p. 169)

The Child Welfare League sincerely believes that it is against the best interest of the child to perpetuate the ambiguity and absurdity of the labeling which has already occurred before the child is placed for care and treatment, and follows to the very agency responsible for that care and treatment.

The community-based requirement as a distinguishing factor is not only obscure, but in the cases of large states with small populations, it is an impossibility, even with the Office of Juvenile Justice's "rule of thumb" which allow one-hour travel time (Monitoring Policy and Practices Manual, Office of Juvenile Justice and Delinquency Prevention, p. 16, Policy Section). The definition of community-based which is found in the Act in Section 103(1), has been made even more restrictive by the added "clarifying" definitions of small, near, consumer participation, and community participation. The definition of "near" only continues to muddle the important point of community-based care which is that children in the facility participate in a variety of activities in the surrounding community regardless of whether that community is the child's or his family's local community. It is preferable to have a child as close as possible to family and original community, but some allowances must be made for the fact that proper placement which meets a child's treatment needs cannot always occur within an hour's travel time.

Additional concerns proposed revisions

The August 16, 1978 Federal Register also includes an intent to further restrict the definition of correctional and detention facility, making the number of facilities which will be reclassified even higher:

It is OJJDP's intention to add the following clause to criterion (c)2 in paragraph 52n which would prohibit the placement of status offenders and nonoffenders in large facilities:

The use of non-community-based facilities over a bed capacity of 20, which serve status offenders exclusively, is acceptable for monitoring purposes only through December 31, 1980. States should begin eliminating such facilities to meet the January 1, 1981, deadline.

(Federal Register, p. 36404)

The Office of Juvenile Justice equates "large" with institutions which are over the number of 20 in their bed capacity. Nowhere in the language of the law is such a statement made, and nowhere in the legislative History does such an intent appear. Clearly the Guidelines in this case overstep the intent as exhibited by the language of the law.

Although the Child Welfare League recognizes that 20 bed facilities are a laudable goal for child care when possible, it is not a realistic goal given the lack of funding, community resistance to group-homes, the cost of care, and the most important factor which should not be over-looked—that some children benefit from being in a larger setting which can offer them services which a 20-bed facility simply cannot.

The monitoring process

The partial implementation of these Guidelines which has taken place has led to a number of adaptive practices on the part of the State Planning Agencies which are responsible for the monitoring function. Two states, Michigan and Ohio, have acquired their monitoring information from the state associations of child caring agencies which were in place. These associations provided information, but only in aggregate form. The Texas monitoring form illustrates that the State Planning Agency chose to monitor only on the community-based and commingling criteria, not the security question (see appendix C).

The Child Welfare League and its division, ORPSCCA, urged the state child care associations to contact their State Planning Agents and their State Advisory Groups in order that an open communication take place, informing all participants in the juvenile care field of the implications of the implementation of the Guidelines.

Implications of the guidelines

If we stop for a moment and consider the full implications of implementation of the Guidelines, we are forced to admit that the situation would be untenable. Imagine a child caring facility, unique in its ability to offer service and meet educational and treatment needs. Once reclassified, it would technically have to be administered under the Department of Corrections where it would be subject to separate fire codes, standards or security, etc. Community resistance to such a facility would be reinforced at a time when we are endeavoring to move children into "community-based" facilities. Were there to be a large proportion of facilities reclassified, as we believe is the case with the present Guidelines, not only would those facilities lose their share of federal dollars, but the state in which these facilities operate would be forced to find alternative sources of care for children, or lose their share of juvenile justice funds. In many cases, states would opt to withdraw from the program, thereby losing the deinstitutionalization momentum. Although these conclusions may seem absurd, we must not lose sight of the fact that the goal of the Act is to encourage deinstitutionalization, separation, diversion and prevention of juvenile delinquency with the cooperation and participation of as many states as are possible. The Act does not state a desire on the part of Congress to classify every facility in this country over 20 beds as correctional, regardless of the type of children which they serve.

The final and most important question must ultimately be whether or not these Guidelines adequately reflect the intent of Congress. Section 103(12) of the Act offers a definition:

The term "correctional institution or facility" means any place for the confinement or rehabilitation of juvenile offenders or individuals charged with or convicted of criminal offenses.

It appears that this definition was derived from Section 455(b)(1) of Title 1 of the Omnibus Crime Control Act of 1970 (which amends Section 601 of the Omnibus Crime Control and Safe Streets Act of 1968). This definition did not pose any problem for implementation of the Safe Streets Act since monitoring of specific facilities was not required. (Juvenile Facilities: Functional Criteria, the Council of State Governments, p.13). In 1977 when the amendments to the Juvenile Justice Act were passed, Senator Bayh noted the importance of the definitions of "shelter facilities" and "juvenile detention or correctional facility," but stated that, "The committee expects that the Office of Juvenile Justice and Administration guidelines will address such issues." (Senator Birch Bayh, Congressional Record, June 21, 1977, Juvenile Justice Amendments, of 1977).

While not providing a specific definition beyond the rather broad one found in Section 103 of the Act, it should be recognized that the Conference Report in 1977 regarding the amendments did specifically designate that portion of the Act which was to be regarded as the compliance mechanism:

The Administrator shall approve any State plan and any modification thereof that meets the requirements of this section. Failure to achieve compliance with subsection (a)(12)(A) requirement within the three-year time limitation shall terminate any State's Uligibility for funding under this subpart unless the Administrator, with the concurrence of the Associate Administrator, determines that the State is in substantial compliance with the requirement, through achievement of deinstitutionalization of not less than 75 per centum of such juveniles, and has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time not exceeding two additional years.

(Section 223(c))

This language for compliance distinctly omits reference to Section (a)(12)(B) wherein are found the concepts which we understand have led OJJDP to have incorporated criteria which ultimately encompassed a majority of the child caring facilities:

Provide that the State shall submit annual reports to the Associate Administrator containing a review of the progress made by the State to achieve the deinstitutionalization of juveniles described in subparagraph (A) and a review of the progress made by the State to provide that such juveniles, if placed in facilities, are placed in facilities which (i) are the least restrictive alternatives appropriate to the needs of the child and the community; (ii) are in reasonable proximity to the family and the home communities of such juveniles; and (iii) provide the services described in section 103(1);

(Section 223(B))

In light of the legislative history surrounding the passage of both the Juvenile Justice Act and its accompanying amendments of 1977, the Child Welfare League would like to suggest the following definitions for classification of a "correctional and detention facility" for compliance with the Act:

For the purpose of monitoring, a juvenile detention or correctional facility is: Any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders or non-offenders, or Any secure public or private facility which is also used for the lawful custody of accused or convicted criminal offenders.

We would urge that careful attention be given to the definition of secure, keeping in mind that there are occasions when restriction of a juvenile might be necessary; however, removal from a group or group activities should be reserved for use at those times when a child needs protection from hurting himself or others. Also, we would urge that those responsible for the Guidelines recognize that the concept of "minimal supervision" contained in the nonsecure definition may lead to further misinterpretation. Children in residential care are entrusted to the administrators of those facilities and as such, those administrators and their staff are responsible for the children, and need to know the whereabouts of those children since they are to be held accountable.

There are special situations which might necessitate a secure environment for a child for a specific period of time. Placing a child in a secure situation without action on the part of the child which would require security is very different from providing the child with a treatment program which states from the outset that certain behavior requirements are to be met. In such a case, the child makes a conscious decision to cooperate with the standards of behavior, or may choose to be uncooperative. In both cases, he can and should be held accountable for his choice and actions. It is the understanding of the Child Welfare League through conversations with the Office of Juvenile Justice and Delinquency Prevention that security is allowed in such circumstances without serving to classify the facility as a correctional facility on the basis of incident. Children with psychological problems who are diagnosed as needing treatment for emotional disturbance could conceivably need some security in the initial stages of their treatment, and this use of security, whether it be a supervised trip into the community, or restriction on the grounds of the facility, should also not by and of itself reclassify a facility. It should be understood that there are times when a security situation might be necessary for a child on the basis of that child's treatment needs which should not serve to classify a child caring facility as correctional.

The Child Welfare League believes that a definition based on the concepts of security and nonsecurity is the only one which does not encompass so much ambiguity as to be open to manipulation, misinterpretation and misapplication with regard

to the intent of Congress. Let us not allow the Guidelines to obscure that intent, or to further restrict the possibilities for appropriate placement of children who deserve those ideals which were written into the Juvenile Justice Act.

We thank the Subcommittee for the opportunity of addressing this issue which is crucial to the quality of care afforded juveniles in this country, and to the implementation of a law which should be protected and defended.

APPENDIX A

OFFICE OF REGIONAL, PROVINCIAL, AND STATE CHILD CARE ASSOCIATIONS,
SUITE 310, 1346 CONNECTICUT AVENUE N.W.,
Washington, D.C., January 12, 1979.

To: ORPSCCA Associations.
From: William L. Pierce.
Subject: CWLA position statement on final guidelines as issued by the Office of Juvenile Justice and Delinquency Prevention.

At the recent meeting of the Public Policy Committee of the Child Welfare League, ORPSCCA Staff had the opportunity of briefing the committee on the developments which have occurred since the passage of the Juvenile Justice Act. Having outlined the impact of the Guidelines and the proposed changes, the Public Policy Committee decided to draft a position statement. Three members of the committee with a great deal of experience and commitment to the juvenile justice field were chosen by Joyce Black to draft the statement:

Peter Forsythe—Attorney, Vice-President of the Edna McConnell Clark Foundation; former member, Juvenile Justice Standards and Goals Task Force, LEAA.

Merle Springer—Deputy Commissioner, Financial and Social Programs, Texas Department of Human Resources.

Judge Steketee—Probate and Juvenile Court Judge, Kent County, Michigan.

We thought you would be interested in having the statement. It was presented to the full Board and was adopted as the official position of the Child Welfare League of America.

Enclosure.

POSITION STATEMENT ON FINAL GUIDELINES AS ISSUED BY THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

In order to implement the Juvenile Justice Delinquency Prevention Act which ensures that States comply with the requirements that: (1) Status offenders and non-offenders not be placed in a juvenile detention or correctional facility, and (2) youthful offenders be separated from adults in correctional facilities, the Office of Juvenile Justice and Delinquency Prevention administering the Juvenile Justice Prevention Act has defined a correctional facility to include non-secure facilities with bed capacities of 40 or more which serve juvenile delinquents as well as status and non-offenders. In effect, the guidelines would label child welfare agencies, which serve juvenile delinquents according to their treatment needs, correctional facilities. The guidelines do not adequately address the issues of size of facility, non-secure vs. secure facilities, and the labeling of children served through the court system.

The Board of the Child Welfare League of America reaffirms its support of quality services for all children and youth. When the needs of the child or youth are such that they require services outside their homes, particular emphasis is needed to assure that the needs and rights of those children are protected.

We continue to endorse public policy which supports diversion into alternative care of all children and youth whose needs can be met outside of the juvenile justice system.

Because of this committment, we are deeply concerned when public policy proposals fail to carry out appropriate diversion and prevention goals.

Therefore, (1) The League, as an original advocate of the Juvenile Justice and Delinquency Prevention Act and its sound goals of prevention and diversion, appropriate care and treatment, and separation on the basis of service and treatment needs is distressed at the potentially destructive impact of the final Guidelines which have been issued by the Office of Juvenile Justice and Delinquency Prevention.

(2) The League urges that Congress carefully examine the Guidelines in the light of the original intention of the Act, and, in cooperation with child-serving groups, child advocates, judges, attorneys, and other citizens supportive of the goals of the Act, revise the Guidelines to meet the original intent of the Act in the most effective and constructive way possible.

(3) Pending the revision of the Guidelines, we urge that their implementation be deferred. If implemented as currently intended, the Guidelines will not only fail to effectively support the goals of the original legislation, but create a chaotic and destructive framework for the delivery of services not in the best interests of many children and youth not covered by the Act and violate the intent of the reforms as understood by the broad range of groups and individuals who supported both the Act and the changes which it will require.

APPENDIX B

CHILDREN IN RESIDENTIAL INSTITUTIONS: A SUMMARY OF THE AVAILABLE DATA

The legislative meat-cleaver proposed by the Administration in S. 1928 and endorsed by the Senate Finance Committee staff paper could have sliced benefits to as many as 92.9 per cent of the children living in institutions and cut reimbursements to 66.8 per cent of those facilities, an analysis by CWLA's Hecht Institute reveals. The proposal to reduce Federal matching funds under Title IV-A of the Social Security Act for all children's institutions serving more than 25 children was rejected by the Finance Committee following a storm of protest from agencies, experts and advocates. Neither objective data nor a rationale—except for the vague goal of avoiding warehouses like those in Dickens' novels—were given to defend the proposal. The issue could be raised again in the Finance Committee or on the Senate floor. Persons concerned about institutional care may want to utilize the accompanying tables in briefing their Senators on the facts about "size" and institutional care for children.

SIZE OF INSTITUTIONS: PERCENT OF INSTITUTIONS BY TYPE AND CATEGORIES OF NUMBERS OF CHILDREN IN RESIDENCE

	Type of institution					
Size of institution	Total, all types	Dependent and neglected	(Pre-) delinquent	Emotionally disturbed	Psychiatric inpatient unit	Maternity home
1-5	1.9	2.2	1.0	2.9	0.7	2.0
6-10	7.4	7.2	3.6	10.1	9.7	10.4
11-25	23.9	22.5	15.0	32.0	26.2	35.3
26-50	28.5	29.9	17.4	29.0	31.6	41.4
51-75	14.1	15.0	15.2	13.7	11.7	9.4
76-100	7.6	7.7	10.9	6.8	8.3	1.0
101-250	11.3	12.4	20.2	3.9	9.7	.5
251-500	4.1	2.3	13.3	1.3	1.4	.....
501 and over	1.2	0.8	3.4	0.3	0.7	.....
Total	100.0	100.0	100.0	100.0	100.0	100.0
	2,022	955	414	307	145	201

Source: A Census of Children's Residential Institutions in the United States, Puerto Rico, and the Virgin Islands: 1966, Donnell M. Pappenfort and Dee Morgan Kilpatrick, University of Chicago, vol 1.

APPENDIX C

OFFICE OF THE GOVERNOR,
CRIMINAL JUSTICE DIVISION,
Austin, Tex., December 5, 1978.

DEAR ADMINISTRATOR: The Juvenile Justice and Delinquency Prevention Act of 1974, as amended in 1977, requires that the State of Texas deinstitutionalize 75 percent of status offenders and nonoffenders from detention and correctional facilities.

As the state planning agency charged with implementing the Act requirements, the Criminal Justice Division must monitor the placement of status offenders and nonoffenders in detention and correctional facilities to determine the state's compliance. In certain instances private child care facilities such as emergency shelters, halfway houses, residential treatment centers, and therapeutic camps fall within

the definition of detention and correctional facilities. Please review the attached copy of the revised Federal guidelines to determine whether your facility falls within this category. Complete the enclosed questionnaire and return it to CJD no later than December 22 so that we may meet the Federal reporting requirements deadline.

In computing the numbers of status offenders and nonoffenders, please count only youth between 10-17 years, inclusive.

Thank you for your assistance in this matter. If you have any questions, or need additional information, please contact us.

Yours very truly,

JIM E. KESTER,
Specialist, Juvenile Corrections Programs.

1976 FACILITY STATUS

(1) During calendar year 1976, did your facility have a capacity of 20 or more beds not used exclusively for the placement of status offenders [1] and nonoffenders and not community based?
Yes..... No .....
If "Yes," please answer the following questions:
(a) During calendar year 1976, how many adjudicated or accused status offenders were placed in your facility? .....
(b) During calendar year 1976, how many nonoffenders were placed in your facility? .....

1978 FACILITY STATUS

(1) During calendar year 1978, did your facility have a capacity of 20 or more beds not used exclusively for the placement of status offenders and not community-based?
Yes..... No .....
If "Yes," please answer the following questions:
(a) During calendar year 1978, how many status offenders were placed in your facility? .....
(b) During calendar year 1978, how many nonoffenders were placed in your facility? .....
Name of Facility and Location _____
Name of Person Reporting _____

STATEMENT OF GARY BAKER, EXECUTIVE DIRECTOR, CRITTENTON CENTER, CHILD WELFARE LEAGUE OF AMERICA, INC., KANSAS CITY, MO.

Mr. BAKER. Crittenton is a residential treatment center in Kansas City. It is composed of a main center working with adolescent girls in oncampus group homes and community-based group homes, meaning off campus. It also has a special education school and a small children's psychiatric hospital. We are accredited by the league and by the joint commission.

We serve children with pretty severe or serious emotional kinds of problems.

I am here today on behalf of the Child Welfare League and ORPSCCA, I believe representing approximately 400 childrens' facilities all over North America, also another 1,400 childrens' facilities, child care agencies and State associations.

As you know, Mr. Chairman, the Child Welfare League has been very supportive of this legislation. It has been supportive of the issues of prevention, diversion and alternatives to incarceration.

We are here today in unfortunately an adversary role to the guidelines that have been issued, specifically with some of the

[1] See attachment "A" for definitions.

points as it impacts many of the member agencies of the league, agencies associated with ORPSCCA.

As the guidelines now are in the form at least published last August, Crittenton would be considered a correctional facility. Crittenton is not a correctional facility, it should not be considered as a correctional facility. It is not the intent of the law or the act, as I look at it and interpret it. Crittenton is an alternative to care for many of the children that we get referred to us.

I want to get into the specific points of the guidelines and the problems we have, and go through each one briefly.

The issue of size, there is no magic number to 20 or 40 in terms of the size of the facility. The components that are important in the issue of size are the living unit. No one even mentions in this act at all any reference to living units.

Also important is the issue of staffing, staffing ratio. These are the determinants, along with licensing, crediting, and monitoring things to determine how a facility works and cares for its children.

We can serve up to 77 children on our campus. 95 percent of the children that we work with come from the metro area around Kansas City. We do permit and occasionally take children from outside Missouri or Kansas. These children have a mix of labels, some status, some nonoffenders and a few delinquents. The percentages are in our past 5-year history, 4 percent delinquent in that one last category.

The statutory requirements in this guideline are without substance as far as we can tell. These numbers are arbitrary and they are not based on contemporary practice, as far as the size and recommendation. They should be looking at the issues of appropriate treatment, if need be, living units, staffing ratios and so on.

I mentioned briefly a second ago the issue of commingling. It would be difficult for Crittenton to serve exclusively non-offenders or status offenders. It may be that is what the commingling issue pushes us towards. It would be unfortunate if we could not work with a child that happened to be adjudicated delinquent if their particular treatment needs were of the kind that we could work on.

It seems wrong that these kids are stigmatized by the various labels in the first place. It does have a difference if a child spend 2 months in Crittenton versus 2 months in Crittenton Center Correctional Facility by the label placed on them from these guidelines.

The issue of community-base is one that is important. It is one that has validity, it is an issue that is correct according to the child's needs, according to a certain degree of reason or responsibility. It is sometimes extremely difficult to deliver community-based care in the sense that these guidelines issue from a real State, southern Missouri or western Kansas. The folks there had difficulty in providing, as Mr. Morrison mentioned earlier, the care because of geographic kinds of problems.

I do believe in the issue very much of family involvement. Maybe most importantly, getting the child involved in the community and what is going on in the community. We must teach the kids the responsibilities and the resources available to them and how to use them in the community that they are in.

On the issue of impact, it is difficult right now to know exactly what impact this act would have. Some of the folks are not terribly

concerned about it because they do not believe it impacts them or means them. Of the 45 children's facilities in Missouri, if you were to take and apply these guidelines very rigidly, I think all of them would be classified as correctional-type facilities for various reasons. And I do not think that again is the intent of the legislation or the guidelines of the act.

On the issue of security, generally we agree with the basis of secure nonsecure definitions. The problem there gets into how to work with those children that have special problems, suicidal child, out of control child, the severe or chronic runaway, it is I suppose a euphimism. But it is true, you cannot help a child if they will not stay with you long enough to do anything for them. There is some validity to that statement. It is an interesting "Catch 22" or "double bind" that our agency is caught in the middle of.

If we permit the child to run away or kill himself we are sued for malpractice and malfeasance. It sort of makes you wonder why you want to work with these kids because it is a sometimes, damned-if-you-do, damned-if-you-don't proposition.

Crittendon does secure the building at night. Does that mean we are a secure facility? Crittendon does utilize the timeout room. Does that mean we are a secure facility? It is, I guess, more than anything else a begging for definition of what is secure and what do you mean by secure? Crittendon is not a correctional and detentional facility in the traditional or classic sense and yet by these guidelines, that is how I interpret these meanings for our organization.

The guidelines themselves, we believe, are a disservice to children and should be changed. They limit the ability of those children to receive alternatives to incarceration and they are not consistent with the intent of Congress.

I think the local pressure, at least for Crittendon's situation, has been to try and do more, to try and provide more services. We get about 10 appropriate children referred to us for each child we can take. The United Way and the local juvenile court, the social service agencies, the schools, physicians, the hospitals have all asked us to do more if that is possible. This part of the reason for the new center that has been developed.

All $3.2 million of that building has come from community funds. The Freskey Foundation is the only national foundation that has supported this center. The rest of it has all been from local foundations, businesses, corporations, junior leagues, that sort of thing. The land was donated for a new center. A lady in town donated it. We are nonprofit in a sense as are most other child welfare agencies. Fifty-nine percent of the income of the child welfare league agencies came from governmental sources in 1977 and 1978. Forty-one percent came from private sources and this has been true for the last 5 years.

I don't know how to say this to you without just saying it to you, so I will. The folks where I am from have not gotten too awfully excited about this legislation. We received no money from the juvenile justice program other than a little bit from the project from our school, which is less than $2 thousand a year. None of the other residential agencies in our Kansas City metropolitan area

received or participated in any of the funds that this office has available.

We have not gotten too excited about the issues because we honestly did not think they were talking about us. We are not a correctional facility. As we became more knowledgeable of these guidelines it became apparent that yes, we could be included in that group and that is wrong and should be changed. That is not the intent that I think you all were trying to accomplish with the Act.

We, too, would like to encourage and support the million dollar level funding for the office. I do not begrudge them and I don't want them to go away or go out of business or anything else because they do do a lot of good and they do help a lot of children and agency organizations.

Someone asked earlier, I think it was Congressman Stack, why more of the money was not being used. I believe the big piece of the reason is the guideline itself. Most of us in the Kansas City area consider this "snakebite" money, stuff that we are not going to have much to do with because of all the encumbrances and regulations involved in it. The State of Kansas does not participate at this point in the act for that very same reason. They are fearful of the issue of not being able to place children in a rural State and least restrictive community environment.

I am sure there were a lot of other reasons but I am sure that is one of the reasons why you have not seen better participation and utilization of this money. Thank you, sir, for the time.

Mr. ANDREWS. You say that you don't receive any money from OJJDP but then you say you learned that you might be excluded. What is the basis of your concern if you don't expect to receive funds in the first place.

Mr. BAKER. I guess it is a fear of what may come down the road, Congressman. The issue of being able to work with the status offender that has emotional problems and the issue of being able to work with the nonoffender, we don't call them nonoffenders, we don't call them status offenders, but those kids, even the occasional delinquent child that needs that kinds of services.

Mr. ANDREWS. I really do not understand how this Act precludes you from doing whatever it is you want to do.

Mr. BAKER. There are some issues of just labeling of a correctional facility and you get into how the community responds and feels about the facility, the treatment facility that is very much community based, that is a working part of the Kansas City metropolitan area. It is supported by many different entities, organizations and groups and again, I don't want to throw rocks at the correctional facilities, but they don't have the same good reputation or positive attitude in our area as some of the other facilities.

It could hurt on zoning in terms of zoning for our area. I do not know what kind of reclassification issue we would have to go through.

Mr. ANDREWS. You mean that just the fact that it might be said in the community that this institution does not comply with the guidelines and standards as promulgated by certain Federal agencies, would diminish respect and support for your institution. Is that what you are implying?

Mr. BAKER. Maybe psychologically, sir. It is the way the community senses. For Crittendon to function in the Kansas City area and to function well, it needs to be an integral part of the community. We need to have a board, a voluntary board, or volunteers that come in and be a part of the center and feel good about the center, work with the center and see that our kids do not eat spiders and are not wierd or different kids. They don't look much different from their own children. Do you see what I am saying?

It is more important, I think, for Crittendon to be a part of the community. The label "correctional" carries with it some serious consequences. It is possible that it could affect our insurance rating and as I mentioned, our zoning rating. It is most simply, just wrong. We are not a correctional or detentional facility and that is a misuse of the situation. Do you follow what I am saying, sir, as far as the impact on our organization? No? Yes?

Mr. ANDREWS. Well, yes and no. I really do not see though, why merely being defined as a "correctional institution" would cause the people in Government or the Rotary clubs or wherever you go to in Kansas City to seek support, to change their opinion of you one way or the other.

Mr. BAKER. I wish you could have been in our community last year when the Department of Corrections tried to locate an open minimum security prison in the Kansas City metropolitan area and the uproar that was created over that issue.

The spirit of what the folks here are trying to do in terms of deinstitutionalization and in terms of alternative placements are good and need to be supported. Sometimes I get the nitpicking definitions that we get down to that the semantics or words of how these things are defined. It is very difficult to try and define "secure" and cover all the circumstances, as I am sure you all are aware in going through the process.

Mr. MOORE. Mr. Chairman, may I take some time and try to answer your question?

Mr. ANDREWS. All right, sir.

Mr. MOORE. The March guidelines of OJJ read as follows: "For the purpose of monitoring by a State agency a juvenile detention or correctional facility is under one definition." It says any one secure public or private facility. And any one secure and private facility of the types I referred to in my testimony earlier that has a bed capacity for more than 20 nonoffenders. Now it says accused or adjudicated juvenile offenders or nonoffenders and agencies, institutions, children's homes that contain 50, 60 or 70 nonoffenders would be classified as a juvenile detention correctional facility.

Or if the facility is within a community and has a bed capacity for 40 or less, or the facility is used exclusively for the custody of nonoffenders is classified as a juvenile detention correctional facility. And so children's homes that are not caring for juvenile delinquents, not caring for status offenders, are still termed a detentional correctional facility under these guidelines.

Mr. BAKER. Because we accept some adjudicated delinquent children, it is conceivable to stretch this as far as you would that we would then be classified as a correctional facility and could not then work with the status nonoffenders, as I understand the guidelines, sir.

Mr. ANDREWS. All right sir, thank you, Mr. Edelman.
[The prepared statement of Peter Bo Edelman follows:]

TESTIMONY OF PETER B. EDELMAN ATTORNEY, FOLEY, LARDNER, HOLLABAUGH & JACOBS, WASHINGTON, D. C.

Mr. Chairman and members of the committee, I appreciate the opportunity to testify today as you try to sort out the issues which have beclouded the operation of the Office of Juvenile Justice and Delinquency Prevention in its implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.

My remarks will be rather critical of the operation of OJJDP in recent times, but I want to assure you at the outset that they should in no way be taken as detracting from my undiminished support for the purposes of the JJDP Act and for the potential of OJJDP to play an important and significant role in encouraging vitally needed change in juvenile justice processes and services around our nation.

Your hearings are especially timely, because there is now pending a proposed budget cut in OJJDP and LEAA which would severely cripple the momentum for change in states and localities throughout the country. The proposed 50 percent cut in OJJDP, from $100 million to $50 million, is to my knowledge the largest percentage cut contained anywhere in the President's budget for any program of reasonably significant size and scope. Moreover, because of the maintenance of effort requirements in the Safe Streets Act, the LEAA cuts would remove about $10 million more from money that states and localities would have spent in the juvenile justice area.

You have undoubtedly been told by representatives of the Administration that these cuts are not especially damaging because unspent money remains in the pipeline which can be devoted to existing, unmet needs without loss of momentum. This is absolutely and totally untrue. Anyone who knows the LEAA/JJDP system knows that there is a three-year period within which the money can be obligated and spent. The fact that a rather small percentage of the money is spent during the initial year when funds were appropriated is simply irrelevant. As I am sure you know, the National Association of Criminal Justice Planning Directors has done a careful survey of this matter. The pattern for some time has been that seven to ten percent of the funds are obligated and/or spent in the initial year when the funds were appropriated, 40 to 50 percent of the funds are obligated and/or spent in the second year, and the rest obligated and spent in the third year. In New York, where I served until recently, it has been true for a number of years that all of the funds are voted by the State Crime Control Planning Board during the initial year. Actual contracts may be drawn up some months later and spending may be drawn out into the second and third years, but if the state enters a new fiscal year with a smaller federal appropriation, it simply has that much less in the way of funds to distribute that year. There is no getting around this, and the Administration is either deliberately or uninformedly misrepresenting the facts.

Similarly, you have probably been told that a considerable portion of the money appropriated to the block grant area reverts to the Federal Government at some point, thereby freeing up more money for discretionary funds which allegedly can serve to replace cuts in the budget for discretionary funds. This is equally untrue. Taking a full three-year "film" of the spending process, very little is left at the end of the three years. Thus, again, there is no magic cushion which can be relied upon to tide the program over in a lean budget year. I trust that your committee, and the Budget and Appropriations committees, will not be beguiled by the spurious analysis that is apparently being offered.

I must say again, this is an area which is especially vulnerable. States are relying on these funds to undertake the changes in the pattern of service to status offenders that are demanded by the Juvenile Justice and Delinquency Prevention Act. As you know, there has been more than a little resistance to the purposes of the Act on the part of some even in the absence of any excuse based upon lack of available federal resources. To remove the resources just as the Act was gathering significant momentum in its implementation around the country would be nothing short of devastating.

Even as we all make the maximum effort to see that adequate funds are provided, there are, however, certain observations that I believe must be made concerning the performance of OJJDP in carrying out its share of the mandate under the Act.

Before turning to these observations, however, let my try to set forth a brief policy framework for my ensuing remarks. After three and one half years of deep involvement in these problems at the state level, I think there are a number of policy directions that should be pursued in the juvenile justice field.

One is that there is a minority, quite a small minority, of delinquents who need to be subjected to tougher sanctions than was the case in the past. A corollary, however, is that the services provided these delinquents while they are incarcerated need to be examined with tremendous care, with special attention devoted to improving the all too dreary and even destructive institutions in which they are placed.

A second is that most delinquents, including even some who have committed rather serious crimes, do not need to be incarcerated even though many of them may require residential care or service of some kind, with associated special efforts relating to their educational, vocational, and, in some cases, mental health needs.

A third is that we have over-institutionalized status offenders to an ever greater degree than we have over-institutionalized delinquents, and that many, if not most, status offenders do not need residential placement. A corollary of this third proposition, however, is that there is a small minority—perhaps five to ten percent—of status offenders who are truly and desperately in need of intensive residential care. These young people do not fit traditional definitions of pathology with names like schizophrenia, but in their extreme self-destructive behavior certainly manifest serious pathology that needs to be responded to along with their educational and vocational needs. This is, of course, true of some delinquents as well, although their behavior may have been more harmful to others than to themselves.

A fourth proposition is that vastly greater efforts need to be devoted, in a massive variety of ways, to services and efforts which will keep young people in school and at home, and, wherever possible, out of the courts.

Serious controversies do exist, of course. There are some who believe in far tougher sanctions for a larger group of delinquents than I have suggested. There are some who advocate abolition of status offenses altogether (I am one of those). But, at least among working professionals, there is reasonably broad (although certainly not unanimous) agreement with the propositions I have advanced.

Yet, I am afraid I have not seen the activities of OJJDP manifesting pursuit of these aims in an active way. Some of my criticism is in the vein of pointing to apparent inactivity, and some of it suggests activity that has been misdirected either in directions that I regard as counterproductive or in directions that I think are not of sufficiently high priority.

An area in which I see insufficient activity is that of technical assistance and serving as an active clearing house for information about models and programs that are producing successes. It has become almost a truism in this field to say that no one knows what works. Yet, I do not believe that to be true. There are individual facilities, whether rural or community-based, individual education and job-related programs, individual programs that work directly with families, innovative uses of foster care, and special efforts of an intensive nature for deeply impacted youngsters that are indeed producing promising results in areas all over the country. Yet, I find little effort to gather and share those results, as well as little effort to work with the state planning agencies to help guide and assist them in making the best use of their juvenile-related money toward useful and constructive policy ends. The states have largely been left to their own devices to use the money in ways they think are constructive and in accord with the premises of the JJDP Act.

In the area of utilization of discretionary funds, my problem is less a matter of inactivity than one of misdirected activity. I would see spending of discretionary funds as pattern-setting, serving to establish model programs and to reinforce the technical assistance and direction-setting activities that I mentioned a moment ago.

Thus, it would seem to me that one might have taken the priorities as I have listed them above (and, indeed, that is one reason that I did list them above) and developed a series of discretionary initiatives in accord with them. This was done in the early days of OJJDP, in the areas of "deinstitutionalization," diversion, and prevention, but I do not believe it has been pursued over the past two years.

There is certainly no dearth of possibilities. Are specialized forms of foster care with associated, specially trained case workers and special educational and therapeutic services promising? If so, (and I think so) why not fund a series of carefully developed differentiated models around the country, and closely follow the results? Are there promising group home variations which would make a difference in terms of the outcome for particular youngsters, including perhaps clientele specialization (e.g., younger children, children of low mental capacity, and children with special cultural needs, such as Hispanic and Native American children)? Are there possible initiatives that would be of assistance to children with very serious mental problems, who appear regularly although not in great numbers, and at present receive little in the way or appropriate help? Are there initiatives which would be of benefit to children of low intelligence, who again, appear all too regularly in our courts and

are sent with equal regularity to places that are ill prepared to receive them? I believe there are possible initiatives in every one of these areas.

Perhaps most important of all, where are the prevention initiatives? When we in New York State received $5 million from our legislature last year for a special delinquency prevention initiative, we received over 900 proposals totalling over $70 million. They were very well done, and, responding to the specifics of our request for proposals, covered a wide variety of areas from dealing with truancy, to dealing with multiproblem families with multiple siblings getting into trouble, to dealing with children who are disruptive in school, to providing special connections to the job market for young people who have touched the courts. The entire discretionary appropriation available to OJJDP could well have been concentrated on a series of well-defined prevention initiatives. While I think the matters I have listed above are equally important, I most likely would not be here offering critical remarks today had OJJDP undertaken a continuing all out effort to design and fund promising prevention models.

What did OJJDP do instead? As I understand it, $15 million was devoted to a restitution initiative and $8 million to various advocacy efforts.

The restitution initiative is certainly not uninteresting, although I view cash restitution as somewhat dangerous when it comes to impoverished defendants, and I have some question about the use of the term "restitution" in relation to "sentencing" young people to be involved in community service activities. My real problem, however, is that I think there were many more pressing needs.

Advocacy is a different matter. One could well argue that pouring all of the discretionary money into advocacy would have a greater multiplied effect than the design and proliferation of service models. In any case, spending a portion of the money on good, well-conceived advocacy efforts is something I would never oppose. However, many if not most of the advocacy proposals funded, while some of them indeed went to people in the field whom I know and respect, were based on what I regard as a very faulty premise—namely, that someone successful in one local jurisdiction can be transplanted to another jurisdiction.

I think that, on the whole, advocacy has to grow from the grass roots. The local situations in our 50 states differ vastly and widely from one another. No doubt there are important situations where outside advocates can come in and be effective, particularly where for a variety of reasons there is absolutely no hope of developing and nurturing local advocates. However, it appears that little attempt was made to find the appropriate local advocates. Instead, the theory of transplantation was, for the most part, adopted and utilized. My fear, while I hope it does not happen, is that in too many places the efforts will be slow to get off the ground because of the need to learn the local turf and, in some places, the importation of outside people will, in fact, give advocacy a bad name from which it will have trouble recovering. At least there should have been a mix of outside and in-state initiatives.

One of the major promises of the JJDP Act was that it would produce some concentration of federal efforts, some smoothing out of the inconsistencies between and among federal agencies in their relations to states and localities regarding juvenile justice issues, and even some joint federal initiatives. This has not happened. We are still witnessing a fragmentation between LEAA and Labor and a dozen different places in HEW, and OJJDP has done little that I can see to alleviate the situation. I do not wish to be overly critical, because this is a very difficult matter, but I would like to have seen at least some small concrete result from the past years of activity.

Next, there is the issue of the "deinstitutionalization" guidelines. I am frankly not much enamored of some of those who are criticizing OJJDP on this matter. Some of them, at least, are the very people whom the Act was designed to get after, the very people whose institutions should be driven out of business and whose services should be substantially reformed and altered. But many, if not most, of the critics are decent, able, caring providers who are simply assumed by OJJDP to be villains.

The right answer as to the content of the deinstitutionalization guidelines is not a simple one, and I find it disappointing to have to conclude that the best we can do is say that status offenders may not be kept under lock and key or with adult offenders. But we could at least have accomplished those aims without very much controversy, and accomplishment of these aims would have been a major step forward. Indeed, one supposes it should have been possible to find a formulation which would have prohibited placement of status offenders in state training schools—large, non-locked institutions which in practice have a decidedly correctional flavor. In any case, we have gotten ourselves immersed in an absolutely insoluble discussion about when something is or is not a correctional institution, and OJJDP would literally have us believe that service to one delinquent, no matter how petty

his offense, transforms an otherwise unexceptionable residential program into a correctional institution. This is absurd, and the controversy it has engendered has weakened the entire program and the entire momentum for change. I think this has been a most unfortunate experience.

Lastly, there is a matter of policy perspective. It is my general perception that a rather simplistic line between status offenders and delinquents has been drawn, wherein the latter are generally perceived to consist of junior-grade criminals, to be dealt with accordingly. The proper line, in my judgment, is between "victims" and "victimizers." Only a small minority of delinquents have behaved so violently or with such repetition of criminal acts as to require an incarcerative response. I think our national policy should reflect this, and I do not think it does.

Moreover, status offenders are disproportionately white and delinquents are disproportionately black. The distinction between the two categories has become a class/race sorting mechanism. Affirmative effort is required to undo this unfairness. When program efforts neglect the delinquent area, as they have tended nationally to do, this unfair sorting is not attacked, and, moreover, improvements in services will tend to flow disproportionately to white children. I would urge your committee to examine this phenomenon with special care.

In summary, we need to restore the momentum for constructive change. I believe it is not too late to do so. Your hearings and follow-up work can play a major role in making this happen. I hope my remarks have contributed positively to your effort in that regard.

TESTIMONY OF PETER B. EDELMAN, ATTORNEY, FOLEY, LARDNER, HOLLABAUGH & JACOBS, WASHINGTON, D.C.

Mr. EDELMAN. Mr. Chairman, it is a pleasure to be here. I guess I will deal with the guidelines. I would like to just preface my remarks about the guidelines with some remarks in a couple of other areas. I think it is important to have some contextual view about the office, and while I realize that this panel has to do with the guidelines, I hope you won't mind listening for a couple of minutes.

I have a full text statement which the staff has and I think the reporter has to be inserted into the record.

I do support the act in full and I think it is an important piece of legislation and so my critical remarks of the Agency are not intended in any way to diminish my support of the act.

The first thing I want to stress, as other witnesses have, is the importance of the budget cut. In some sense, all of our arguments about the guidelines, Mr. Chairman, are irrelevant if the budget cut which has been proposed goes through as proposed. We are talking about cutting this agency in half and we are talking about an associated cut in LEAA which because of the maintenance effort which I know you are fully aware of would be a further cut in programs and services around the country in the juvenile law area.

The basis for that proposed cut is the allegation from the administration that the money is not being spent. Now it is true that there are a few States in the juvenile area that are not participating in this act, but in general the allegation that is being made is much, much larger than that. It is that there is LEAA and JJDP money out there around the country in the pipeline which could be spent if the budget is cut here for this year.

Indeed, the further allegation is that there is money coming back from Washington which could be used for discretionary programs. Now that is not true, Mr. Chairman, and I trust that your committee and of course, the Budget and Appropriation Committee will take a very careful look at it.

The fact is that on long standing practice of LEAA there is 3 years to spend LLEA money. The State of New York, where I came from, our prime control planning board, on which I sat, at the end of the first fiscal year had voted all the money and yet if you counted our situation as it is counted by OMB it would show up as not having been spent because the contract had not been signed and the actual cash had not been spent on the services that were contemplated.

So around the country, and I am sure there is a study which I am sure you will see if you have not already by the Association of Criminal Justice Director of the SPA, which indicates that yes, 5 to 10 percent of the money is spent. The first 7 to 10 percent is obligated the first year and/or spent; 40 to 50 percent the second year, and the rest is spent the third year.

Now for the life of me, Mr. Chairman, I do not understand why it is we can not get these facts straight forwardly on the record. Because the fact is that there is no big amount of money that is out there in the pipeline waiting to be spent and justifying a cut in this program. Now if we cut this office, which has only been in existence 4 years, by 50 percent at this time, we can forget as far as I am concerned, we could forget the momemtum that was just beginning to develop around the country for improvements in the juvenile justice system.

I am not talking just about status offenders, but general. And so I am deeply concerned about that and I hope that you and the committee and others who are interested will take a very careful look at it.

Before I get to the guidelines in particular, I would like to just kind of set up some directions that at least I think are agreed upon and indeed, that most of us at this table, even with our different views about some things, would agree upon. I do not think that these directions have really been pursued by OJJDP as forcefully as I would like and indeed, I think the guideline controversy is one of the things that has taken the focus away from at least Federal momentum toward constructive change at the State and local level.

Now, first of all, I would say that there is a small minority of delinquents that have committed violent acts, criminal-type acts, repeated property crime, where we need to be talking about tougher sanctions than in the past and at the same time, we need to be looking at the places that those kids are sent to.

The reason I mention that is because we are seeing, I think, because of the guideline controversy and because of other discussion that we see in the media a hard and fast line tending to be drawn between all delinquents and all status offenders. The fact is that most delinquents, most kids who receive the label of juvenile delinquents for having committed a criminal-type act, an act which would be a crime if they were an adult. Most of those kids do not need to be sent into lock-type circumstances. Most of them do not need to be removed from their community.

I would wish that we could get our national debate focused around the fact that the proper distinction, if there is one, between deserving and undeserving, is not between the delinquent and the status offender. It is between status offenders and most delinquents on the one hand and the tiny minority of delinquents were a

criminal justice response and I would not call them undeserving. But a criminal justice response is truly required.

Now that is important because when Mr. Baker says that the Crittenton Center wants to serve delinquents, I agree with him. The Crittendon Center should serve delinquents and one of the major things that was wrong with these guidelines was not what they said about the status offenders. It was what they said about delinquents because they essentially did a disservice to children who had committed acts of crime insofar as those children might previously have been served in places like the Crittendon Center.

What Mr. Baker would have had to do if he were going to comply with the guidelines was to kick all the delinquents out. That was why I reacted to Mr. Morrison's reading of the guidelines because the fact was under the guideline and it was just amidst perhaps, your almost misquoting yourself, Mr. Morrison.

The fact was that as long as you were all "status-offender" you were OK. Except that Mr. Rector finally added at the very end of the last version that after 1980 if you had more than 20 beds, you not going to be OK, but I think he is not sure he is very serious about that.

In any case, except for that you were OK if you were all status offender and my problem has always been, Mr. Chairman, is that what that says is, "If you were a hubcap popper, if you were a shoplifter, you could not go to the Crittendon Home." I think that is wrong because many of the kids have the same kinds of problems the status offender kids have and that is the limit of the truth, but it is an important truth about the fact that mixing is OK.

Now, other premises, I think that if we have overinstitutionalized delinquents, we have overinstitutionalized status offenders to an even greater degree. I think that is really important in looking at this debate.

In the State of New York right now, if you look at the number of kids who were in residential care as a consequence of having a juvenile justice label, you will have 2,000 kids in the public sector in agencies that I use to run and 3,000 in the voluntary sector. If you break that down between status offenders and delinquents all the publicity about crime on the subway in New York City and all the rest of it, you will find that there are approximately out of that number 3,000 status offenders, 2,500 in the private sector and 500 in the public sector and only about 1,500 delinquents, about 1,000 in the public sector and about 500 in the private sector.

Then the remainder of the 5,000 kids in residential care voluntary placements are allowed. Some of them are there on condition of probation and so on and so on. Now it strikes me that something is strange if we have twice as many status offenders as we have delinquents, given the degree of the juvenile crime problem that exists in our State and around the country.

I can back that up by the personal observation of saying to you that in my experience, most of the kids who get the status offender label, really ought not to be there under the auspices of which they are there. Some of them have been neglected and abused kids and I would rather say they should be there because we looked at their

family situation instead of stigmatizing them because we said they ran away or because they were habitually truant from school.

Some of them have committed crimes and it seems to me, it would protect them, and protect their right to procedural process if we had said and many times the evidence was there, so we took the easier status offender route and we took their liberties away. It is very easy to say somebody is incorrigible. It is a little harder to prove the elements of a crime beyond a reasonable doubt. And third, there are some youngsters who ran away from home and so on, but even among those, it is my impression that relatively few of them have pathology. Some do have. Some desperately need our help and they won't sit still unless we have a way of getting the help to them.

But I would say to you that out of the kids, "pins" kids, we call them in New York State, who were in residential care for the vast majority of them, don't need to be in residential care at all. Their families could have been kept together by decent preventative services. Many of them could make it in community settings in foster care if it were available and coupled with appropriate service.

That is why we are having this fight about the Federal guidelines. That is why Congress enacted this law which is by the way, a clumsy law, which really ought to be looked at in terms of, who these kids are and then we would see where we went from there. Now we have got all these arguments about whether we are going to mix and whether we are not going to mix and the real question is, How are we going to end overinstitutionalization of status offenders in this country and the second issue is, How are we going to get at people who are abusing kids?

Now that second issue, we should be very clear, it is a minority. The places that Jerry Miller was talking about. Those are not most childcaring facilities in this country. Some of them are in the private sectors. Some of them are in the public sector, but they exist, and they are not being driven out of business. Somebody should be doing something about that, more that is being done.

At the same time, it should be possible to do that without stigmatizing, without labeling, without criticizing the vast majority of childcaring institutions that are constructive, that are doing a nice job with kids. We should be doing two things: We should be driving the abusing, the victimizing and, I suppose, profiteering, although they do not necessarily go together, institutions out of business and even as places that are perfectly good, where nobody can complain about the humaness, we should be looking to see whether the kids really need to be there.

That would do us good from a cross point of view and it probably would do us good from the point of view of what is most promising for individual kids. At least it is my view that the deeper you get into institutional care the less promising it is going to be even in a totally humane situation.

Well, those are my premises. The other premise is that we could be doing far more in the area of prevention. That is extremely important to keep kids out of court, in their homes, and reentering school. Now I just want to say in passing, because the hour is getting late and it is not the subject of this panel, I do not think

that OJJDP has pursued those premises over the last couple of years.

I do not see technical assistance forthcoming to help the State and the State planning agencies pursue programs in all of those directions. I don't see the discretionary funds being utilized to pursue enough alternatives in all of those discretions in all of those areas. What I have seen the discretion money spent on in some instances, it seems to me that it is less important or less well-done than what might have been done with it.

I might just say, Mr. Chairman, we have a State legislature that gave us $5 million when I was a commissioner last summer for prevention. We put out some guidelines that I thought were rather thoughtful in terms of working with truants and multiproblem families and connecting kids to the job market and so on. We got over 900 proposals totaling over $70 million for the $5 million. Now I would like to have seen some of the Federal discretionary money forthcoming for some of those activities where there was such hunger in the local communities in my State for money to support services so I have that problem.

I guess that the rest does come down to the guidelines and I think I have made my basic point that the issues that Congress, I thought was trying to get at, were the two that I mentioned. The correctional institution language is difficult in terms of getting at those issues.

Perhaps it would be possible to take yet another look. I happen to be one who supported the language in the Miller amendment in the way in which it was constructed as a kind of an effort to try to go in this direction. I think that is the right direction. If we stop now as the new guideline seems to be doing and say: "OK, we give up," the only thing we will do is to get rid of mixing the status of juveniles with the adults.

I would say that is too bad. I have been looking at this issue now ever since the first guidelines came out, I guess almost 3 years ago when Milt Luger was still in the office and I cannot offer you a wonderful formulation that I think works. I do know that we, in New York State, closed status offenders, by State law, out of our State training schools, and I know that was a good thing and there has never been a version of these guidelines, other than 20 beds, after 1980. There has never been a version of these guidelines that would have forced New York State to close those training schools to status offenders.

Now we ought to be smart enough to find a way to say that when you get a large place, even with cottages, by the way, that maybe we can find ourselves through the public sector, I don't know, but a large place with the attributes of security that has been described by this panel, by members of this panel. We ought to be able to keep status offenders out of those places. I think we should.

Now at the very least we ought to keep them out from under lock and key and I have to say from my own personal view is that locking at night and time-out rooms, and so on, as far as status offenders are concerned, bother me. They bother me because I think that with proper staffing and with proper staff training you can get at a lot of the problems that people end up dealing with by the use of law. Now that is a personal view.

I think, by the same token, Mr. Baker is quite right to point out that he has a question in this area, but I just want to stress that, as far as I am concerned, I think this whole debate has been really unfortunate. It was unfortunate to say that the presence of one delinquent in a facility converted it into being a correctional institution. That was not true. That was what this guideline specifically said. That was what I was most upset about.

To say again, what I was most upset about, what we were really doing, was forcing delinquents deeper into the system.And let me say in closing one more thing about that. Status offenders tend to be white. Delinquents tend to be black. That is the case in New York State, that is the case in every State that I am familiar with, maybe because the courts tend to react on the basis of class and black kids are disproportionately poor or maybe because in some places they tend to react even on the basis of race.

I do not have a complete prescription for dealing with that problem but the more we tend to say status offenders are good kids and they are the only good kids and delinquents are all bad kids, the more we really are engaging in racial classification and so I would hope that we could get back to the idea that so long as we have a status offender jurisdiction and Congress has not said that would be abolished, so as long as we are going to have it, we ought to be dealing with and minimizing the number of kids that become status offenders. We ought to be dealing with status offenders and delinquents together for the most part and separating only those kids who have committed such serious crimes or such repetitive crimes that there we need a criminal justice and then we begin to move toward a better system.

And with that, I think there is some room for some very intensive services and I think I might differ from some members of the panel in the difference of the number of kids that need those intensive services, but again, there are kids who get the status offender label who are really sick. Let us design the services and spend the money on those kids and then for the rest, either get them out of the system or at least get them back into the community. I would hope that we could frame the guidelines for the future and frame national policy for the future and the way we spend our money for the future.

Thank you for the opportunity to testify.

Mr. ANDREWS. Thank you, sir. All four were very excellent statements.

Let us take a brief recess and we should be able to resume in about 10 or 12 minutes. Thank you.

[Whereupon, at 3:31 p.m., a brief recess was taken.]

Mr. ANDREWS. We will resume at this point and, regretfully, have to take notice of the time, but Mr. Raley, who is supposed to know something in this field, tells me he would like to start off with a question, so we recognize Gordon Raley.

Mr. RALEY. I really would like to ask a simple question of each of the panelists. The bill H.R. 2108, which has been referred to the Committee on Education and Labor and is being considered by the subcommittee, would, in effect, repeal a separate Office for the Juvenile Justice program.

I would appreciate it if each one of you just told me your position on doing away with the separate office.

Mr. EDELMAN. I would be opposed to that, Mr. Raley. I think that the continuation of a separate office is extremely important. In the context of the larger reorganizational structure of LEAA, that is another issue. That is to say, what exactly the reporting relationships would be.

My personal view is that the office should remain coequal with LEAA within a larger frame, but I would definitely not abolish it. I think it is terribly important.

Mr. MILLER. I would strongly oppose H.R. 2108 for the same reason. I think children's services have a tendency to get lost in larger bureaucracies as it is and within the law enforcement bureaucracy, I think it would tend to get lost. I would strongly urge a separate Office. Originally I supported that Office being a HEW rather than a LEAA-type thing. It is, perhaps, better at LEAA.

Mr. BAKER. Children need advocates. The Office needs to continue as it is.

Mr. RALEY. That would be in a separate office?

Mr. BAKER. Yes; a separate office.

Mr. MORRISON. I certainly believe that H.R. 2108 should be defeated. As has been said, children do need advocates in government.

Mr. RALEY. That is all the questions I have.

Mr. ANDREWS. I believe it would be appropriate now for each of you, having heard one another and the differences of opinion, to rebut, reexpalin, or reexamine. Let us start with Mr. Morrison.

Mr. Morrison, I have very little disagreement with most of what is said at this table today. I certainly have disagreed with some of what was said by my colleagues at the table. I think that Mr. Edelman is absolutely correct. We mislabel children. If there are many status-offended children that do not belong away from their own homes, that there are many delinquents depending upon the purview of judges, we should not have that classification. I certainly also believe that many delinquents can be commingled with other children without harm to either one in the kind of settings that we offer.

I must make some defense here of the voluntary field. I think that there are bad apples in it as there are in any large enterprise in this country. We have been in existence for 4 years and have developed the strictest standards that exists for child-caring agencies and we have developed a very strong system to monitor those standards in our organization. We think that that system will be in effect by this summer.

Perhaps we will have some voice in weeding out those who are not as caring for children or who can care for children in other ways and better ways with that kind of influence. I do not think, however, that there is any industry in child care out there. There are a lot of independent organizations that can ban together for cooperative purposes. I think in those cooperative purposes we can help improve the system. That is why we are here today.

Mr. ANDREWS. That was very good. Thank you, sir. Mr. Miller, would you care to enunciate.

Mr. MILLER. I would just like to say something in general, Mr. Chairman, that ultimately the heart of the problem that will have to be addressed in years to come, perhaps by Congress, if the fact that one is dealing with the system which is basically unaccountable to its clientele. In fact, the child-care system, particularly the child-care institutional system, has in it captive children, either in terms of their terms of having committed delinquency or in terms of their economic conditions, and they are assigned to a place with little or no choice.

That in itself, regardless of the motivation involved, is an unaccountable system because, in fact, the people giving the service and being paid for the service evaluate their own results and tell you what the problems are when they do not work and lobby to do more of the same. It is the kind of thing Peter Drucker refers to in his analyses of management practices and human services in government.

It is that sort of issue that will ultimately have to be addressed. I am not sure how. It has to have about it some possibility of outside evaluation of the profession. It is not a healthy situation to have captive clientele that one is paid for regardless, and one then evaluates one's own work.

If you ran a very fine private prep school with nothing but captive personnel, I have no doubt at all that the finest of administrative staff, the finest teaching staff would deteriorate over a period of time because they are unaccountable to this clientele.

If I were to make a suggestion, it would be that we develop some sort of system that assigns citizen advocates, unpaid citizen advocates to each child in governmentally sponsored or paid for care to insure that the questions are being asked for these homeless children that would be asked by any one in this room if their homeless child was placed in a facility. I would ask very hard questions if I had my child in a facility that I was paying anywhere from $12,000 to $20,000, which is generally the case. Most state training schools in the North now are in excess of $25,000 to $35,000 a year.

In fact, we are spending much more than the average middle-class parent could spend for their own child. Now if, in fact, we are going to do that, we have to have a system whereby someone can ask the questions the average middle-class parent would ask if they were putting out that kind of money: "Why do you do it this way when they do it that way? What is your recidivism rate? What is your educations program? Why are we paying this amount of money?"

If they cannot deliver, then the child should be removed and replaced elsewhere. I do not agree that simple monitoring or self-monitoring by a group of service givers is adequate.

I do not know of any State I have been in where any institution has been closed by their own organization, by the organization to which they belong. It just does not happen. It seems to me we have to build in some kind of outside consumer oriented monitoring system that asks for the taxpayer what any middle-class parent would ask if they were putting out that amount of money.

Mr. ANDREWS. I just wonder, would the public school system be the same?

Mr. MILLER. In many ways it would, yes, sir.

Mr. ANDREWS. The students do not have an opportunity to evaluate the teachers, and the principals, and the superintendents.

Mr. MILLER. But very often I think we have strong PTA organizations. We have strong parent groups with the school and we do hold them accountable. We do elect the school board members and we have some say there. In this system we have virtually no say. We need some sort of outside monitoring that can ask those questions. They seem to be very reasonable questions to ask and are not meant to denigrate anyone's motivation. They are just simply questions that need to be asked to those of us in the service professions that we hold ourselves responsible.

Mr. ANDREWS. All right.

Mr. BAKER. Mr. Chairman, I have a few brief points. I do agree with Mr. Miller in that there are some bad facilities and we need to find ways to put them out of business or make them stop the bad practices. These guidelines will penalize the good as well as supposedly regulate the bad.

Mr. Miller asked for ways to control community organization, or children's facilities. Our board's directors are one way and the caseworker of the child is another way, the parents of the child that is involved is another. Remember I said that 95 percent of the kids come from the metropolitan area so we have a high percentage of parental involvement, regardless of the kid's label. Another way are the volunteers that are a part of the community that are a part of the organization, the licensing, the license by three different organizations, were accredited by 2 different organizations, were audited by 12 different organizations, and the advocates in the press.

We have as a member of our board of directors and member of one of the local commercial television stations that did an expose on a children's facility for the mentally retarded in our community that resulted in shutting that facility down because it was bad and should have been shut down.

These are the ways you do impact and deliver good care so I would suggest these. One other point that Mr. Edelman made earlier was that, according to these guidelines based on size, based on security, based on community-base care, based on everything that I can understand, commingling and so on, Children's Hospital at the Menninger Foundation would be called a correctional facility at $220 a day cost. The reason that I raise that point is that they are not in these guidelines, issues that address this specific and unique need of certain types of children.

I am not sure how you would incorporate them into the guidelines but that is a piece of the problem that is presented here, certainly. In our particular situation as I mentioned, Kansas does not participate. If pressed, I think Missouri would drop out were they not permitted to work, and refer, and deal with the 45 or so children's facilities in our area.

One other point I would like to make for posterity if nothing else, for some reasons girls do not get labeled more frequently as status offenders. At least the judges and the people in our area seem less likely to label a girl delinquent for sometimes something that is a delinquent act. I do agree with Mr. Edelman that many times, unfortunately, the system has set up a black-white delin-

quent status offender thing and that is of concern to me. It should not be that way. Those are the comments that I have, sir.

Mr. ANDREWS. Very well.

Mr. EDELMAN. Mr. Chairman, I have a couple of things. One is that we need to divulge far more attention than we have to how we can, from the juvenile justice prospective, as well as others, keep kids out of the system. We have really other than the possibility of the discretionary funds of OJJDP being used differently. We really have no prevention ethos emanating from the Federal level. HEW's Office has one program to run, the runaway program, as you know, and at a rather small appropriation. It's a nice program but a rather small appropriation.

I would like to see, even in the context of our current fiscal austerity, some attention to savings that would be involved that we would invest in ways to encourage schools to hold on to kids instead of tending to not want to serve them when they are behaviorally disruptive. Even if it is a matter of establishing special programs because the deeper kids get into the system, among other things, the more it costs us to deal with them. If we can work with their families and catch them early, we save kids and we save money.

Yet, when you look, for example, at section 408 of the Social Security Act, which is the Federal foster care reimbursement, it continues to provide Federal money that follows the child and this is, of course, true in the area of neglect and abuse as well as the area of status offenders and juvenile delinquents. It provides money only if the child is removed from the home. There is no money that follows the child if the judge wishes to order that the child be served in his own home working with the family and the parents and providing services that the child needs.

If no title XX funds, no title IV, and no United Way program happen to exist in a particular community, the judge really has no choice than to order the child be removed from his own home because that is the only way he can be sure that money will follow the child and for the child's care. Now that includes foster care, family foster care as well as residential care. Nonetheless, I think it is constricting. That act continues to preserve the fiction that only the private sector can provide care that deserves Federal support. There is no Federal support on a reimbursement basis for group residential care in the public sector. I think that ought to be looked at.

But more fundamentally, I think we need to look at the whole Federal stance in the prevention area. On the residential side I think I have made my point except that I would add this: One is to reemphasize what I said before about the need to sort out labels. We do have, cutting across the lines of delinquency and status offenders, some kids who are severely disturbed. We have a category of kids with very low IQ's whom we see repetitively coming into the system.

Where we have very little program, we tend to run general institutions. We continue to run institutions which Mr. Miller says have gotten very expensive. And yet not to sort out those kids who really need to have mental health professionals, somehow there are so many oversimplifications. Either you have the traditional view

that all the kids are sick, you know, the kind of medical model that we have been trying to get away from, or you have the view that none of them are sick.

We really need to begin to sort that out and to search for, if you will, some new labels that fit the kid.

Instead of saying: "Just because you ran away from home, just because you didn't go to school, we are going to lock you in with a lot of other kids." Let us look at the pahtology. Let us challenge the professionals to give us a new definition.

Admittedly, we have moved and properly we have moved away from keeping people out of snake pits, thankfully, and making it hard to have involuntary hospitalization. But how about some attention to the mental health and the mental retardation area?

Finally, why not a little bit more attention to what actually goes on for any child whom we might stipulate as properly removed from home and placed in a residential care. Whether it is that small category of those who need intense help or others because with all of our devotion to moving away from the medical model does tend to be true in too many cases that the assumption is that when the child walks through the door of the residential institution, public or private, we now have on our hands what we might caricature as a great big messed up head, but somehow no three dimensionality of attention to the rest of the problems.

What about the fact that the child is reading at the third-grade level? What about the fact that this child is 15 and 16 years old and we are going to assume needs to enter the job market in 1 year or 2 years? Does our CETA system get job money in the State agencies and voluntary agencies that are serving adolescent kids? The answer is no. And what are we going to do about that? Those are a few extra thoughts.

Mr. ANDREWS. The problem is that what works one time for one child will not work for another child. I think the more I have learned about delinquency prevention, the more confusing it seems, and the less certain I am as to what the Federal role should be.

We all know what we want to accomplish, but we're not certain as to whether these guidelines are the best way to accomplish our goal.

Apparently these guidelines would put some institutions out of business. These institutions may be far less than perfect, but they are better, in some cases, perhaps, than other alternatives. Your testimony and the testimony of the three gentlemen this morning have added a lot to be rehashed and rethought.

We do appreciate very much your coming here from considerable distances. Let us encourage the good institutions and, as you say, try to get rid of the institutions that are not good.

But to try to define what is "good" or "not good" in words and figures, that is awfully difficult, if not impossible, to do without creating some problems along the way.

But, again, we will do the best that we can and we thank you for your contribution. As guidelines come out or markup occurs in this area, drop us a note or pick up the phone and call us.

We on this committee are, in a sense, members of a citizens board. We don't have professional training in this field, except for Mr. Stack, but perhaps it is better that that is the case. We

approach this matter from a citizen's standpoint. We must also approach this matter from the kid's standpoint. We must also approach this matter.

One of the things that frustrates me as a Member of Congress is that in so many fields there are programs that are intended to help certain people but you don't ever hear from those people.

Usually in Congress we are talking about money. As an example, take the student loan programs. All of them ostensibly are established and funded for the purpose of assisting certain young people in acquiring an education. That is the purpose. But before very long those people are totally lost.

All the witnesses at the hearings, all the arguments about the formulas reflect the fact that the programs have simply become the means by which the institutions are supported.

It becomes the institutions that every one is concerned about. I hope we don't get so concerned with the institutions that we forget what really is best for the kids.

Mr. BAKER. And the issue is more with children if we keep coming back to: "What are the needs of the kids?" That is where I would like to compliment the committee. The act is a good act. I am not arguing and I don't mean to be unduly critical of what you all are tyring to accomplish and personally what you and this committee has tried to do.

You are a sensitive, obviously knowledgeable voice, not knowing anything about you or anything about this committee, coming to Washington to testify and going home with reassurance, it is personally gratifying. It is nice to know that there are folks like you here caring about the kids. I do share with you your dilemna that we talked about during recess. It is extremely difficult to accomplish what you need to accomplish at the Federal level and still permit the flexibility at the local level that needs to take place.

The only answer is to keep working, keep working with the findings and trying to work out systems in meetings like this.

Mr. ANDREWS. I was sitting up watching television the other night. An old movie was on called "The Bells of Saint Mary" with Bing Crosby and Ingrid Bergman. He was a priest and she was a nun and she was about to fail one of the students, a popular girl. He was trying to admonish her that it would be best to let her graduate even though her grades were inadequate for that purpose, and the nun was saying otherwise. It wasn't all that deep, but it made some pretty good points. Bing Crosby was saying: "Well, what is passing? What grade is acceptable for her?"

She said: 'Well, Father, as you know, 75," and he said: "Well, however was it we ever arrived at the magic number of 75 to pass the course," and she didn't know. He said: "Couldn't it just as well been 73, or 74? What makes 75 the appropriate figure?"

A good argument, to which she responded: "Well, if you don't have some basis, for instance, 75 then it might just as well be 65, or 60, or 45." That was about as far as she went.

Here you can figure 40 beds, or 20 beds, yet any figure you pick is likely to be ridiculous in some setting.

So to actually draft laws or guidelines is very, very difficult but I guess we just have to do the best we can, and I am sure you are trying to do that.

Thank you again and we hope you will keep in touch with us. We stand adjourned.

[Whereupon, at 4:26 p.m., the subcommittee adjourned.]

[Material submitted for inclusion in the record follows:]

City of Tuskegee

Johnny Ford, Mayor
Tuskegee, Alabama 36083
205/727-4889

APR 4 1979

March 29, 1979

Mr. Ike Andrews
Chairman
Subcommittee on Human Resources
Room 320
Cannon House Office Building
Washington, D. C. 20515

Dear Chairman Andrews:

Thanks so much for inviting me to share my comments on the Juvenile Justice Delinquency hearings that are being held. I would like the following comments to be included as a part of the records:

> "The Juvenile Justice and Delinquency Prevention Program has been one of the most effective programs to be funded by the Federal Government during the last decade in terms of the affect in discouraging juveniles from engaging in delinquent activities. We in the South in particular are pleased that these programs are operational, and we are hopeful that Congress will see fit to expand the resources so that these kind of programs can be broadened to include other communities."

Again, Congressman, thank you so very much for giving me a chance for my comments to be included as a part of the published records.

Sincerely,

Johnny Ford
Mayor

JF:dci

"The Pride of the Swift Growing South and Home of Tuskegee Institute"

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APR 13 1979

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

James E. Maurer
Superintendent of Schools

April 9, 1979

Honorable Ike Andrews, Chairman
Committee on Education & Labor
Subcommittee on Economic Opportunity
House of Representatives
Congress of the United States
Room 320, Cannon House Office Building
Washington, D.C. 20515

Dear Chairman Andrews:

Thank you for your letter inviting me to submit written comments in connection with your oversight hearing on the Office of Juvenile Justice and Delinquency Prevention.

As you know, as President of the National Association of School Security Directors, (NASSD), I have worked closely with the Congress and Federal Agencies to effect meaningful legislation and programs to deal with the serious and costly crimes occurring in our nation's schools.

In the mid-seventies, I worked closely with the Senate Subcommittee to Investigate Juvenile Delinquency in its surveys and hearings concerning school violence and vandalism which resulted in the Safe Schools Act. This legislation was subsequently incorporated into the Juvenile Justice and Delinquency Prevention Act. For the first time this legislation acknowledged the serious school crime problems and provided for training and programs to help cope with these problems.

John M. Rector, Administrator, Office of Juvenile Justice and Delinquency Prevention, (OJJDP), who has long been intimately involved and concerned with the problem of crime in the schools, has responded to the enacted legislation. In the near future, he will be announcing the successful bidder on The National School Resource Center, (NSRC), which I originally suggested to LEAA. The NSRC

will provide training and technical assistance to school districts and will serve as a clearinghouse for successful programs dealing with school crime.

Mr. Rector also provided funding to the Office of Education to expand its drug and alcohol abuse program into a school team approach for preventing and reducing school crime. This program is scheduled to end on September 30, 1979 when the LEAA funds run out.

In the early seventies, in testifying before the House Education Committee, I strongly urged that the Congress conduct a study to ascertain the nature and extent of violence and vandalism in public schools so that with this information appropriate legislation could be enacted. The Congress responded through the Safe Schools Study which was carried out by HEW in surveys by the National Center for Education Statistics and the National Institute of Education. The results of these studies make it very clear that there are serious school crimes taking place daily which are interfering with the primary function of our schools, namely, quality education.

The Congress has repeatedly, and justly so, called for programs that will keep potential suspended or expelled students in school rather than putting them out on the street where they are almost guaranteed to become a problem for law enforcement and ultimately involved in the Juvenile Justice System. The programs recommended by Congress to curtail this problem have been a good enforceable truancy program and alternative education. We all know that it is much less expensive to educate a child than it is to incarcerate one. Through education, there is a greater chance that the child will become a contributing member to society.

With the unbelievable number of truants on the street each school day it has become virtually impossible for school districts to handle them without help. To be effective, a truancy program must be a total community effort. For example, in Broward County, Florida, with the assistance of former Sheriff Edward J. Stack, and the police chiefs of 29 cities, officers were authorized by legislative enactment, to pick up students they had reason to believe were truant for the purpose of returning them to school. The School Board of Broward County furnished four Truancy Centers to which the law enforcement officers now bring truants so that the officers are not unnecessarily delayed from handling their regular duties. If

the truants are assigned to a school closer than the Truancy Center the officers take them directly to school. The Truancy Center is manned by employees of a county agency, the Youth Development Division, (YDD). YDD contacts the school and parents; gets the students back to school and counsels them and parents in the less serious cases. For the habitual truants a state agency, the Health and Rehabilitation Services, (HRS), is notified. HRS counsels truants and parents over a 60 day period with a view to determining and correcting the cause of the truancy. The program works because it involves the combined efforts of the school system, local law enforcement and the county and state juvenile agencies.

The objective of alternative education is to place a disruptive student, or ones that are not relating to the curriculum, in an alternative program. It involves fewer students to a teacher so that their problems can be identified and corrected with a view to getting the students back into their regular classes.

Congress must continue to emphasize the need for community-wide truancy programs and alternative education so that students can be kept in school and off the streets where they so easily become a part of the juvenile justice system.

Finally there is a dire need for uniform school crime reporting. The study by the National Center for Education Statistics released by HEW pointed out that its results, though startling, tend to underestimate the seriousness of the situation since they related only to offenses reported to the police. This was confirmed in the subsequent study by the National Institute of Education which was also released by HEW. It found that only a small portion of violent offenses is reported to the police by schools. 83 percent of attacks with weapons and attacks involving injuries were not reported. 85 percent of fights with weapons and 93 percent of fights involving injuries were not reported.

Obviously school districts are not reporting serious crimes. If they are not reported how can they expect to receive help in coping with them?

The Congress, and particularly your committee, should immediately pursue means of effecting truancy and alternative education programs and insure prompt reporting of serious crimes in our schools.

I would like to take this opportunity to commend you and your committee for your excellent efforts to make our schools safe and secure. Speaking for the members of NASSD, I assure you that you can count on our continued cooperation and support.

Sincerely,

Joseph I. Grealy

Joseph I. Grealy
Administrative Assistant to the Superintendent
for Internal Affairs

JIG:ts

MAY 7 1979

Department of Local Affairs
Colorado Division of Criminal Justice

Richard D. Lamm, Governor

Paul G. Quinn, Director

April 12, 1979

The Honorable Ike Andrews
Chairman
Subcommittee on Human Resources
House of Representatives
Room 320, Cannon House Office Building
Washington, DC 20515

Dear Chairman Andrews:

As you requested, I am enclosing information from the state of Colorado concerning the operations of the Office of Juvenile Justice and Delinquency Prevention (OJJDP).

As you remember, I testified in front of you on June 26, 1978 wherein I related to you incident after incident of mismanagement, misuse of funds and numerous other difficulties within the OJJDP as experienced by the state of Colorado.

I am enclosing the following information which reflects difficulties we have had since I testified on June 26, 1978, as well as, some of the actions the state of Colorado has taken on its own initiative to attempt to ameliorate the chaos that exists within the OJJDP.

Enclosed is a copy of two resolutions passed by the State Council on Criminal Justice on December 15, 1978. The State Council on Criminal Justice is a 25-member supervisory board composed of citizens, criminal justice practitioners, elected officials from the city, county and state level, as well as members of the judiciary. As you can see from the attached documents, the State Council concluded on its own that juvenile justice funding was important and should not be cut, and that John Rector should be terminated as administrator of the OJJDP.

Also attached is a recent letter from me to the OJJDP strenuously objecting to the arbitrary and capricious refusal to fund for a second year several very worthwhile projects in Colorado which were guaranteed two years of funding, assuming they were operating effectively, when the announcement was originally published by OJJDP in the summer of 1977. Now that these projects are underway, after numerous delays and foul-ups by the OJJDP, a number of which I related to you on June 26, 1978, the OJJDP is changing its rules in mid-stream, so to speak, and leaving these projects without any local funding or federal funding. The projects eventually plan to get local funding, but the necessary lead time has not been provided by the OJJDP due to their reversal of their commitment to provide two years of funding.

I could go on providing you with more information of a similar nature, Chairman Andrews, but your time is limited and I think these two items should provide sufficient information to augment my testimony of June 26, 1978 in developing a profile of the Office of Juvenile Justice and Delinquency Prevention. Improvement in the OJJDP, including nothing less than the termination of John Rector, is absolutely necessary if tax dollars are to be used responsibly and children

419 State Centennial Building, 1313 Sherman Street, Denver, Colorado 80203 (303) 839-3331

The Honorable Ike Andrews
Chairman, Subcommittee on Human Relations
April 12, 1979
Page Two

in severe need of help are to receive assistance from the OJJDP which is statutorily mandated to provide it, but regrettably for all of us, is not doing so at the present time.

Thank you for consulting with me on this very important matter and I hope that your efforts will result in some improvements in the Office of Juvenile Justice and Delinquency Prevention.

Very truly yours,

Paul G. Quinn

Paul G. Quinn
Director

PGQ:mkr

Enclosures

APR 13 1979

Department of Local Affairs
Colorado Division of Criminal Justice

Richard D. Lamm, Governor

Paul G. Quinn, Director

April 6, 1979

Mr. David West, Director
Formula Grants and Technical
Assistance Division
Office of Juvenile Justice and
Delinquency Prevention
Washington, DC 20531

Dear Mr. West:

We have received a copy of your letter to Mr. Jerry Wommack, dated March 15, 1979. While we realize that you were not personally involved in this discretionary initiative and responded to the best of your knowledge, we feel we must clarify or take exception to some of the statements in your letter.

While we received notice of the Office of Juvenile Justice and Delinquency Prevention's (OJJDP) decision on January 2, 1979, there was apparently some difficulty with the correspondence actually reaching project directors. Larimer County has indicated that the notice was not sent to the project director, while the Pueblo Shelter Care project was not carbon copied at all, although they are also affected by this decision.

Regarding the May 20, 1977 program announcement, please note page 46-16 (d), which states:

> "Awards for this program will be for a two-year period, funded in annual increments. Applications must include budgets for a two-year period, broken out for each budget year. LEAA's commitment to continue in the second year is contingent upon satisfactory grantee performance in achieving within two years and no continuations are contemplated beyond this period...."

I have enclosed a copy of this guideline issued by OJJDP and think you will agree that it explicitly states that there will be two years of funding. We have no correspondence received after this guideline changing the funding period and, in fact, all of our applications were accepted by your office with a two-year budget. In several telephone calls with your office, we discussed the second-year budget and were never informed that there would be no second-year funding. If this was the case, I cannot imagine why OJJDP did not indicate to us or to the proponents that a second-year budget was unnecessary and would not be funded. Instead, one of the projects was funded for the entire two-year period while the others were led to believe that second-year funding would be forthcoming.

419 State Centennial Building 1313 Sherman Street, Denver, Colorado 80203 (303) 839-3331

Although the Formula Grants Section, over which you have control, is separate from the Special Emphasis Section, it is, nevertheless, all one agency. Commitments made by the regional offices or any section of OJJDP should be honored. You indicate that the budget cut would make it extremely difficult to continue funding in any event, yet new initiatives continue to be announced for discretionary funds and unsolicited projects continue to be funded with discretionary funds. Surely, John Rector as administrator of the Office of Juvenile Justice and Delinquency Prevention has the authority and responsibility to coordinate the various sections within his agency and stand behind the commitments made by them. Anything less is poor management.

As I am sure you realize, early notification of this decision does not address the resulting funding problem. A 50 percent funding cut at the national level also results in a 50 percent cut at the state level. These projects have invested a great deal of time and in some cases, a great deal of money in developing the programs announced by OJJDP. Their assumption that the guideline indicating two years of funding would be honored by your office led them to believe that they would not need local funding for another year.

The fact that there was considerable confusion resulting from the closing of the regional offices and the continuation of an initiative started at the regional level simply does not excuse the utter chaos occurring since then within OJJDP resulting in one delay and one error after another. Our letter of May 31, 1978, to Mr. John Rector included three pages of problems experienced in the simple awarding of the grants. We have been shocked to learn that the LEAA auditors have since found that OJJDP does not even have the final and complete applications despite the Colorado SPA having sent OJJDP complete applications on several occasions. Now comes the inexplicable and outrageous decision to terminate funding of these projects.

We feel that it is unjustifiable for OJJDP to continue even today to start new and unsolicited programs with discretionary funds, while allowing existing programs to die. The incredibly unprofessional and inefficient manner in which this entire discretionary grant process has been handled by OJJDP continues to discredit the entire LEAA program. We strongly urge you to reconsider your decision in light of the commitment made by OJJDP in the May 20, 1977 guideline and the already tarnished image of OJJDP. If OJJDP does not reconsider this ill-advised decision not to fund for a second year, it will only serve to solidify OJJDP's reputation for insensitivity and incompetence.

With warm regards,

Paul G. Quinn
Director

PGQ:ms
Enclosure

cc: John Rector
Murray Bond
Ike Andrews
Henry Dogin
Gwen Holden
Congressional Delegation
Larimer County
Pueblo County

federal register

Friday
April 20, 1979

Part IV

Department of Justice

Law Enforcement Assistance Administration

Semiannual Agenda of Significant Regulations

Target Dates. Agency review and revision are scheduled for February and March 1979. Publication in the Federal Register for a 60 day comment period is scheduled for April 1979. Incorporation of comments and finalization of M 7100.1A is scheduled for June 1979. Release of the final guideline Manual 7100.1A is anticipated to be in July 1979.

Knowledgeable Official. For additional information concerning this regulation, Mr. Arthur E. Curry, Office of the Comptroller, may be contacted on 202/376-8588.

Regulatory Analysis. This regulation does not require a regulatory analysis.

4. Title. Guide for Discretionary Grant Programs, M 4500.1H

Description of the Regulation. The purpose of this manual is to provide information about major categorical programs of the Law Enforcement Assistance Administration, authrized by Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. The manual includes information about discretionary grant programs, selected program field tests, technical assistance, and training. Information about how to apply for assistance and whom to contact for additional information is also provided.

This manual is complemented by additional guidelines and program announcements and plans, such as the *Program Plan* of the National Institute of Law Enforcement and Criminal Justice, the *Program Plan for Statistics* of the National Criminal Justice Information and Statistics Service, program guidelines of the Office of Criminal Justice Education and Training, and program announcements and other documents regarding Incentive Programs. In addition, new programs, such as those of the Office of Juvenile Justice and Delinquency Prevention, will be published as supplements to this manual as they are developed.

In addition, important information about grants administration and other general requirements is provided to prosepective applicants.

The major issue related to the FY 80 Guide will pertain to changes in LEAA's authorizing legislation; namely, the overall nature of the DF program and the creation of the National Priority Grants Programs. Many issues exist with regard to the development and implementation of this latter program category. Some of these issues will be a function of changes in the proposed legislation as Congress considers the Administration's Bill.

The major issues pertaining to this Guide will be considered by LEAA's DF and Priorities Grants Task Group which includes respresentation from the principal public interest groups.

Need and Alternatives. There is a clear need for LEAA to publicly announce its categorical programs to potential applicant organizations and to communicate the basic requirements and procedures. No reasonable alternatives exist.

Legal Basis. The general legislative authority for this regulation is presently Title I of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3701 *et seq.*, as amended, and the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. 5601 *et seq.*, as amended. The Administration's proposed Justice System Improvement Act of 1979, S. 241 and HR. 2061 would replace the former legislative authority.

Plan for Public Involvement. Public involvement will occur in two ways for FY 80. The key public interest groups will be involved in LEAA's DF and Priority Grants Task Group responsible for developing this Guide. In addition, the draft guideline will be published in the Federal Register for 60 days of public comment.

Target Dates.

Begin Review and Revision	3-15-79
Publish Draft in Federal Register for 60 days comments	6-15-79
Guideline Clearance Completed	8-15-79
FY 80 Guideline Published	9-28-79

Knowledgeable Official. More information about this regulation can be obtained from Robert W. Soady, Office of Planning and Management at 202/376-3921.

Regulatory Analysis. No regulatory analysis will be necessary for this Guideline.

5. Title. Changes to the Guide for Discretionary Grant Programs, M4500.1G, FY 79 Guideline.

Description of the Regulation. The regulation is being changed to reflect the addition of three new programs to be funded under the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. 5601 *et seq.*, as amended. The three additional programs are (1) Youth Advocacy, (2) Replication New Pride and (3) Alternative Education. This addition will not in any way impact upon the programs presently set out in M 4500.1G nor will they affect the eligibility of those individuals applying for previously announced programs.

Need and Alternatives. There is a clear need to publicly announce new programs to potential applicant organizations and to communicate the basic requirements and procedures. No reasonable alternatives exist.

Legal Basis. The Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. 5601 *et seq.*, as amended and Section 501 of Title I of the Omnibus Crime Control and Safe Streets Act, as amended (42 U.S.C. 3751).

Plan for Public Involvement. Every change contemplated will be subject to the scrutiny, comments, and views of the public. Given the envisioned time frame (see *Target Dates*) much, if not most of this, will take place during the external clearance during which there will be a 60 day comment period following publication in the Federal Register for Youth Advocacy and Alternative Education. With respect to Project New Pride, the comment period has been set for 30 days. This comment period, however, will be extended to 60 days should the responses indicate that such is necessary.

Target Dates. Work is underway for most of these changes. The draft changes for the additions of Project New Pride and Youth Advocacy have been scheduled for internal LEAA clearance in February 1979. Both Project New Pride and Youth Advocacy will be published for comment in the Federal Register in March 1979. The final publication date for Project New Pride is scheduled to be May 1979; the final publication of Youth Advocacy is scheduled to take place in June 1979. Alternative Education is begin scheduled for internal LEAA clearance in April 1979. It will be published for comment in the Federal Register in May 1979. The final publication for this program is scheduled to take place in August 1979.

Knowledgeable Official. John Rector, Associate Administrator, Office of Juvenile Justice and Delinquency Prevention, 202/376-3548.

Regulatory Analysis. A regulatory analysis is not necessary.

6. Title. Changes to Guideline Manual for State Planning Agency Grants M 4100.1F

Description of the Regulation. The guideline manual will be modified to accomplish an overall streamlining of the requirements for State Planning Agencies participating in the Juvenile Justice and Delinquency Prevention Act (Chapter 3, paragraph 52) and to modify, where appropriate, certain definitional areas—the definition of a juvenile detention and correctional facility (Chapter 3, paragraph 52n(2)).

Apart from the above, M4100.1F will be modified in chapter 3, paragraph 51 in an effort to assist the states in their

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

[28 CFR Chapter I]

Semiannual Agenda of Significant Regulations under Development or Review

AGENCY: Law Enforcement Assistance Administration, Justice

ACTION: Publication of the semiannual agenda of regulations.

SUMMARY: This Semiannual Agenda of Significant Regulations is issued pursuant to Section 2(a) of Executive Order No. 12044 (43 FR 12661), which requires the publication at least semiannually of an "agenda of significant regulations under development of review."

The purpose of this Semiannual Agenda is to provide the public with information about regulatory activity within the Law Enforcement Assistance Administration.

FOR FURTHER INFORMATION CONTACT: For inquiries or comments related to specific regulations in the agenda, the public is encouraged to contact the appropriate knowledgeable offical. Questions or comments concerning the overall agenda should be sent to Leonard Oberlander, Office of Planning Management, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Avenue, NW., Washington, D.C. 20531, (202) 376-3921.

SUPPLEMENTARY INFORMATION: The Semiannual Agenda covers new significant regulations under development at the time this Agenda is prepared, or which are anticipated to be under development in the future. It also includes existing significant regulations under review with an eye toward possible revision, or ones anticipated to be thus under review prior to the publication of the next Semiannual Agenda.

Following are the plans for each significant regulation under development or review, or anticipated to be so prior to the publication of the next semiannual agenda by the Law Enforcement Assistance Administration.

A. Plans for Modifying Regulations

1. Title Graduate Research Fellowship Program, G5400 2B

Description of the Regulation. These guidelines provide for a limited number of fellowships, which will be awarded to doctoral candidates through sponsoring universities to support students engaged in the research and writing of a doctoral dissertation in the area of criminal justice.

The major issues under consideration for revision are: (1) increasing the maximum amount of the fellow's stripend from $4,000 to $6,000; and (2) extending the original grant period from one year to eighteen months.

Need and Alternatives. Publication of these guidelines for the Graduate Research Fellowship Program is considered to be the most efficient and concise method of disseminating information to individuals interested in this program.

Legal Basis. The guideline provides for the administration of the Graduate Research Fellowships to be supported by funds allocated under Sections 402(b)(5) and 501 of Title I of the Omnibus Crime Control and Safe Streets Act, as amended (42 U.S.C. 3742(b)(5) and 3751).

Plan for Public Involvement. The guideline change will be submitted for publication in draft to the Federal Register for public comment.

Target Dates. Internal review will begin April 2, 1979. Proposed draft guidelines will be submitted to Federal Register April 23, 1979. Final publication of revised guidelines anticipated in August 1979.

Knowledgeable Official. Jean Moore, Chief, Program Development Division, Office of Criminal Justice Education and Training, 301/492-9144 may be contacted for additional information regarding this guideline.

Regulatory Analysis. No regulatory analysis will be necessary.

2. Title. Administrative Review Procedure, 28 CFR Part 18

Description of the Regulation. This regulation establishes the hearing and appeal procedures for LEAA grant denials and terminations. The major issues to be reviewed are the regulations' simplicity, timeliness and fairness to all parties.

Need and Alternatives. This regulation is needed to explain the rights and responsibilities of all parties to an appeal.

Legal Basis. Sections 501, 509, and 510 of Title I of the Omnibus Crime Control and Safe Streets Act, as amended (42 U.S.C. 3751, 3757, and 3758).

Plan for Public Involvement. The planned revisions to the regulations will be published for public comment in the Federal Register. Public comment period will be at least 60 days.

Target Dates. Proposed regulations will be published for coment within 30 days after the Justice System Improvement Act becomes law. Final regulations should be published within 60 days after the end of the comment period on the proposed regulations.

Knowledgeable Official. More information about this regulation can be obtained from Mr. Thomas J. Madden, General Counsel, at 202/376-3691.

Regulatory Analysis. This regulation does not require a regulatory analysis.

3. Title. Financial Management for Planning and Action Grants, M 7100.1A

Description of the Regulation. This manual is a complete reference source and guide for financial questions arising in administration of planning grants (Part B funds), action grants (Part C and Part E block funds) and categorical grants. This manual includes requirements and suggestions as to accounting system and records, allowability of costs, grantee contributions or matching shares, financial reports, and the award and payment of grant funds. The manual provides guidance to grantees as to their obligations and grant administration responsibilities as recipients of funds under Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

Needs and Alternatives. This manual contains general fiscal policies and administrtive procedures that grantees must follow. These policies and procedures are necessary to insure that grantees comply with all statutory and regulatory requirements for LEAA programs.

Legal Basis. Section 501 and Part F of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, 42, U.S.C. 3701 *et seq.*, as amended, and Part D of the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. 5601 *et seq.*, as amended.

Plan for Public Involvement. After undergoing review and revision during February and March 1979, the draft manual will be published in the Federal Register with a sixty day comment period. During this 60 day period, comments from State Planning Agencies, the National Conference of State Criminial Justice Planning Administrators, Public Interest Groups and other public or private organizations or individuals will be received. At the end of the 60 day period careful consideration will be given to all comments and all necessary revisions will be made to the manual.

COMMONWEALTH OF PUERTO RICO
PUERTO RICO CRIME COMMISSION
G. P. O. BOX 1256
SAN JUAN, PUERTO RICO 00936

April 18, 1979

The Honorable Ike Andrews, Chairman
Subcommittee on Human Resources
House of Representatives
Congress of the United States
Room 320, Cannon House Office Bldg.
Washington, D.C. 20515

Dear Sir:

We have just received your request for us to update our comments regarding certain issues raised at last June's hearing on the Office of Juvenile Justice and Delinquency Prevention (OJJDP).

We still believe that the OJJDP has given clear and precise instructions regarding the tasks to be addressed. They maintain good communications with our office through Mr. Terrence Donahue, our OJJDP representative.

In regards to the funds allocated to the Juvenile Justice Advisory Group, we maintain our position that more information is necessary regarding permissible expenses.

As to the requirements of deinstitutionalization within a specified period of time, we are still in agreement that there are many limiting factors influencing such a goal. In addition, every single SPA's jurisdiction is responsive to different problems. Consequently, there is a good faith effort factor which should be considered to determine act compliance.

Very truly yours,

Sylvia Salgado Verdejo
Acting Executive Director

1979 YEAR OF THE PANAMERICANS

Commonwealth of Pennsylvania
Governor's Office

APR 3 1979

PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY
P. O. Box 1167, Federal Square Station
Harrisburg, Pennsylvania 17108
Telephone: (717) 787-2040

March 28, 1979

Honorable Ike Andrews
Chairman, Subcommittee on Economic Opportunity
U.S. House of Representatives
Room 320, Cannon House Office Building
Washington, D.C. 20515

Dear Representative Andrews:

Thank you for your letter of March 16, 1979, requesting a report of our current experience with the Office of Juvenile Justice and Delinquency Prevention.

Since our letter to you of June 19, 1978, there has indeed been some improvement in the situation, particularly regarding the administrative relationship between the Washington office and the State Planning Agencies. We assume this can be attributed to the appointment of a Law Enforcement Assistance Administration administrator, who is capable of exercising clear control of his agency and who understands the critical role of the State Planning Agency in the effective administration of the Law Enforcement Assistance Administration/Office of Juvenile Justice and Delinquency Prevention program.

Unfortunately, on the matter of program issues, we see no significant improvement in the Office of Juvenile Justice and Delinquency Prevention's operation. Our impression persists that programmatic ideas, procedures and regulations all originate in Washington and are handed "down" to states and operating agencies. There seems to be little effort to involve state juvenile planning staff or the staff of operating programs at the program development stage.

If, through the process of hearings, your committee can bring about some improvement in this important area it should result in a state/federal working relationship that much more closely resembles an effective team effort.

I wish to thank you for allowing me the opportunity to share our concerns with you and your committee. If we can provide any additional information that you feel would be important we will be pleased to be of assistance.

Sincerely,

Thomas J. Brennan
Executive Director

STATE OF CALIFORNIA—HEALTH AND WELFARE AGENCY EDMUND G. BROWN JR., Governor

DEPARTMENT OF YOUTH AUTHORITY
4241 Williamsbourgh Drive
Sacramento, California 95823

April 17, 1979

APR 19 1979

The Honorable Ike F. Andrews
Chairman
Subcommittee on Human Resources
Committee on Education and Labor
Room 320, Cannon House Building
Washington, D.C. 20515

Dear Congressman Andrews:

I want to thank you for the invitation to provide written comments relative to the Department of the Youth Authority's dealings with the Office of Juvenile Justice and Delinquency Prevention. In our previous telephone conversations with staff Director Gordon Raley we had agreed that, as the essential purpose of the March 20 hearing was to inquire into the operation of the OJJDP, we would not appear at the hearing but would instead submit our remarks in writing. Correspondence from Mr. Raley indicates that we are assured of the opportunity to appear at future reauthorization hearings. While we do have certain concerns relative to the operation of the OJJDP which are set forth below, I would note that we have a continuing interest in an amendment of the 1974 Act itself that would recognize and sanction youthful offender systems. In this regard, I would note that my June 20, 1978 letter, printed at pages 384-389 of the record of the June 29, 1978 oversight hearing expresses our concerns and position in considerable detail. We will, therefore, be most interested in providing testimony at the future reauthorization hearings and we appreciate very much Mr. Raley's invitation to do so.

Aside from the broader issue of the need for amendments to the Act, we do have concerns as to the manner in which the extended negotiations between the Youth Authority and the OJJDP regarding the controversy over the applicability of the separation requirement of Section 223(a)(13) of the Act have proceeded that may be of interest to you. Such process has, to put it mildly, been one of delay and frustration.

The Fiscal Year 1978 California Comprehensive Plan indicated that the Youth Authority would not restructure its entire system to achieve a degree of artificial separation as we felt that an existing youthful offender approach satisfied the intent of the Congress. On November 5, 1977, OJJDP advised the State of California that the juvenile justice component of the plan, which had been submitted in July, was disapproved on the basis that the separation provisions were inadequate. Through a series of negotiations first 25% and later 50% of the juvenile justice funds were advanced to California for use by all those entitled to such funds, except none were to be utilized by the Youth Authority.

On January 30, 1978 a draft proposal relative to the separation requirement espousing a chronological rather than jurisdictional approach to the definitions of "juveniles" and "adults" was submitted to OJJDP for their review. After another series of meetings and negotiations between the Youth Authority, the State of California Office of Criminal Justice Planning, and OJJDP, the proposal, now styled by OJJDP as the state's proposed amendment to the plan, was, on March 20, 1978, rejected. Conditional approval, however, was given by OJJDP to the juvenile justice component of the plan with the continued exclusion of the Youth Authority from the receipt or expenditure of any Fiscal Year 1978 funds until a separation plan that would lead to "full" compliance had been submitted and approved. The OJJDP was subsequently advised by the state that, due to the anticipated continued shrinkage of funds as a result of the passage of Proposition 13, the state was no longer in a position to meet the requirement even via a chronological approach.

Notwithstanding the correspondence noted above, the OJJDP, on January 26, 1979, reversed its previous position and approved the chronological approach. This was in spite of the fact that such approach had (1) only been offered originally as a possible alternative for discussion, (2) had been specifically and officially rejected by OJJDP, and (3) had subsequently been withdrawn by the state. Such reversal obviously contributes to the confusion surrounding both the meaning and appropriateness of the separation requirement.

In the meantime, and in what we regard as a further escalation of the continuing pressure being utilized forcing the Youth Authority into compliance with OJJDP's varying interpretations of the separation requirement, the State Office of Criminal Justice Planning, on October 30, 1978, received a letter from J. Robert Grimes and John Rector prohibiting the state planning agency from making any subgrants, contracts, or interagency transfers to the Youth Authority of Fiscal Year 1979 Parts B, C, and E awards. This was in addition to the previous embargo of juvenile justice funds to the Youth Authority. To extend such fund embargo when OJJDP has not been able to rebut the Youth Authority's continued contention that expenditure of public funds to achieve separation would be a complete and absolute waste of such funds is, in our judgment, both heavy-handed and illogical. We have, on numerous occasions, suggested review of the Act and its administration and we continue to do so. This chronology is clear testimony to the fact that the OJJDP is having difficulty interpreting the Act.

The Honorable Ike F. Andrews April 17, 1979

Mr. Raley indicated that your subcommittee may, at some future date, wish to view first-hand the institutions and operation of the Youth Authority. We would, of course, be delighted to arrange such a visit. One of the continuing frustrations in this matter has been the fact that, until very recently, we had been unable to persuade Mr. Rector or his staff to see the facilities and familiarize themselves with our system.

Again, thank you for the opportunity to submit our comments. If I can be of further assistance, please let me know.

Sincerely,

Pearl S. West, Director

cc: Gordon Raley
Doug Cunningham
Mario Obledo

Newark

Kenneth A. Gibson
Mayor

Police Department

22 Franklin Street
Newark, New Jersey 07102

Hubert Williams
Director

MAY 7 1979

May 2, 1979

Congressman Ike Andrews
Chairman, Subcommittee on Human Resources
Room #2178
Rayburn House Office Building
Washington, D. C. 20515

Dear Congressman Andrews:

Pursuant to your letter on April 6, 1979, the following observations address the issue on changes in the Juvenile Justice and Delinquency Prevention Act.

Excerpts from the "purpose" of the original Act (Section 101) are as follows:

(1) That juveniles account for almost half the arrests of serious crime.

(2) The juvenile courts, probation service and correction facilities are not able to provide individualized effective help.

(3) Facilities are inadequate to meet the needs.

(4) Existing programs have not adequately responded to the problem of increasing numbers of young people who abuse drugs.

(5) Juvenile delinquency can be prevented through programs designed to help students in elementary and secondary schools.

(6) Congress found the high incidence of delinquency in the United States results in enormous annual costs, 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 action.

It is my opinion and conviction that these sagacious observations are as prevalent today as they were in 1974.

Congressman Ike Andrews
May 2, 1979

The intent of the Act was to address the foregoing and sustain a comprehensive program providing financial and technical assistance for Federal, State, and Local Programs, and to monitor and evaluate all projects. Moreover, it created an institute for research and training programs and established a clearing house for coordinating data. Indeed, this program was comprehensive and complex with admirable goals.

The development of national standards for the administration of juvenile justice was a hallmark. They have the impetus for implementation at State and Local levels to facilitate standardizing methods and unifying approaches to effectively handle juvenile problems. Federal funding of many State and Local juvenile programs has, undoubtedly, been beneficial in many areas and has improved the quality and operations of the Juvenile Justice System. I am confident, that with the absence of government resources, juvenile crime would have escalated to even higher proportions. I am sure the federal government presently has considerable amounts of research data and evaluations of projects, and, hopefully, some new programs will be effectuated.

However, I maintain that effectiveness with projects thus far has been limited and much more has to be done at the local levels to more effectively combat the rise in serious and violent juvenile crime.

I am in accord with the concept of "community-based facilities" which was a facet of this Act, provided they are properly staffed and periodically evaluated. More effort must be achieved in the treatment phase in an attempt to rehabilitate youth. Moreover, we have only scratched the surface with the problem of Runaway Youth (Section III) and more methods need to be explored regarding the "why" of this phenomenon so as to establish counter measures.

Due to economic and fiscal restraints, there should be a curtailment of the administrative and bureaucratic structure which had been created in the original Juvenile Justice and Delinquency Prevention Act. I, therefore, support a reduction in size and functions of the Federal Delinquency Prevention Office, the Coordinating Council and National Advisory Committee, and the National Institute for Juvenile Justice training programs to enable appropriations to be more palatable to Congress.

In conclusion, I further recommend that priority funding be considered for local "grant programs" where innovative or refined projects are being carried on with juvenile treatment programs. This also applies where pilot programs are being tested, based on the research data culled by the experiences of the last four years of evaluations. I also support specialized training programs for police officers functioning as juvenile officers. Finally, I recommend continued emphasis on the problem of "runaway youth," for little has been done in this area which is intricately woven into deviant and delinquent youth.

Should I be able to provide you with further assistance in this matter, please communicate with this office.

Sincerely,

HUBERT WILLIAMS
POLICE DIRECTOR

HW:mty

NATIONAL COUNCIL OF JEWISH WOMEN
15 EAST 26th STREET, NEW YORK, N.Y. 10010 · (212) 532-1740

APR 19 1979

SHIRLEY I. LEVITON
NATIONAL PRESIDENT

MARJORIE MERLIN COHEN
EXECUTIVE DIRECTOR

April 17, 1979

The Honorable Ike Andrews, Chairman
Subcommittee on Human Resources
Committee on Education and Labor
Room 320
Cannon House Office Building
Washington, D.C. 20515

Dear Congressman Andrews:

I am privileged to submit, on behalf of the National Council of Jewish Women, the enclosed statement for the record of the oversight hearing on the Office of Juvenile Justice and Delinquency Prevention.

Justice for children and youth has been a long standing priority of the National Council of Jewish Women. We were among the earliest advocates for the passage of the Juvenile Justice and Delinquency Prevention Act of 1974, which established the Office and we are therefore concerned with seeing that the effectiveness of the Office is maintained.

The 100,000 members of NCJW across the country will be attentive to the actions and recommendations your Subcommittee makes in this area.

We welcome this opportunity and any future opportunity to comment on this issue of mutual concern.

Sincerely,

Shirley I. Leviton

Shirley I. Leviton,
National President

SIL/hm
encl.

NATIONAL COUNCIL OF JEWISH WOMEN, INC.
15 East 26th Street, New York, N.Y. 10010

STATEMENT SUBMITTED FOR THE RECORD OF THE OVERSIGHT HEARING ON THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION SUBCOMMITTEE ON HUMAN RESOURCES OF THE HOUSE COMMITTEE ON EDUCATION AND LABOR

April 17, 1979

The National Council of Jewish Women, with 100,000 members in more than 200 communities in 37 states, initiated its Justice for Children program in early 1971, more than three years before the passage of the Juvenile Justice and Delinquency Prevention Act (JJDPA). We have, therefore, been most interested in the effects that Act has had, and welcome this opportunity to submit testimony in that regard.

It is ironic that, despite the hue and cry about the extent of juvenile crime, the juvenile justice components of law enforcement, judicial and correctional agencies have characteristically been given low priority in those agencies' agendas and budgets. Many state planning agencies administering Law Enforcement Assistance Administration (LEAA) funds have been similarly remiss in their juvenile justice efforts. Furthermore, the extent of public interest, knowledge, and involvement rarely went beyond the fear of crime to the juvenile justice system itself.

It would be foolhardy to suggest that the JJDPA changed that picture overnight. But it has been clear to us that the Act has had great impact, and has provided the impetus for many changes to improve the situation described above.

We will outline briefly the effects we believe can be attributed to the JJDPA as it has been implemented by the Office of Juvenile Justice and Delinquency Prevention (OJJDP):

1) Recognizing the limits of our knowledge in the fields of delinquency causation, prevention, and control, it has encouraged basic and applied research, demonstration projects, and, most important, careful evaluation of programs so that knowledge acquired may be validated and shared.

2) Through it, Congress has courageously sought to redress the systematic abuse of status offenders, those children whose acts would not be crimes if committed by adults. The deinstitutionalization effort has encountered some resistance, as any such fundamental change would be expected to incur, but it achieved, in a few short years, greater changes than a decade of commissions and critical authorities had accomplished.

3) It has made state planning agencies devote a more equitable proportion of program efforts and LEAA monies to the juvenile area.

4) It has significantly involved the general community in dealing with problems of delinquency. It has done so through the state advisory groups mandated under the Act, through wider dissemination of research and statistical analysis, and through the encouragement of community-based programs to deal with young people in trouble.

(more)

We recognize that the program has had its share of problems. Some have arisen out of human resistance to change; others have been a result of the bureaucratic red tape and unavoidable circumstances. For example, fund flow may, in part, be attributed to LEAA mechanisms; but it is perhaps equally a product of the care and safeguards Congress would wish in expenditure of federal funds as well as the start-up problems of community-based programs.

Despite such difficulties, we are convinced that the benefits of the JJDPA far outweigh them. We urge your continued support of the effort.

MB/mlr

Of The United Methodist Church
62226 County Road 15
Goshen, Indiana 46526

MAR 19 1979

March 14, 1979

Raymond D. Stull
Executive Director

Glenn Mast
President, Board of Directors

The Honorable Congressman Ike Andrews, Chairman
Sub-Committee on Human Resources
Room 2178, Rayburn House Office Building
Washington, D. C. 20515

Dear Congressman Andrews:

These remarks are prompted by a letter from Gordon A. Raley, concerning guidelines promulgated by the Law Enforcement Assistance Agency, Office of Juvenile Justice Delinquency Prevention. It is my understanding that your committee will commence oversight hearings on March 20, 1979. I would appreciate my remarks being included in the record of testimony.

The guidelines as published on August 16, 1978 would be very damaging to private not-for-profit child-caring institutions. Most particularly the definitions of correctional and detention facilities.

No one could argue with the wording of section 223(a) (12) of the 1974 Act. To remove non-offenders from correctional or detention facilities is something all concerned child-care people have advocated the past ten years. But we all assumed correctional and detention facilities to be secure lock-up facilities usually run by the state or local government. I feel that most people think of secure, when they hear or read correctional and detention facilities. To include private non-secure facilities in this category was not imaginable.

To then add a bed limit or maximum capacity to the definition was even more suprising. The guidelines read as if something magical could happen if a child-care facility has twenty or less occupants, and was local (not clearly defined) in nature. Numbers of youth in a program have nothing to do with quality of program. If big is bad, then surely the bureauracy created by the Federal Government is the worse thing going in the United States. Contrary to what some people would like most citizens to believe, child-care institutions do not warehouse large numbers of youth for a major portion of their teen years. There are some (probably less than 5%) who abuse the responsibility of caring for youth, but we have sufficient laws on the books to handle these problems.

March 14, 1979
Honorable Congressman Ike Andrews

I would recommend that the language in the definitions be changed to bring the meaning more in line with common opinion of what correctional and detention mean. I believe that calling non-secure facilities who care for more than twenty youths not in their local community a correctional or detention facility is going beyond the intent of congress when they wrote and approved section 223 (a) (12). Clearly the intent was to mean a secure facility, with no mention of size or numbers. The guidelines should be modified to reflect the common usage of the terms correctional or detention.

Sincerely,

Raymond D. Stull

Raymond D. Stull
Executive Director
Bashor Home of the United Methodist Church, Inc.

RDS: sjy

Prepared Statement of the National Collaboration for Youth*

On behalf of the National Collaboration for Youth*, we wish to manifest our support of the Office of Juvenile Justice and Delinquency Prevention and the work it is doing in responding to the concerns of the public to the growing wave of youth crime, as well as the Office's attempt to guarantee the protection of the rights and welfare of youths served by the juvenile justice system. In addition, the Collaboration wishes to:

---express our disenchantment with the Administration's proposed budgetary cut of juvenile justice monies;

---address the disadvantages, both actual and cost, of incarceration of juvenile offenders as opposed to diversion; and

---focus on some viable projects prospering in cooperation with the Office of Juvenile Justice and Delinquency Prevention.

Congressional Intent of the Act--State and Local Involvement

We would like to note from the outset that the Collaboration is in accord with the Congressional mandates enumerated in the Act--those mandates being those of the decriminalization of status offenses; the diversion of juveniles from the traditional justice system; the provision of alternatives to institutionalization; the increase of the capacity of states and local governments, as well as public and private agencies, to conduct effective juvenile justice and delinquency prevention programs; and the overall improvement of juvenile justice services through advocacy programs.

Moreover, the Collaboration maintains that the majority of juvenile delinquency has its roots in social circumstances, not in law; that status offenses are the most obvious and flagrant example of this. That being the case, the courts

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* The National Collaboration for Youth is composed of twelve youth-serving organizations, whose local affiliates are engaged in direct services to youth. Formed in 1973 the Collaboration addresses national policy issues critical to the healthy development of the nation's youth. The National Collaboration for Youth is composed of the following organizations:

Boys' Clubs of America
Boy Scouts of America
Camp Fire Girls, Inc.
4-H Youth Programs
Future Homemakers of America, Inc.
Girls Clubs of America, Inc.
Girl Scouts of the U.S.A.
National Federation of Settlements and Neighborhood Centers
National Jewish Welfare Board
Red Cross Youth Service Program
National Board of YMCAs
National Board of YWCAs

are not the proper place to attempt the rehabilitation of status offenders. We insist that community-based alternatives to incarceration are essential elements to the humane treatment of current juvenile justice policies. Therefore, early identification and assessment of the problems of youth and diversion of juveniles from the traditional juvenile justice system significantly reduce the probability of future criminal behavior.

Given these facts, it is no doubt that the primary responsibility for ensuring the comprehensive delivery of services to control and prevent juvenile delinquency resides with local governments. But the fact remains that deinstitutionalization does not have much meaning if there are not effective community-based alternatives to incarceration. Unfortunately, these funds just do not exist from local sources. The Juvenile Justice and Delinquency Prevention Act has made such funds available for state and local jurisdictions.

Fiscal Year 1980 Appropriations

The largest single cut in LEAA's FY '80 appropriation is a $50 million cut for the Office of Juvenile Justice and Delinquency Prevention. Extremely hard hit are the assistance programs to state and local governments which are targeted for a reduction of greater than 50 percent of the FY '79 appropriation.

After several adverse years of struggling with an administration which did not provide the political reinforcement so necessary for the success of the Act, we now find a situation where the objectives of the Act could be rendered ineffective with an appropriation level that negates nearly five years of progress with youth programs.

We believe that a cut in the program at this time could result both in a reduction of the number of states participating and a cutback in the number of new programs funded as states use the remaining funds to carry out their obligations to existing grantees.

Diversion Advantages

There are numerous reasons for not placing a juvenile who has committed a crime or minor offense in some form of detention facility. The Act advocates utilizing community-based treatment programs for delinquents whenever possible. Some advantages of a community-based treatment program are as follows:

---the child's family can more readily cooperate in his rehabilitation. When a child is committed to a training school in another section of the state, professional case workers have less of an opportunity to work with his parents.

---The child can continue to attend school in his own community. Children who are sent away to state training schools often fall far behind in their education. A community-based treatment program overcomes this problem.

---Vocational training designed to meet the needs of the community. There is a significant difference in cost between institutional training programs and industry-sponsored community training programs. The industries already have the equipment, facilities, and personnel to conduct such training programs; whereas training schools must rely on budget allocations, which are often inadequate.

---The child avoids confinement with "hardcore, dangerous" delinquents. Community-based correctional programs can eliminate, to a considerable degree, the juvenile's initiation into a prison "culture."

---The problem of reintegrating the released child into the community is eliminated, and the child does not have the stigma of an institutional "record."

--Community correctional programs cost less, both in terms of actual money expended and in terms of money saved as a result of lower recidivism rates among those children participating in community-based programs.

The financial expenditure for community-based treatment programs for juvenile offenders is considerably less than the cost of incarceration. Probation costs only one-sixth as much as incarceration and parole only one-fourteenth as much. The State of Massachusetts is spending $85,000 per year to house 12 juveniles in a community group home, compared to $250,000 spent to house the same number of children in a state institution.

Model Programs

Given the Congressional intent that is explicit in the Act, any juvenile justice model should include the following:

---Incentives to state governments to form subsidy programs for units of general-purpose, local governments to encourage deinstitutionalization and to encourage organizational and planning capacities to coordinate youth development and delinquency prevention services;

---Fiscal assistance of up to one-half of the state's formula grant allocation to fund the subsidy title;

---Requirements that the state and its local governments match the federal allocation with two dollars for every federal dollar received;

---Provisions that subsidies may be distributed among individual units of local, general-purpose governments in those states not choosing to participate;

---Provisions that allow funds to go to states with existing subsidy programs to either expand those programs or initiate new programs consistent with the purposes of the new title;

---Requirements that private, non-profit agencies be prime participants in subsidy programs through contracts with local governments.

These model ideas, although not mandatory, do incorporate most of the notable conditions depicted in the Act.

Conclusion

Every effort must be undertaken to maintain existing appropriation levels for the Act. Not only must funds for the Act itself be held stable, but efforts to raise block grant funds for state and local governments to at least the current levels must be undertaken. Therefore, the Collaboration resolves to support an appropriation level of at least $100 million to the Office of Juvenile Justice and Delinquency Prevention and urges Congress to consider additional appropriations to assist state and local governments in improving the resources of these governments to assist agencies, such as those of the Collaboration, in improving the lives of troubled youths.

Statement of William Treanor, Executive Director
National Youth Work Alliance

Before the Subcommittee on Human Resources
of the House Committee on Education and Labor
Mr. Ike Andrews, Chairman

Mr. Chairman, thank you for your invitation to discuss the proposed changes regarding the definition of terms in the Guidlines for the Implementation of the Juvenile Justice Delinquency Prevention Act (JJDPA) of 1974. My name is William Treanor and I am the Executive Director of the National Youth Work Alliance, formerly the National Youth Alternatives Project. We are a membership organization of youth services formed in 1973. Our membership totals over 1,000 community based youth service agencies through affiliated state and local youth services coalitions. These agencies represent a broad spectrum of service delivery -- youth employment programs, hotlines, Alternative schools, drop-in centers, diversion projects, runaway shelters, and crisis counseling centers. Each agency shares the common philosophy of providing accessible, non-stigmatizing services to youth.

My statement today reflect a general sense of the field of youth work and the Alliance's experience in working with local youth service agencies over the past five years to encourage implementation of the Juvenile Justice and Delinquency Prevention Act of 1974. The Alliance's activities in assisting these local youth agencies have been supported during this period by several foundations, private citizens, and our membership.

I am submitting this testimony because of our intense concern over the implications of the proposed changes in definitions in the Office of Juvenile Justice and Delinquency Prevention Guidlines for implementation of the JJDPA. After a thoughtful examination of the proposed revisions we urge the subcommittee to resist changes in the present guidlines. As you know the JJDPA was a landmark piece of legislation that was shaped over a three year period. After months of debate and over a thousand pages of testimony it was finally enacted into law.

A review of the record shows that it was the clear intent of the Juvenile Justice Act to move towards smaller placement settings proximate to the home. One of the goals of the Act was to, where possible, strengthen the family unit. To achieve this, the Act provided for community based programs in small, open groups or homes located near the juvenile's home or family. This would in turn facilitate community and consumer participation in the program, as well as help maintain close family ties. In fact, community centered programs were seen by many as a key to the meaningful reduction of juvenile delinquency (National Governors' Conference Resolution on Delinquency).

The proposed changes to develop a definition of detention and correctional facilities which is predicated solely on a secure/non-secure definition perverts the intent of the Act. In addition, it flies in the face of our experience over the past six years of so-called "open treatment facilities" which, for all interts and purposes, were as secure as many prisons.

The size and community based restrictions in the guidlines are safeguards against this type of abuse which are carried on in the name of treatment for children who have not even been declared delinquent. Without these restrictions, there is no clear policy outlining what the system created as an alternative to incarceration should look like.

By eliminating the size requirement and the requirement that facilities be community based, the proposed changes allow agencies to operate institutions for young people regardless of location or number served. It could allow young people to be warehoused in camps , as well as in groups of 50 or More.

I strongly support small treatment settings that approximate the home-family experience. If the size limitations are lifted, and centers are taken out of the concerned community setting where vital input and interaction between the juvenile placement and community takes place, much of the essence of the Act which we have all worked so arduously for will have been subverted.

In addition, concerning the treatment of "serious offenders", while this should not be a primary target of the Office of Juvenile Justice, incentives should be provided to the states w ithin the maintenance of efforts funds. This will continue the spirit of the act by working on alternative programs for all offenders, with special emphasis on the serious offender.

It is crucial if these valuable programs have a hope to be effective that the current funding levels be maintained. To dip below the $110 million level is to renege on the commitment to helping juveniles and to pay only lip service to the important goals of the Juvenile Justice Delinquency and Prevention Act.

In conclusion, I urge you to support the present guidlines, to work for alternatives to incarceration for serious offenders, and to maintain the $110 million funding level for the JJDPA in fiscal year 1980.

Thank you very much.

APR 18 1979

kentucky youth advocates, inc.
Building a coalition for Kentucky's children and youth.
2024 Woodford Place Louisville, Kentucky 40205 456-2140 459-7751

April 13, 1979

The Honorable Ike Andrews, Chairman
Subcommittee on Human Resources
Committee on Education and Labor
House of Representatives
Congress of the United States
Room 320, Cannon House Office Building
Washington, D.C. 20515

Dear Representative Andrews:

Pursuant to your request of March 16, 1979, Kentucky Youth Advocates, Inc. is pleased to provide the attached written testimony regarding the Office of Juvenile Justice and Delinquency Prevention and Kentucky's participation in the Juvenile Justice and Delinquency Prevention Act of 1974, as amended in 1977.

Thank you for affording us the opportunity to comment on this most important aspect of Congressional policy.

Sincerely yours,

David W. Richart

David W. Richart
Executive Director

DWR/sr

WRITTEN TESTIMONY PREPARED BY:

THE KENTUCKY YOUTH ADVOCATES, INC.
LOUISVILLE, KENTUCKY

DAVID W. RICHART
EXECUTIVE DIRECTOR

and

JEANNE A. BLOCK
ASSOCIATE DIRECTOR

PRESENTED TO:

SUBCOMMITTEE ON HUMAN RESOURCES
COMMITTEE ON EDUCATION & LABOR
UNITED STATES HOUSE OF REPRESENTATIVES

CONCERNING:

THE OFFICE OF JUVENILE JUSTICE & DELINQUENCY PREVENTION
and
KENTUCKY'S PARTICIPATION IN THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

April 17, 1979

INTRODUCTION

Description of Kentucky Youth Advocates, Inc.

Kentucky Youth Advocates (KYA) is a private non-profit class advocacy organization of citizens, lay and professional, who are interested in changing the policies, practices, and procedures which adversely affect children and youth involved in the juvenile justice system in Kentucky. KYA is one of only a handful of class advocacy groups throughout the country whose sole purpose is the improvement of a state juvenile justice system. Sixty percent of our funding is derived from private sources. One of KYA's major goals is the prevention of unnecessary institutionalization of children and youth.

As far as we are aware, KYA is the only advocacy group in the country which has a contract with our state advisory group to conduct an independent policy analysis of Kentucky's progress in achieving the twin deinstitutionalization and separation mandates of the JJDPA. In 1978, we received $15,000 from the state advisory group to: (1) monitor institutions, (2) evaluate programs funded through the JJDPA, (3) identify barriers to full implementation of the JJDPA in Kentucky, and (4) suggest strategies to overcome the barriers and obtain compliance with the Act. We think that our testimony about the JJDPA in Kentucky can be used as a case study to encourage other states to continue to deinstitutionalize by overcoming the inherent obstacles to meeting the Act's goal.

INITIAL OBSERVATIONS ABOUT DEINSTITUTIONALIZATION

During the past two and a half years of its participation in the Act, Kentucky has learned that removing inappropriately placed children from institutions is a societal problem beset by formidable obstacles. Frankly, KYA has discovered that sweeping changes are required to achieve the reforms necessary to successfully deinstitutionalize status offenders. The resistance to

meeting the twin mandates of the Act is firmly entrenched, requiring advocates to develop sophisticated and extended strategies. After twenty-nine months, Kentucky is just now beginning to develop a comprehensive strategy to deinstitutionalize status offenders and separate juveniles and adults during their mutual incarceration. The progress made thus far, though it has fallen short of the mark, has nonetheless significantly and positively affected the way in which status offenders are treated by Kentucky's juvenile justice system. The Administration's planned 50 percent reduction in OJJDP appropriations would significantly retard, and perhaps eliminate, the progress that has already been made.

OBSTACLES TO COMPLIANCE: DEINSTITUTIONALIZATION

KYA's reports indicate that Kentucky's effort to deinstitutionalize its status offenders has been inhibited by:

1. the ambigious and vague status offender statutes which allow the court broad discretion in determining which youth experiencing family conflict will come under the jurisdiction of the juvenile court,

2. a lack of commitment by the state's district court judges to the goals of the JJDPA,

3. a lack of public awareness of the JJDPA and its implications for Kentucky,

4. an initial lack of alternatives to detention in counties where jails are the primary placement resource. (Our study has also shown that it takes nearly six months to develop a group home after it is funded.)

5. the lack of a comprehensive deinstitutionalization plan for the state's major service provider, the Kentucky Department for Human Resources,

6. the difficulty of developing suitable non-secure programming for "high-risk" status offenders who are perceived as being a danger to themselves or others,

7. the resistance of private child-care facilities to being included within the scope of the JJDPA. (In Kentucky, the association of these facilities has met with its Congressional delegation in an attempt to gain support for removing private facilities from the mandate of the JJDPA.)

OBSTACLES TO COMPLIANCE: SEPARATION

Kentucky has set December, 1985 as the designated date for complying with the separation mandate of the JJDPA. At present, only twenty-three percent of the 116 county jails in Kentucky contain separate facilities for juveniles. As a result, nearly 7000 youth are held in non-compliant jails each year. Based on our monitoring, the most significant obstacles to compliance with the separation mandate include:

1. resistance to removing juveniles from county jails by judicial and law enforcement officials,
2. lack of penalties for counties which violate state laws by not separating juveniles from adult criminals in county jails,
3. lack of adequate jail facilities which can be efficiently remodeled to allow for separation,
4. reluctance of county officials to develop separate facilities because the state is planning a multi-county district jail system,
5. lack of federal and state resources to support the separation mandate.

OPTIMISTIC SIGNS

In spite of the overwhelming obstacles to successful compliance with the JJDPA, Kentucky is beginning to make some significant changes in the treatment of status offenders which give cause for optimism.

Development of Legislation to Limit Jurisdiction over Status Offenders

Several gubnatorially-appointed task forces have been working for the last ten months on a new juvenile code. Most of the focus of attention has been on delinquent and dependent youth. Kentucky's participation in the JJDPA has allowed KYA and others to incorporate proposed legislation for troubled children and their families within the scope of the study of these task forces.

Recognizing that changes in existing statutes could limit the number of status offenders detained, KYA has led an effort to develop a separate code for status offenders which recognizes their unique problems. The OJJDP funded Youth Legal Assistance Project and KYA are also drafting a separate section of a new juvenile code for emotionally disturbed youth. The goal of both bills is to limit the jurisdiction of the courts over troubled youth by diverting them to community social agencies.

Accomplishments of the State Advisory Group

The Act mandates that each state appoint a state advisory group with unique qualities and perspectives. During the last year the advisory group has developed into a sophisticated and activist policy-making group which substantially enhances Kentucky's efforts. Among the contributions made by the state advisory group are:

(1) Advocating State Social Service Agency Accountability

The advisory group asked for, and received from, the state's Department for Human Resources, a deinstitutionalization plan which mandates the state's major service provider to totally deinstitutionalize its facilities by December, 1979.

(2) On-Site Monitoring of Facilities

The group has taken the responsibility of determining whether or not certain controversial facilities in Kentucky are in compliance with the JJDPA by conducting on-site inspections.

(3) Development of a Public Awareness Campaign

The advisory group has organized fourteen regional workshops throughout Kentucky in which approximately 450 citizens have been trained to promote community awareness and support for the JJDPA. They have also printed 10,000 eye-catching posters which contain information about status offenders and their families as well as the purpose of the JJDPA.

(4) Funding Priorities

The advisory group has determined that expensive group homes are not always the best alternatives for status offenders. Therefore, it has agreed to fund experiments with innovative non-residential methods of deinstitutionalization. They have also begun to "de-fund" projects which are not serving a significant number of status offenders.

CONCLUSION

Funding cuts at this crucial time would be a deadly blow to the troubled youth and families who would most benefit from full implementation of the Act's mandates. Many of us who have observed the development of the JJDPA and optimistically yearned for its passage, have been disappointed at the progress made thus far. Reality has taught us that changing attitudes about children's services will require a concerted and sustained effort before substantive results will be realized.

The JJDPA provides a necessary fulcrum by which advocates can set standards and press for more humane treatment of youth and their families. The work in which we have been engaged has just begun and the first results are promising.

Comments of
Grady L. Cornish
To The
Subcommittee on Human Resources,
Regarding H.R. 2108, The Criminal Justice Act
of 1979, Introduced by Congressman John Conyers

Mr. Chairman, I am grateful for the opportunity to convey my thoughts and feelings regarding H.R. 2108 which proposes a repeal of Titles 1 and II of the Juvenile Justice and Delinquency Prevention Act of 1974.

If any society is to exist beyond a single generation, its youth must be prepared to adopt adult roles that are functional to that society. Beyond the primary requisites of food, shelter, and procreation, youth must be socialized to take on the skills, knowledge, values and attitudes of the prevailing social order. Youth who have difficulty with or refuse to respond predictably to, social rules and expectations are perceived as a threat to the maintenance/perpetuation of the culture and safety of the Community.

More complex modern living conditions are creating an increase in anti-social behaviors by the youth of our society. This in turn challenges our basic socializing institutions and all agencies of society to remedy those deficiencies in the child's potential and actual associations and environment which impede or distort her/his development, and to create conditions conducive to healthy growth. Many agencies of government are involved in this task. However, formulation and implementation of rational and responsive policies have presented serious problems. Despite this fact, I feel that a repeal of Titles I and II

of the Juvenile Justice and Delinquency Prevention Act will be a step backward.

Evidence clearly suggests that all contact with the justice system should be avoided if we want no increase in subsequent delinquent behavior.

The harmful effect of the coercive juvenile justice system, the theory that children do not respond to coercive treatment, and numerous suggestions that community services must be made available directly to parents, schools and the children themselves, all lead to the conclusion that the country needs an increase rather than a decrease in prevention and diversion efforts.

A major requirement of the Juvenile Justice and Delinquency Prevention Act of 1974 is that status offenders not be held in secure custody or commingled with other delinquents. This Act provided, among other things, funds to States for the purpose of keeping youngsters who have not committed crimes out of institutions. While a majority of the states are participating in the Act's programs, some receiving several million dollars in federal funds, it should be pointed out that the Act is enabling legislation and does not mandate alternative handling of the status

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*Martin Gold and Jay R. Williams, "The Effects of Getting Caught: Apprehension of the Juvenile Offender as a Cause of Subsequent Delinquencies," Prospectus, December, 1969; Gald and Rermer, "Changing Patterns of Delinquency among Americans 13 through 16 Years Old: 1967-1972," Crime and Delinquency Literature, December, 1975, pp. 483-517.

offender. The Juvenile Justice and Delinquency Prevention Act of 1974, while presenting alternative strategies, depends to a large extent on the philosophy, politics, and motivation of local units of government to implement its legislative intent. It should be noted, however, that prior to passage of the JJDP Act of 1974 a substantial proportion of inmates of juvenile institutions were status offenders or youngsters who had not committed crimes. Since the passage of the Act some thirty-five (35) states are prohibiting the commitment of adjudicated status offenders to detention or correctional facilities.

A repeal of Titles I and II will add to the steady decline in resources for prevention strategies. Without such efforts, effective diversion is not likely to occur for most youth needing alternative community services. Progress has been and is being made in the development of effective diversion programs. However, it is not appropriate, in my judgment, to discontinue current efforts.

A key aspect of Titles I and II of the Act in its present form is an emphasis upon prevention. For too long we have had reactive rather than proactive policies. A repeal of Titles I and II will place us once again in a reactive posture.

The desire to institutionalize youths for non-criminal behaviors is still prevalent despite the success of alternative community based programming. Unfortunately, and in contrast to adult program planning, many well intentioned people continue to state that coercion is necessary in programming for status offend-

ers. A repeal of Titles I and II would be tacit support for institutionalization. Certainly, we do not want to step backwards in this direction.

Further, many concerned people assert that status offenders actually commit acts equal in seriousness to those committed by delinquents. A study conducted by the National Assessment of Juvenile Corrections has found that quite the opposite is true.

These points are made simply to suggest that a repeal of Titles I and II will have the effect of endorsing these assertions, which are based upon insufficient or non-existent empirical evidence. To avoid such endorsement, the country needs continued leadership from the federal government.

By repealing Titles I and II, juvenile justice and delinquency prevention efforts will be diluted through the lack of special emphasis. Relatedly, efforts to develop and maintain effective relationships between law enforcement authorities, social agencies, the courts, and schools will be minimized greatly. These factors are essential to successful prevention and intervention.

In addition to leadership and coordination, it is also imperative that more systematic research be conducted in the area of prevention and treatment before we can come to any definitive conclusions. We need more research designed to identify the individual and familial characteristics peculiar to the status offender population. Additionally, we need more research designed to identify particular intervention methods which have been proven to be more effective with this type of clientele.

Further, there is a tremendous need to develop on a national basis, an adequate system of gathering, classifying, and interpreting verifiable social data concerning the incidence and trends in status offenders behaviors. There is also a need for more trend data to determine which segment of the status offender population, e.g., age, race, sex, income, etc., are currently being placed in diversion programs. If Titles I and II are repealed, who will be responsible for seeing that these research needs are met? In short with national leadership, we have already achieved a reasonable amount of success in getting these kids out of institutions (Phase I). We are presently moving into Phase II which involves intensifying efforts to find new and imaginative ways to reach and aid the potential and actual anti-social child and his family. A repeal of Titles I and II would be an impediment to further progress in this area.

With all that has been said, I don't want to leave the impression that everything has gone smoothly. At the risk of stating the obvious, some of the problems from the National level have been:

- Confusion with regard to the way the program has been administered;
- Lack of projection of a partnership role (federal and state);
- Definitional problems;
- Inflexibility of administrative positions;
- Lack of a clear cut administrative structure within the office of JJDP;

- Internal conflict within the Office of Juvenile Justice and Delinquency Prevention;
- Dual administrative accountability, e.g., Heads of LEAA and OJJDP are presidential appointees.

These problems and others like them can be remedied through appropriate congressional measures without a repeal of the heart of the Act.

I have been a member of Georgia's Advisory Committee on Juvenile Justice and Delinquency Prevention since 1975. I say without question that the progress made in the processing and handling of status offenders in this State is a direct result of the leadership received from the national level.

Respectfully,

Grady L. Cornish

Grady L. Cornish

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

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April 20, 1979

Honorable Ike Andrews, Chairman
Committee on Education & Labor
Subcommittee on Economic Opportunity
House of Representatives
Congress of the United States
Room 320, Cannon House Office Building
Washington, D. C. 20515

Dear Chairman Andrews:

In response to your request for my comments concerning H.R.2108, please be advised of the following:

In the mid seventies, as President of the National Association of School Security Directors, I worked closely with Senator Birch Bayh, Chairman of the Subcommittee to Investigate Juvenile Delinquency.

The Subcommittee, through its surveys, investigations and hearings established that school violence and vandalism had become a serious, and at times, a critical problem in American education. From the Subcommittee's final report it was obvious that most school districts throughout the country would have to develop meaningful solutions to this problem if quality education was to survive.

The Subcommittee felt that the educational community could contribute to the delinquency prevention effort by formulating various programs and strategies to minimize school violence and vandalism while maximizing potential for a more fulfilling learning experience.

In the Subcommittee's recommendations Congress was urged to enact the Juvenile Delinquency in the Schools Act as part of the Juvenile Justice and Delinquency Prevention Act which legislation would include the establishment of a Safe School Center to provide information on and technical assistance to schools and communities concerning the development and implementation of strategies to prevent violence and vandalism.

In testifying before the House Committee on Education I recommended that it first determine the nature and extent of school crime so that it would be in a better position to enact proper legislation to deal with the problem. As a result the Congress enacted the "Safe School Study" as part of the Education Amendments of 1974 which mandated that the Secretary of the Department of Health Education and Welfare conduct a study to determine the incidence

ADMINISTRATION OFFICES • 1320 SOUTHWEST FOURTH STREET • FORT LAUDERDALE, FLORIDA 33312 • 305/765-6000

and seriousness of school crime; the number and location of schools affected; the costs; the means of prevention in use, and the effectiveness of those means.

The first survey was conducted by the National Center for Education Statistics and HEW released its findings in December, 1976. Described as the first national sample ever done on school violence, it found that nearly 73 percent of junior and senior high schools and 42 percent of elementary institutions reported some type of crime during the five month period it was conducted.

The study showed that the most commonly reported crimes were burglary, personal theft, drugs, alcohol abuse, disorderly conduct, assault, bombing, threats and the use of explosive devices, weapons offenses, arson, robbery and rape.

It was pointed out that the results tend to underestimate the seriousness of the situation since they related only to offenses reported to the police. This was confirmed in a subsequent study by the National Institute of Education (NIE) which reported that only a small portion of violent offenses are reported to police by schools in finding that 83 percent of attacks with weapons and attacks involving injuries were not reported and 85 percent of fights with weapons and 93 percent of fights involving injuries were not reported.

The NIE Safe School Study was released by HEW in December, 1977, and it included the following findings:

> 6,700 of the nation's schools have a serious problem with crime;
>
> One fourth of all schools in the country are vandalized in a given month and ten percent are burglarized;
>
> In a typical month about 2.4 million secondary school students have something stolen and about 282,000 students report being attacked;
>
> In a month's time 120,000 secondary school teachers have something taken by force, weapons or threats, 5,200 are physically attacked, about 1,000 of whom are being injured seriously enough to require medical attention;
>
> The risk of violence to teenagers is greater in school than elsewhere. They spend 25 percent of their waking hours in school yet 40 percent of the robberies and 36 percent of the assaults on urban students occurred in schools;

Data from students interviewed reflected that monthly 525,000 attacks, shakedowns and robberies occur in public secondary schools, almost 22 times as many as are recorded by the schools;

An average of 21 percent of all secondary students stated they avoided restrooms and were afraid of being hurt or bothered because they were afraid;

12 percent of the teachers hesitated to confront misbehaving students because of fear and almost half of them had been insulted or subjected to obscene gestures;

Secondary students reported beer, wine and marijuana are widely available in their schools. Almost half of them stated that marijuana was easy to get and 37 percent made the same comment concerning alcohol. Serious drugs were reported much harder to get than marijuana or alcohol.

Among the conclusions all principals, teachers and students, as both a general recommendation and a successful strategy, ranked administration of discipline number one followed by security devices and security personnel which received high ratings. Training and organizational change, parental and community involvement and improvement of school climate were also frequently mentioned.

The Juvenile Justice and Delinquency Prevention Act signed into law by President Carter in October, 1977, for the first time recognized the serious and costly problems of violence and vandalism in our nation's schools by including such provisions as the following:

To develop and implement programs to keep students in school and prevent suspensions and expulsions;

To include persons with special experience in school violence and vandalism on the 21 member Presidential Advisory Committee;

To make grants to develop and implement, in cooperation with the Commissioner of Education, model programs to prevent suspension and expulsion and to prevent school violence and vandalism;

To provide training for various individuals involved in juvenile delinquency including teachers and other educational personnel.

On August 31, 1978, the Juvenile Justice and Delinquency Prevention office of the Law Enforcement Assistance Administration issued a solicitation for a proposal on a National School Resource Center to be submitted by December 1, 1978. The center will provide training and technical assistance to deal with school crime and will provide a clearinghouse for the exchange of successful school programs.

Since the early 1970's I have worked very closely with LEAA and that agency has been very responsive in recognizing the serious and costly problems of school crime and violence. It has funded various school projects and programs as well as sorely needed technical assistance.

For example, LEAA awarded a grant to the Westinghouse National Issues Center to look into four different areas with a view to making them less conducive to crime. The project, known as CPTED, Crime Prevention Through Environmental Design, was to be implemented in neighborhoods, commercial property, schools and transportation.

The Broward County School District was selected for the schools demonstration. It involved a fear survey of our 20 high schools, the implementation of various strategies at 4 high schools to make them less conducive to crime and the development of a model school security program.

The fear study showed that 20 percent of the high school students indicated a fear of being a victim of a crime while at school, particularly in the restrooms and isolated areas on the school grounds. In fact, some indicated they avoided using the restrooms during the entire school day for fear of being assaulted or robbed. Several strategies were implemented at the four demonstration high schools including--

> Painting murals on the walls, secure and nonsecure bicycle areas, a police school precinct, two-way radios, open-door restrooms and mini-plazas.

All of the strategies were completed by June 30, 1978.

The objective of making the schools safe was accomplished by involving the students, by creating a natural surveillance within the schools, controlling hallway traffic and by making it more difficult to conceal criminal activity.

During June, 1978, as a part of the CPTED demonstration, I delivered to LEAA a model school security program which included guidelines for a school crime reporting system.

The foregoing comments leave little doubt that serious crimes continue to occur in our schools on a daily basis. The comments also reflect the results of my efforts to effect appropriate legislation which is mainly reflected in the Juvenile Justice and Delinquency Act of 1974 as amended.

My main concern is that H.R.2108 would do away with the first and only legislation that relates directly to school crime and provides assistance by LEAA through training, making available successful programs and providing technical assistance. It would undo the results of the efforts exerted over the past several years to have this legislation enacted.

Some provisions must be made to maintain authorization of the involvement of LEAA in the problems of school crime. Recently, in Portland, Oregon, I addressed representatives from seven different cities who are participating in comprehensive crime prevention programs. This project is under the direction of Cornelius Cooper, Director, Office of Community Anti-Crime Programs of LEAA. It was obvious from the reaction to my comments and in the subsequent workshops that schools must be involved in any meeting for comprehensive crime prevention programs.

Subsequently I met with juvenile officers in Missouri and South Carolina and they were also emphatic in expressing the need for school involvement in any effort to curtail the rising rate of juvenile crime.

I urge you and your Committee to seriously consider avoiding any action which would negate the accomplishments that we have effected to deal with school crime without providing some other means to cope with the serious and costly incidents that are disrupting the schools' efforts to provide quality education to our students.

Sincerely,

Joseph I. Grealy
Administrative Assistant to the
Superintendent for Internal Affairs

JIG:cb
4/20/79

STATE OF MINNESOTA
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6TH FLOOR, 444 LAFAYETTE ROAD
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TELEPHONE: (612) 296-3133

APR 30 1979

April 25, 1979

Congressman Ike Andrews, Chairman
Subcommittee on Human Resources
Room 2178, Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Andrews:

Thank you for the opportunity to respond to H.R. 2108, introduced by Congressman John Conyers. Minnesota has participated in the Juvenile Justice and Delinquency Prevention Act since 1975 and has been a supporter of the deinstitutionalization effort. Since August, 1978, there have been statutes prohibiting the placing of status offenders in secure detention beyond 24 hours or in secure correctional facilities.

As in any new program, there have been problems in meeting the needs of all children and of practitioners who serve those children. The Juvenile Justice and Delinquency Prevention Act has provided an impetus and a direction for meeting those needs.

Public hearings, legislative sessions, seminars, and conferences have been held at all levels of government to discuss the problems in juvenile justice and proposed solutions. The Juvenile Justice and Delinquency Prevention Act has served as a focal point for those discussions.

To eliminate specific monies, mandates, and emphasis on juvenile justice at the federal level would serve to encourage those who feel that our nation's youth should not be a priority, particularly those youth who are incarcerated. In Minnesota, reduction in federal monies would mean the elimination of some community based youth services and prevent the development of many more.

The Crime Control Planning Board of Minnesota does not support any effort to reduce the commitment to juvenile justice and would encourage that the federal government continue in its advocacy role for youth.

Sincerely,

Robert Griesgraber
Executive Director

RG:AJ:jkd

APR 30 1979

April 25, 1979

Honorable Ike Andrews
Chairman
Subcommittee on Human Resources
Congress of the United States
House of Representatives
Room 2178
Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Andrews:

I respectfully wish to present views as the Chairperson for the Juvenile Advisory Committee for Alabama regarding H.R. 2108, the Criminal Justice Assistance Act of 1979 repealing Titles I and II of the Juvenile Justice and Delinquency Prevention Act of 1974 for the consideration of your Subcommittee on Human Resources conducting hearings on May 1, 1979.

The basis for the "Juvenile Justice and Delinquency Prevention Act of 1974" defined by Congress in Title I, Sections 101 and 102 of the Act was the determination that (1) a nationwide juvenile delinquency problem existed; (b) juvenile courts, probation services, correctional facilities, foster and protective care programs, and shelter care facilities were inadequate to meet existing needs; (c) States and local communities did not have expertise or resources to deal comprehensively with the problems of juvenile delinquency; and (d) existing Federal programs had not provided the direction, coordination, resources and leadership required to meet the crisis. Recognizing the magnitude of the problem and the public demand for corrective actions, the Congress of the United States passed the Juvenile Justice and Delinquency Prevention Act of 1974.

H.R. 2108, the Criminal Justice Assistance Act of 1979 repealing Titles I and II of the Juvenile Justice and Delinquency Prevention Act of 1974 raises two major questions: (1) is juvenile delinquency and juvenile justice still a problem of great national concern, and (2) is the 1974 Act effective in achieving the stated purpose?

April 25, 1979

Honorable Ike Andrews
Washington, D. C.

Since we believe overwhelming evidence exists to verify that we still have serious juvenile delinquency and juvenile justice problems, we will direct our comments to the effectiveness of the 1974 Juvenile Justice and Delinquency Prevention Act in dealing with these problems. We will relate our comments to Alabama since this is the scope of our experience.

Alabama began participation late in fiscal 1977. To date, we have implemented twenty-one projects providing services to juvenile offenders, the majority of which are residential alternatives to institutionalization.

From the program's inception in Alabama, our efforts have been directed toward emphasizing the JJDP requirements of deinstitutionalization and separation. Our twenty-one projects have been directly responsible for (1) the forty-seven percent reduction in the number of status offenders confined in detention and correctional facilities, and (2) the seventeen percent reduction in the number of juveniles detained in jails. Significant to us is the fact that we have seen sixty-six percent reduction in the number of non-criminal juvenile offenders detained in jails. These results have been achieved although our jurisdictional age was increased from sixteen to eighteen years during the same time period.

Full implementation of the intent of the "Act" has been difficult to accomplish due to inadequate funds, numerous difficulties encountered in gaining public acceptance, and our late entry into the program.

We believe the potential for increased effectiveness of this program in our State is limitless. The first two years of participation have certainly been accompanied by numerous "growing pains". The experience and knowledge gained have been significant and we are optimistic that, given sufficient funding levels, we are in position to accomplish the Special Emphasis requirements of the "Act". To destroy these efforts at this point in time would be counterproductive from the viewpoint of many who have seen the JJDP program develop and the Juvenile Justice System improve as a result.

April 25, 1979

Honorable Ike Andrews
Washington, D. C.

Congress, through passage of this Legislation, recognized the need for, and placed a vote of confidence in the ability of, local communities to deal effectively with juvenile delinquency problems with Federal leadership and assistance. The elimination of this program will not only destroy progress achieved but will surely kill local public confidence in future programs.

We trust and pray that our Senators and Congressmen will stand firm in the recognition that the youth of this great Nation deserve our best; that juvenile justice and delinquency problems of considerable magnitude still exist; that the current "Juvenile Justice and Delinquency Act" may represent the best National and locally coordinated effort to date to cope with these problems and, given adequate time and funding, could prove to be the best available solution to the problems.

H.R. 2108 repealing Titles I and II of the Juvenile Justice and Delinquency Prevention Act of 1974 will surely destroy the significant achievements to date and, in the absence of a better program, we fear an escalation in juvenile justice and delinquency problems will be inevitable. We respectfully request the support of this committee in properly presenting our views and concerns. A Nation is only as great as it's leadership. Our leadership of tomorrow is our youth of today.

Respectfully submitted,

Robert C. Holt

Robert C. Holt
Chairperson
Alabama Juvenile Advisory Committee
2211 Drake Avenue, SW
Huntsville, Alabama 35805

RCH/jh

April 25, 1979

Honorable Ike Andrews
Washington, D. C.

CC: Honorable Howell Heflin, U. S. Senator
Honorable Donald Stewart, U. S. Senator
Honorable Tom Bevill, U. S. Representative
Honorable John Buchanan, U. S. Representative
Honorable William L. Dickinson, U. S. Representative
Honorable Jack Edwards, U. S. Representative
Honorable Ronnie Flippo, U. S. Representative
Honorable William Nichols, U. S. Representative
Honorable Richard C. Shelby, U. S. Representative
Gordon A. Raley, Staff Director
John Rector, Administrator, Office of Juvenile Justice and Delinquency Prevention
Robert Davis, Director, State of Alabama, Law Enforcement Planning Agency
Judge John Davis, III, Vice-Chairman, Alabama Juvenile Advisory Committee

APR 30 1979

NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES

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ORGANIZED MAY 22, 1937
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April 25, 1979

Congressman Ike Andrews, Chairman
Subcommittee on Human Resources
Room 2178, Rayborn House Office Building

Dear Congressman Andrews:

This is in response to the request for an expression of views regarding the Bill, H.R. 2108, introduced by Representative Conyers which would amend the Juvenile Justice and Delinquency Prevention Act of 1974. The copy of the Bill submitted with the request repeals Titles I and II of the Act. This, the Council does now and has in the past opposed, and so informed Mr. Conyers. I understand that the Bill has now been amended to retain the office of Juvenile Justice and Delinquency Prevention and to place it on a parity with the other two divisions of the justice assistance agency. This, the Council endorses.

Please know that this opportunity to have input in legislation affecting the juvenile justice system is appreciated.

Sincerely,

William S. White

William S. White
President
National Council of Juvenile and
Family Court Judges

dmd
cc: Judge Carl Guernsey
Hunter Hurst
Dean Louis McHardy

YOUTH POLICY AND LAW CENTER, INC.
315 West Gorham Street—Madison, Wisconsin 53703
(608) 263-5533

APR 30 1979

April 25, 1979

Mr. Gordon A. Raley, Staff Director
Congress of the United States
House of Representatives
Committee on Education and Labor
Subcommittee on Human Resources
Room 2178, Rayburn House Office Bldg.
Washington, D.C. 20515

Dear Gordon:

Enclosed is my testimony to Congressman Andrews on H.R.2108. The Juvenile Justice and Delinquency Prevention Act is of extreme importance to our state and I deeply appreciate the opportunity to express our feelings about Congressman Conyer's bill. I assume by forwarding my testimony to you that it will be placed in its proper place in the process. I have kept my comments somewhat philosophical in nature but if you have need for facts and figures I would be happy to follow-up with that level of detail.

I hope your work is going well and look forward to seeing you in the near future. Again, thank you for the opportunity to be heard.

Sincerely,

Richard J. Phelps
Executive Director
Youth Policy and Law Center, Inc.

47-234 292

YOUTH POLICY AND LAW CENTER, INC.

315 West Gorham Street—Madison, Wisconsin 53703
(608) 263-5533

April 24, 1979

TESTIMONY ON HR2108

PROVIDED TO REP. IKE ANDREWS
CHAIRPERSON, HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION AND
LABOR SUBCOMMITTEE ON HUMAN RESOURCES
Room 2178, Rayburn H.O.B.
Washington, D.C. 20515

Mr. Chairman: Thank you for requesting my reaction to H.R.2108 which among other things would repeal Titles I and II of the Juvenile Justice and Delinquency Prevention Act of 1974.

We find the prospects of this proposal staggering. I will address only the juvenile justice aspects of LEAA. I stress the need to treat the Juvenile Justice and Delinquency Prevention Act (JJDPA) as a separate entity and discuss it's appropriations separately from that of other LEAA components.

Prior to the passage of the JJDPA people in Wisconsin worked for years, without success, for changes in our archaic juvenile justice system. With passage of the JJDPA our state efforts began to bear fruit. Presently we are in the process of massive system reform relying on the lead and support of Congress via the Office of Juvenile Justice and Delinquency Prevention (OJJ). If Congress repeals or substantially diminishes it's support for the JJDPA it will have pulled the plug on everything our state has done in the past five years.

The amount of money (roughly $3 million) is not overwhelming when compared to the overall cost of our juvenile justice system. It is, nevertheless, the unique nature of the money that makes it absolutely indispensable to any new developments in our state.

We are naive as to Rep. Conyer's motives on a national basis and we assume they represent valid concerns about LEAA. Some people feel that the agency has funded too much police hardware. But that simply is not the case in Wisconsin. It is particularly not the case with monies distributed by the Office of Juvenile Justice. Wisconsin administers juvenile justice money through the Wisconsin Council on Criminal Justice (WCCJ) and receives some directly from the OJJ. In this manner we have funded shelter care

facilities, model intake diversion programs, institutional alternatives for status offenders, state level advocacy services, and juvenile officer pilot programs. Evolution requires the infusion of new ideas to balance the old and the OJJ money is almost solely responsible for providing that balance.

Following the lead of Congress as expressed in the JJDPA Wisconsin no longer allows correctional incarceration of status offenders, we provide full due process protections for minors and their families, and we do not allow adults and minors to be commingled in correctional facilities. Many of those changes came about as a result of a recent piece of legislation which is also expected to decrease our reliance on detention/jail causing a drop in population from 22,000 per year to as low as 9,000. Non-delinquents are virtually assured humane, non-secured pre-trial custody. We are five months into implementing that new law and the possibility that Congress is going to pull the rug out from under us is beyond comprehension. The people of our state, throughout this reform movement, thought we were carrying out the expressed desires of Congress.

Over thirty state level organizations supported a revision of our juvenile justice system which followed, in part, the lead of the JJDPA. Those organizations represented every state law enforcement association, district attorneys, defense lawyers, judges, public and private social services agencies, local units of government, citizens' groups like the League of Women Voters, and juvenile justice activists and planners. That coalition is fragile.

The necessary philosophical compromises were made due, in part, to a belief that we would continue to evolve a more just system of services to children and that the federal and state government would continue their financial commitment. Destroying the OJJ destroys that trust and the reaction would result in the return to conventional solutions which in the past included jails for truants, runaways, neglected, and needful children.

I have been doing much of the coordination of our Wisconsin effort over the past five years and I can, without qualification, submit that Wisconsin's needs require that any proposal passed by Congress include the following ingredients:

1. <u>The Agenda For Change Contained in the JJDPA Must Be Preserved.</u> History will review our treatment of children in trouble as barbaric. I will spare you the horror stories but anyone in our line of work can provide you with them. With the passage of the JJDPA Congress, for the first time in our country's history, went on record opposing many of these horrors. The purposes of the JJDPA have provided a needed statement of where society stands

philosophically and thus has become the cutting edge of reform.

2. Categories of Funding Must Include Advocacy and Policy Reform. Wisconsin found that throwing money at a problem didn't work. For example, simply building shelter care facilities didn't reduce the traditional reliance on jails. More beds simply meant fewer children at home. With a change in the statutory standards which control who may be locked-up, combined with shelter care programs, massive reform has begun.

   Our experience with jailing youths provides an excellent example of how federal money from the Office of Juvenile Justice is not simply throwing money at a problem or supplanting state money. As I previously indicated, we found advocacy outside of the formal state agency structures as essential to change. Funding by the Department of Health and Social Services would constitute a conflict of interest and therefore it was necessary that that type of program be created by federal justice funds even though it is a program philosophically supported by the state agencies. In addition, the shelter care projects in Wisconsin were started by two-year JJDPA grants and then picked up by the state and county jointly. Without money from the Office of Juvenile Justice we would have had one or two shelter care facilities. Now we have over 25. Without the combination of those two services provided by the federal government our only option for children would continue to be jail cells.

3. Congress Must Maintain Separate Funds for Juvenile Justice. It is destructive to combine adult and juvenile program funding. Provisions must be maintained which guarantee that the juvenile justice system will receive separate attention.

   The record is crystal clear. Minors do not provide a voting constituency or even a vocal one. Not only is minority itself the barrier but the fact that minority is a transient status exacerbates the situation. Every year the members of the group change in that a large number become adults. The political realities are that the easiest programs to cut are those affecting youth and predictably they will be if placed in direct competition with others.

In addition, adult and juvenile justice services should be considered independently because the service systems, the legal system, the active participants, and at times the general purposes of the adult and juvenile systems are very different. Separate treatment focuses the public debate and keeps clear the public understanding of our federal responsibilities to youth.

A good example of how unsuccessfully youth programs compete with other programs is provided by the administration budget. It appears that when LEAA was told to cut it immediately turned to the Office of Juvenile Justice and said youth programs will absorb an inordinately large percentage of the cut. We are now faced with the possibility that Congress might make the situation worse. Unfortunately, it is that "lack of importance" that keeps a great deal of talent away from juvenile delinquency work and feeds the growing cynicism of those who have committed their lives to that work.

4. Juvenile Justice Funds Should Continue to be Distributed Through the Three Different Levels of Government. If all juvenile justice money is passed on directly to municipalities or counties the creative function which coordinates, monitors and advocates for change will disappear. The authority over grants must be split between communities, state planning agencies, and federal agencies. Nothing more than a pass through to local units of government would create the greatest likelihood that the money would simply supplant prior state and county financial commitments.

5. Variety in the Nature of the Eligible Grantees Must be Preserved With a Continuing Commitment to Private Non-Profit Agencies. The greatest impact for federal money in Wisconsin has been with that distributed to a variety of private non-profit agencies. The strength of this unique money is its flexibility and it is important to guarantee that the money isn't simply funneled for conventional reasons through conventional agencies. As with local units of government another way of increasing the likelihood of supplanting state monies is to pass all of it directly to public agencies which provide direct services to youth.

There must not be a withdrawal of congressional support for, and protection of, the rights and services for our nation's youth. In the past, the United States has been criticized for its failure to have a national agenda for youth as do many European countries. The JJDPA is that national agenda. To abandon it during the International Year of the Child shames us as international advocates of human rights and leaves efforts on behalf of youth adrift nationwide.

Submitted by:

Richard J. Phelps
Executive Director
Youth Policy and Law Center, Inc.

MAY 7 1979

ISR

RESEARCH CENTER FOR GROUP DYNAMICS / INSTITUTE FOR SOCIAL RESEARCH / THE UNIVERSITY OF MICHIGAN / ANN ARBOR MICHIGAN 48106

May 2, 1979

Rep. Ike Andrews, Chairman
Subcommittee on Human Resources
Committee on Education and Labor
2178 Rayburn House Office Building
Washington, D.C. 20515

RE: H.R. 2108

Dear Congressman Andrews:

This is in response to Mr. Raley's request of April 6 that I comment in writing on Rep. Conyers' bill to reorganize LEAA, particularly the part repealing Titles I and II of the Juvenile Justice and Delinquency Prevention Act of 1974. I understand that the hearings on H.R. 2108 have been postponed from May 1, and that Rep. Conyers is revising his bill, so that comments directed specifically to the bill as introduced in February may be irrelevant. Nevertheless, I want to take this opportunity to remark on some general issues that Rep. Conyers' bill raises, with the view that perhaps these comments will be helpful in the process of redrafting the legislation.

One of the issues raised by the proposed legislation is the status and independence of the research sector. I understand that status in the Federal bureaucracy, as elsewhere, is measured in part on how close to the top one reports to. If the research arm of the organization (the National Institute for Justice) were designed to report directly to the Attorney General, as the February version of Conyers' bill proposes, that would move it up a rung in the organizational ladder from the present arrangement, and I find that a positive step for the status of research. But I wonder if it would not actually be illusory. LEAA was originally organized along somewhat the same lines, with the research sector co-equal in status with the action and other sectors. But the action sector was so much larger and more heavily funded that its head soon came to dominate the organization and, in effect, the other heads reported to him. It was an awkward situation and was later reorganized.

I don't think that the previous error ought to be repeated, nor do I like the previous correction. I suggest instead that an organization of equals be established along the lines of Rep. Conyers' February bill, but that an Assistant Attorney General or some such high title be formally designated to head the organization. I believe that this is pretty much the informal arrangement now and that an organization of this sort is contemplated in Sen. Kennedy's plan.

While the structure that I have suggested would raise the status of the research branch, it would not insure its independence, especially from the action branch. While the process of evaluation of programs might be carried on independently, the

subject of evaluation and research would depend heavily on the decisions of the action arm--in Rep. Conyers' February draft, on the Office of Juvenile Justice and Delinquency Prevention. For the proposed National Institute of Justice would be required to evaluate the programs that the OJJDP decides to support. Thus, NIJ's juvenile research program would be largely directed by action decisions. It is highly desirable that action programs be evaluated independently; but it would be unfortunate if the research arm were tightly limited, as it is now, to a research program of another agency's choosing. As Blair Ewing, Acting Director of the Institute of Criminal Justice, has recently pointed out, a major need in criminal research now is for innovative basic research in criminology.

I want to suggest a way of enhancing the independence of the research program that has, I think, another desirable feature as well. Suppose that the funds for evaluating an action program were allocated to the independent research arm out of the budget for the action program. A certain substantial proportion of the total action budget would have to be used by the research arm for the evaluation. When the evaluation was completed, and if it were positive, then that amount would go to support the expansion of the action program. Meanwhile, the research arm would also have a budget for its own program. This arrangement would insure the independence of the evaluation and research program. It would also insure that program expansion will depend on positive evaluation of the program's effectiveness. And I urge that the proportion of the action budget that is allocated for evaluation be substantial enough to do the job. It is not at all unreasonable to expect that a careful evaluation of an action program will cost as much as the program in its pilot phase.

Finally, the draft of H.R. 2108 raises the question of the relative support of juvenile and adult justice systems. Rep. Conyers' draft bill deletes the current minimum allocation to the juvenile side. It might be argued that, in eliminating a minimum, the proposal also eliminates what has in effect become a maximum, and that more support for juvenile justice action and research will become available. Recent history leads me to be skeptical about this. The constituency for the adult justice system is much more powerful than the advocates for juvenile justice reform. When there was no minimum allocation for the juvenile side, it was largely neglected, and the conditions responsible for that have not changed. I think that the public's concern about juvenile crime and juvenile justice should be reflected in an explicit allocation by the Congress of a substantial proportion of the total organizational budget.

Sincerely yours,

Martin Gold

Martin Gold
Program Director

cc. Rep. John Conyers
2313 Rayburn Office Building
Washington, D.C. 20515

Henry Dogin
NILECR
LEAA
Washington, D.C. 20531

David V. Heebink
Asst. to the President
Office of the President
The University of Michigan
1546 Arlington
Ann Arbor, MI 48104

APR 30 1979

UNIVERSITY OF WASHINGTON
SEATTLE, WASHINGTON 98195

Center for Law and Justice, JD-45

April 25, 1979

The Honorable Ike Andrews, Chairman
Subcommittee on Human Resources
Committee on Education and Labor
House of Representatives
Room 2178, Rayburn House Office Building
Washington, D.C. 20515

RE: H.R. 2108 Section 103: Repeal of Juvenile Justice Provisions

Dear Congressman Andrews:

Thank you for the opportunity to submit my comments on H.R. 2108. I have enclosed a statement focusing on the bill's proposed repeal of Titles I and II of the Juvenile Justice and Delinquency Prevention Act of 1974.

If I can be of further assistance, please do not hestiate to contact me.

Sincerely,

J. David Hawkins, Ph.D.
Prevention Specialist
National Center for the Assessment
of Delinquent Behavior and Its
Prevention

JDH:rl
Enclosure

STATEMENT BY J. DAVID HAWKINS, PREVENTION SPECIALIST, NATIONAL CENTER FOR THE ASSESSMENT OF DELINQUENT BEHAVIOR AND ITS PREVENTION, UNIVERSITY OF WASHINGTON, SEATTLE, WA.

Thank you for this chance to discuss H.R. 2108, the Criminal Justice Assistance Act of 1979.

I am currently engaged in a national assessment of promising and effective programs for preventing youth crime before young people become engaged in delinquent acts or involved with the legal system. My study is part of the research and synthesis work being carried out by the National Center for the Assessment of Delinquent Behavior and Its Prevention. Our project is funded by the National Institute for Juvenile Justice and Delinquency Prevention under the mandate of Sections 242 and 243 of the Juvenile Justice and Delinquency Prevention Act of 1974.

I would like to address myself specifically to Section 103 of H.R. 2108 which would repeal Titles I and II of the Juvenile Justice and Delinquency Prevention Act of 1974. The JJDP Act provides the framework for alleviating a host of serious problems facing this country's juvenile justice system. H.R. 2108 would abolish that framework.

In developing the JJDP Act, the Congress itself summarized the best available evidence regarding the nature and seriousness of the juvenile justice system as then operating to cope with the volume and range of problems for which it was responsible. Juvenile courts, detention facilities and juvenile institutions had become clogged with youth charged with minor offenses and with status offenders to the point that those guilty of serious crimes often did not receive

the attention they deserved. The juvenile courts and their probation departments had been saddled with the Hurculean task of solving all the problems of young people. Local communities had been largely excused from participation in preventing or controlling youth crime. It was the unfortunate result of a trend in this country in the past century toward bureaucratization, professionalism, specialization, and formalization of responsibility. Juvenile courts and their programs had become "disengaged" from their communities and peripheral to the mainstream of community life. Their main tools were formal legal control and supervision, detention, and institutionalization. With these they were expected singlehandedly to solve the problems of youth alienation and crime originating in the larger community.

In this context, the JJDP Act established a framework for a series of much-needed changes in the ways our society seeks to prevent and control youth crime. First, the Act seeks to return to local communities an important share of the responsibility for youth crime prevention and control. It encourages the involvement and participation of private and non-judicial public agencies and organizations in the prevention of juvenile delinquency, the diversion of minor juvenile offenders and status offenders from the juvenile justice system, and the provision of community-based alternatives to institutionalizing status offenders and delinquents who have committed minor offenses (Section 223 (10).

Second, the JJDP Act seeks to promote the development of rational, even-handed, and effective approaches to youth in conflict and youth who have violated the law through the establishment and adoption of consistent juvenile justice standards (Section 247).

Finally, the JJDP Act seeks to promote development of a range of alternatives both within the juvenile justice system and in the larger community to increase the effectiveness of efforts to prevent, control, and remediate juvenile crime. This final purpose is accomplished 1) through the establishment of the National Institute for Juvenile Justice and Delinquency Prevention, responsible for encouraging, conducting, synthesizing, and disseminating results of research and evaluation on delinquency, its prevention, and treatment (Sections 241, 242, and 243); and 2) through a series of special emphasis prevention and treatment programs (Section 224).

Frankly, it is difficult for me to comprehend how one could quarrel with the intent of the JJDP Act unless one's vested professional interests are threatened by its provisions. Yet H.R. 2108 would abandon the Act's mechanisms for insuring community involvement in juvenile crime prevention and control and the framework provided by the Act for development of rational, even-handed, and effective approaches to juvenile crime. There is clearly an additional issue to be considered here: the implementation of the JJDP Act by the Office of Juvenile Justice and Delinquency Prevention. It has been charged that the Office has concentrated its efforts on frivolous issues and minor offenders and ignored the problems of serious youth crime.

While I am speaking to H.R. 2108's proposal to repeal Titles I and II of the JJDP Act of 1974 and not to the issue of the performance of the OJJDP, I think two general points must be clarified. First, it is important to see the reforms outlined in the JJDP Act in sequential perspective. It is difficult to see how juvenile courts and juvenile institutions can concentrate their resources on

serious offenders in the absence of diversion of minor offenders from the courts and the deinstitutionalization of status offenders. Similarly, it is difficult to understand how communities can be re-involved in solving youth problems without diversion and deinstitutionalization to broaden the range of responsibilities beyond the juvenile justice system. I think it highly appropriate that the OJJDP has, consistent with its mandate, chosen to encourage accomplishment of these major initiatives as a first step in returning control to communities and in freeing the juvenile justice system to handle more serious offenders.

It would, of course, be totally inappropriate under the mandate of the JJDP Act for the OJJDP to limit its efforts to these first steps. As they are achieved, increasing attention must be paid to the Act's mandates regarding prevention of serious juvenile crime and community rehabilitation of serious juvenile offenders. This leads to my second point.

In my study of prevention programs and my review of initiatives launched under the JJDP Act, I see encouraging evidence of increasing efforts across the country to develop strong community-based initiatives for the prevention and control of serious juvenile crime. The OJJDP has initiated several of these projects. In 1978, the OJJDP allocated $14 million to a major special emphasis program to involve community private not-for-profit agencies in the primary prevention of youth crime. One of the most exciting projects funded under this program, the Youth Services Program of the Tuskegee Institute, is a comprehensive community-based delinquency prevention approach which serves a predominantly rural black population with an impressive array of preventive services including 1) academic and remedial education;

2) vocational training and career education and awareness; 3) cultural education and enrichment; 4) family and youth counseling; 5) field trips to prisons as a deterrent strategy; 6) arts and crafts; 7) parent effectiveness training; and 8) citizen effectiveness training.

In 1978 and 1979, the OJJDP allocated $4.7 million to an interagency collaboration with the Office of Education to fund and rigorously evaluate the promising school team approach to prevention of violence and vandalism in schools. This program provides local community and school people with training and technical assistance to develop and carry out their own programs for preventing problems in their schools, thereby returning responsibility and control for school problems to the members of the school community itself. This is a refreshing contrast to approaches to school crime previously funded by LEAA. A vice principal from Honolulu recently told me of the effects of the school team training in his school. Teachers there had come to fear hallways and open spaces ruled by disorderly students, and had left responsibility for patrolling these areas to LEAA-funded security personnel specially hired to keep peace in the school. Without a base of personal acquaintance with students, the security people had little effect. As a result of participating in school team training, several teachers in this school grouped together and reasserted control over the school's open spaces. They organized teachers to patrol these areas themselves in small groups. The teacher's first-name familiarity with students provided an interactive basis for reestablishing control and order. In this school teachers no longer fear to venture beyond their own classrooms.

In 1979, the OJJDP plans a $12 million special emphasis project

which will replicate in several states Denver's exemplary Project New Pride, a community-based program which rehabilitates youth who have committed serious crimes. The Office is also developing plans for a special emphasis alternative education program to prevent youth crime.

Concurrent with this OJJDP activity, across the country a number of promising efforts to prevent serious youth crime are being supported by Crime Control and Juvenile Justice funds. Let me mention three examples. In 1976, the Gang Violence Reduction Project in East Los Angeles began a program to work with Hispanic gang members in approximately 18 youth street gangs in the barrio. The program enlists indigenous gang leaders as consultants for conflict resolution, involves gangs in constructive activities, and educates gang members to capitalize on advantages offered in the "system." The program has the ambitious goal of reducing homicides in the barrio. Early evaluation studies conducted by the California Youth Authority under the supervision of Dr. Keith Griffith suggest that the program is effective in reducing gang-related homicides and between-gang incidents involving gangs in the project.

In Boston, the Jobs for Youth program, which receives just over 50% of its funding from LEAA, prepares a youth clientele of 50% black, 6% Hispanics, and 42% whites--half of whom are delinquent and all of whom are disadvantaged--to enter the world of legitimate employment in private business as a means of promoting self-sufficiency and self-esteem and preventing delinquency.

In Denver, the Partners Program combines LEAA, other government, and private-sector dollars in an intensive companionship program serving a population of 25% black, 50% Hispanic, and 25% white youths

diverted from the juvenile justice system. Evaluations suggest reductions in recidivism of up to 60% as a result of the program's services provided by community volunteers.

In summary, we have begun in this country, under the framework provided by the JJDP Act of 1974, to undertake the difficult task of preventing and controlling serious youth crime. We have begun the lengthy process of returning to communities a meaningful role in the socialization and control of their own youth. I think the Congress should be proud of having created a framework for these changes. I would strongly urge the Congress not to abandon this framework, but rather to reaffirm Congressional intent, as expressed in Titles I and II of the JJDP Act, to return to communities a role in the prevention and control of youth crime, to promote rational and even-handed approaches to youth in conflict and youth who have violated the laws, and to promote a range of alternatives to increase the effectiveness of efforts to prevent and remediate serious youth crime. As the first steps of diversion and deinstitutionalization are accomplished, work should continue in the areas of youth crime prevention and control under the framework provided by the JJDP Act of 1974. The progress of the last few years should not be abandoned as proposed by H.R. 2108.

ASSOCIATION FOR CHILDREN WITH LEARNING DISABILITIES

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APR 30 1979

2701 East Camelback Road, Suite 450
Phoenix, Arizona 85016
April 25, 1979

Congressman Ike Andrews
2178 Rayburn House Office Building
Washington, D. C. 20515

Attention: Gordon Raley

Dear Congressman Andrews:

Enclosed is a statement regarding ACLD's position on H.R. 2108 as it applies to the repeal of the juvenile justice provisions. As an organization, we are gravely concerned with the implications involved in this issue; particularly as to how devastating repealing these provisions would be to those individuals with learning disabilities.

We appreciate the opportunity to make this written statement. Also, we wish to express gratitude for your efforts on behalf of all the youth of this country.

Warm regards,

Dorothy Crawford

DC:rg
Encl.
cc: Betty Bader, ACLD President
Alice Scogin, ACLD Governmental Affairs Committee
ACLD National Office

ASSOCIATION FOR CHILDREN WITH LEARNING DISABILITIES
4156 LIBRARY ROAD • PITTSBURGH, PA. 15234 • 412 / 341-1515

WRITTEN STATEMENT ON BEHALF OF ACLD

REGARDING H.R. 2108
A BILL TO AMEND THE OMNIBUS CRIME
CONTROL AND SAFE STREET ACT OF 1968

by

DOROTHY CRAWFORD
ACLD Governmental Affairs Committee Member
ACLD Advocacy Committee Chairman

The following statement is that from the Association for Children with Learning Disabilities (ACLD). ACLD is a non-profit federated organization whose primary purpose is to enhance the education and well-being of children with specific learning disabilities to enable them to become productive adults. The organization is parent-oriented and parent directed. The parents only self-vested interest is that of guaranteeing recognition and services for their children.

The organization's policy is determined by its Officers and a Board of Directors guided by a Professional Advisory Board. The current President is Betty Bader of Des Moines, Iowa. The National Office is at 4156 Library Road, Pittsburgh, Pennsylvania, 15234, and staffed by the Association's one paid full-time employee, Mrs. Jean Petersen, Executive Secretary. ACLD currently has state affiliates in all 50 states plus affiliates in Washington, D.C., and Germany. Additionally, the organization recently joined an international coalition of organizations concerned and interested in the plight of children with learning disabilities.

ACLD believes in an inter-disciplinary approach. Their major goals are to . . .

Encourage research.

Stimulate development of early detection programs and educational techniques.

Create a climate of public awareness and acceptance.

Disseminate information.

Provide advocacy for the learning disabled regardless of their environment and/or social status.

The ACLD is unequivocally opposed to that section of H.R. 2108 which repeals Titles I and II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. It is ironic when we are on the threshold of utilizing data collected that there appears the likelihood of abolishing the means to do so. Now that viable methods have been developed to implement good preventative programs, repealing the Juvenile Justice and Delinquency Prevention Act will negate the benefits that could have been derived from all the monies expended thus far. Even more serious is that juveniles will pay the penalty by the return of warehousing. The end result will be such a loss of tremendous potentials to society and the mass of human suffering involved.

Current language in Title II of the Juvenile Justice Act is one of the few federal laws which provides specific monies for the problem of learning disabilities as it relates to juvenile delinquency. With current studies indicating a high ratio of delinquents with learning disabilities, the ACLD feels this country can ill afford to abolish the Office of Juvenile Justice and Delinquency Prevention and treatment programs for these young people.

Unfortunately, juvenile delinquents have few advocates to speak for them, including their parents. If the Office of Juvenile Justice and Delinquency Prevention is placed under an umbrella agency, it would seem likely that services and monies for this segment of the juvenile population would be at the bottom of the priority list. Therefore, ACLD strongly urges support of a separate office for juvenile justice, headed by a Presidential Appointee, with its own budget.

THE UNIVERSITY OF MICHIGAN
SCHOOL OF SOCIAL WORK
1068 FRIEZE BUILDING
ANN ARBOR, MICHIGAN 48104

PHILLIP FELLIN, DEAN

May 8, 1979

Congressman Ike Andrews
N. C. Chairman
Congress Of The United States
House Of Representatives
Committee On Education and Labor
Subcommittee On Human Resources
Room 2178 Rayburn House Office Building
Washington, D. C. 20515

RE: H. R. 2108

Dear Congressman Andrews:

In response to the April 6th letter of Gordon Raley requesting comments relative to the pending juvenile delinquency legislation, I wish to submit the following comments pertaining to H. R. 2108, and also to comment relative to the Juvenile Justice and Delinquency Prevention Act of 1974 and 77. Since the passage of the latter act, the Federal Government has assumed a needed, but significant role in the operation of the juvenile justice system in nearly all of the fifty states. Moreover, it has induced many private, as well as public agencies to initiate and or extend services to youths - both youth already involved in the justice system and to those who are in need of prevention and youth development programs. This support has been entirely appropriate and has been an important factor in the stimulation of other groups at the local and state level. As a member of the Michigan Commission Criminal Justice and the Advisory Committee on Juvenile Justice, I am well aware of how important this support has been. Therefore, I am concerned about the current efforts to reduce fiscal support for juvenile justice programs and also to amend the Juvenile Justice and Delinquency Prevention Act.

All of the information that is available about the implementation and outcomes from the juvenile justice act indicates that a relatively small amount of monies have had a profound effect on accelerating the deinstitutionalization of status offenders and other types of activity in community based intervention for youth. These monies have had a demonstrable multiplier effect in terms of generating additional dollars from other units of government and private sources for juvenile justice and delinquency prevention. Moreover, it is clear to us that states and localities who have participated under the act have made very substantial progress in meeting many of the standards imposed on them by the acts.

Congressman Andrews/continued

Although I do not know the present status of H. R. 2108, Representative Conyers Bill, I have a number of concerns about that piece of legislation, because it does not insure continuance of the Office of Juvenile Justice as an independent office at the same level of government at which it now exists. I believe such maintenance to be very important, since children and youth are in jeopardy in a number of areas in our society. One needs only to recall the types of proposals that have been made for amendment of the Social Security Act to be well aware of the low priority our society is currently assigning to youth. Thus, I think it extremely important that the Juvenile Justice and Delinquency Prevention Act be maintained and that it be re-authorized, as it currently exists. H. R. 2108 would not protect the separate status of the office, nor would it insure the present maintenance of effort as far as funding is concerned. In fact, it deletes the current minimum allocation for juvenile funds. Since the constituency for the adult system is far more powerful than advocates for juvenile justice, it is likely that the funding for juvenile programs would be cut substantially. If one examines the historical situation prior to 1974, it is clearly apparent that far less monies were spent for juvenile justice than are allocated at the present time. Moreover, I believe that we have had some substantial experience with revenue sharing programs, which indicate that it is important that the Congress establish clear priorities and indicate the purposes to which funding must be spent, if we are to preserve the integrity of the legislation, when it is actually implemented at state and local levels. I also question the relative amount of expenditure for planning in H. R. 2108.

We now see the goals of the Juvenile Justice and Delinquency Prevention Act being jeopardized by an appropriation request for fiscal 1980, which is only half the amount actually appropriated for fiscal 1979. If that were to be implemented, it would represent an act of less than good faith toward the states that have struggled to comply with stringent and costly requirements of the act in reliance on federal dollar assistance. The Federal Government initiated the current policy of deinstitutionalization and the incentives for the development of community based programs. It therefore is obliged to continue its support during the period of time that is necessary to affect completion of that major social reform. Administration assertion that the money is not needed since sufficient funds are said to be already "in the pipeline" and available to the states under the act, overlooks the critical point that by and large, these are obligated funds unavailable for new or different program initiatives. Such assertions also overlook the fact that juvenile justice act funds are now being expended at a faster rate than are funds under the much older Safe Streets Act. As the National Conference of State Criminal Justice Planning Administrators indicated in the March 14, 1979 news release, the Carter Administration apparently believes that the formula grant fund flow has been so slow that a 52.4% reduction should be instituted. Results, however, of a study of the fifty states has clearly shown the funds have moved out at the same, or even a more rapid pace than other LEA funding. Thus I urge that the fiscal 1980 appropriation be no less than one hundred and seven million dollars. The demonstrable benefits to be derived from such funds greatly outweigh the relatively minor federal cost.

I would also like to take this opportunity to support the recommendations of the National Advisory Committee for Juvenile Justice in their memorandum of April 10, 1979. Your subcommittee might well wish to carefully study and analyze these recommendations. In particular, I point to the recommendations pertaining to re-authorization of the Juvenile Justice and Delinquency Prevention Act, the proposals for strengthening the National Institute of Juvenile Justice and the indication that priority support should go to deinstitutionalization, restitution, and youth advocacy programs, as well as to programs for support of chronic serious offenders. Because of much unfortunate publicity, a great deal of attention is being given to serious offenders and to violence by juveniles, and other areas serving the bulk of juvenile offenders are being ignored or disadvantaged. Lastly, I would like to emphasize the need for greater cooperative planning by an inter-departmental committee on adolescent youth at the federal level. Certainly, there needs to be much more joint planning by the Departments of Health Education and Welfare, Labor as well as the Justice Department. Many of the problems facing juvenile delinquency today are associated with failures in the education and health systems or because they are unable to obtain permanent employment of any meaningful type. If these situations prevail, there is little that the Justice Department can do to solve the problems of delinquent youth. During the past, we have had strong interdepartmental committees, and I would suggest that there is a need for them to be given priority attention in the future.

As a researcher, I might also comment that H. R. 2108 contains several proposals pertaining to the organization of the research arm. Personally, I believe that there are a number of organizational mechanisms that could be successfully utilized and produce sound program evaluation and demonstration research. Based on my prior experience in doing juvenile justice research under a federal grant, I believe that some of the models developed by the National Institute of Health, are ones that should be considered in developing research mechanisms for the Office of Juvenile Justice. These include peer review panels, much more encouragement of basic and longitudinal research, as well as short term operational research.

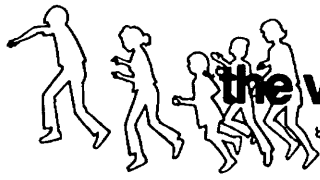
I hope that this information is helpful to you in deliberations and I look forward to hearing your proposals for continuation and extension of support for the Juvenile Justice Programs.

Sincerely,

Rosemary C. Sarri
Professor

RC:ml

cc: Ralph Monzma
Representative J. Conyers
David V. Heebink - Assistant to the President



the villages
conserving youth, preserving nature
box 1695 — topeka, kansas 66601 — phone 913/267-3030
Karl A. Menninger, M.D. Chairman Of The Board
Herbert G. Callison Executive Director
Robert R. Gillogly Associate Director

MAY 30 1979

May 16, 1979

Congressman Ike Andrews
Chairman, Sub-committee on Human Resources
Congress of the United States
House of Representatives
Room 2178, Rayburn House Office Bldg.
Washington, D.C. 20515

Dear Congressman Andrews:

I have delayed answering the April 6th request for written comments for the sub-committee hearings of May 1st on HR 2108 due to some apparent confusion. The material that was sent to me was insufficient for me to make a comparison between Juvenile Justice and Delinquency Prevention Act as amended through October 3, 1977, and the Act as it would be if HR 2108 was passed. I kept looking for more information, but failed to find enough to make an adequate statement.

From reading in various publications, including newspapers and child advocate propoganda, I have the same concerns as others that federal governments failure to provide funds for a wide range of direct service programs for youth will de-emphasis the importance of youth advocacy. On the other hand, in new legislation for Law Enforcement Assistance Administration grants it would be wise to include the requirement that local communities spend time on coalition building, community organization, and fund raising as a prerequisite for receiving federal funds. Although this stipulation would make it more difficult to receive federal funds, it would develop the broad community support necessary for the program to survive after the LEAA funds expire.

If you wish, representatives of The Villages, Inc. would be very happy to expand on this statement. We have been in the business of establishing community based programs for many years, and have developed some very successful techniques for providing the community support necessary for a long standing program.

Sincerely,

Herbert G Callison

Herbert G. Callison
Executive Director
THE VILLAGES, INC.

Appendix folo

HGC/sd

cc: Gorden Raley
Staff Director

APPENDIX

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
COMMITTEE ON EDUCATION AND LABOR
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
ROOM 320, CANNON HOUSE OFFICE BUILDING
WASHINGTON, D.C. 20515

January 19, 1979

Honorable Patricia M. Wald
Assistant Attorney General
Legislative Affairs
U.S. Department of Justice
Washington, D.C. 20530

Dear Ms. Wald:

Thank you for your letter of December 5, 1978, inviting my views regarding the developing controversy over the provisions of Section 223(a)(12) of the Juvenile Justice and Delinquency Prevention Act versus subsequent guidelines issued by the Office of Juvenile Justice and Delinquency Prevention (OJJDP). While I certainly appreciate the opportunity to share my views with you as you draft the Administration's reauthorization bill, let me emphasize that any views presented at this time represent only my present understanding of the issue and should in no way be interpreted as a hard and fast position. Once oversight hearings are held this spring, the Subcommittee, and perhaps the Administration as well, should have a better grasp of the factors involved.

As I understand the issue, Section 223(a)(12) of the Act requires that States promise, in order to receive OJJDP formula funds, to remove about 75 percent of all status offenders and non-offenders from juvenile detention and correctional facilities within a three-year period of time, with an additional two years provided to totally meet the goal after the 75 percent objective is reached. While the Act does not define what juvenile detention and correctional facilities are, most of the people I talk to automatically think of jail lock-ups, state training schools, reform schools, or other <u>secure</u>, prison-like situations. Most people I talk to seem to have formed a consensus, which I also share, that removing status offenders and non-offenders from these types of facilities is a worthy and laudable goal.

However, I also understand that the guidelines issued by OJJDP go considerably farther. They would also define as correctional facilities <u>non-secure</u> facilities which exceed certain rather arbitrary

bed-space limitations specified by OJJDP (20 beds in some situations or 40 beds in others). The Subcommittee has heard from a wide range of child-care facilities and organizations, many of which are church related, and most of which have never received OJJDP money, who are concerned that, because of the guidelines, they will be labeled as correctional facilities. I am not convinced that, when an overwhelming majority of the Members of the House passed the 1977 amendments, they foresaw the Kentucky Baptist Home for Boys or children's homes operated by Catholic Charities, Inc., being labeled as correctional facilities as a result. Frankly, I suspect most of us thought the term "juvenile detention and correctional facility" was fairly self-explanatory. Most of us did not foresee the dilemma caused by the more "sophisticated" definition provided by the Office in Chapter 3, paragraph 51, LEAA State Planning Agency Guideline Manual, M.4100.1F.

The dilemma, as I see it, has two sides. On the one hand, there are those who want Congress to demand that OJJDP recall the guidelines and rewrite them so that a clearer delineation is drawn between secure and non-secure facilities. In the absence of guideline changes, I suspect these individuals and organizations might then want clarifying amendments to the law itself.

On the other hand, I suspect there will be others who will say that changes to the Act might have the appearance of a "retreat" by Congress from the Act's mandate regarding the deinstitutionalization of status offenders. They will uphold that the Act as it exists, specifically Section 223(a)(12), is in the best interest of the children involved. They will contend that status offenders and non-offenders should not be held in any large facility, regardless of the services provided and regardless of whether that facility is secure or non-secure, supported by private or public funds, or operated as a profit-making or non-profit enterprise.

I am sure those who drafted the guidelines, who I suspect share the views of the second group described above, had the best interest of the youth involved at heart. I'm sure we might all agree that ideally the more a facility resembles the family unit, the better it is for the status offender and non-offender. I do wonder, however, if the guidelines as currently written don't stretch the intent of Congress a bit in trying to accomplish everything at once. I have said on a number of occasions that I believe the status offender issue is not the only flag OJJDP should fly. Since compliance with the guidelines in question determines whether or not a State can participate in the first place, I wonder if the objectives of both groups could not sooner

be attained if the provisions of the Act were interpreted differently. It seems reasonable to require States who want to receive funds from the Act to agree to remove status offenders from secure correctional and detention facilities as a prerequisite for participation. There seems to be a national consensus on this point which has existed for several years. Once States are participating, the funds from the Act could then be used to encourage them to improve non-secure facilities that are too large or too far from the child's family.

I also wonder if, in order to prevent this interpretation from being seen as a retreat on the part of Congress or the Administration from the mandates of the Act, that in the 1980 reauthorization amendments, participation in the program should not be limited to those States who have totally removed status offenders and non-offenders from secure detention and correctional facilities. The Act will have been in existence for almost six years by that time and perhaps Congress and the Administration may want to emphasize that the time for compliance is at hand and the time for "trying" to comply past. At the same time, the requirement would be a reasonable one which could more easily be monitored than the rather complicated mandates existing in current guidelines.

The Subcommittee will be posing this question to all interested parties during the next year as we approach reauthorization in 1980, to see if it is an idea that has merit. We would certainly welcome your views and those of others in the Administration.

Sincerely,

Ike Andrews
Chairman

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION
WASHINGTON, D.C. 20531

March 15, 1979

Honorable Ike Andrews
Chairman, Subcommittee on
Economic Opportunity
Committee on Education and Labor
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

We are pleased to have the opportunity to respond to questions regarding the Office of Juvenile Justice and Delinquency Prevention in preparation for the March 20, 1979, Subcommittee on Human Resources Hearing. Attached are our responses which follow a reiteration of your questions.

I trust this information will be useful to your deliberations.

With warm regards,

John M. Rector

John M. Rector
Administrator
Office of Juvenile Justice
and Delinquency Prevention

Enclosures

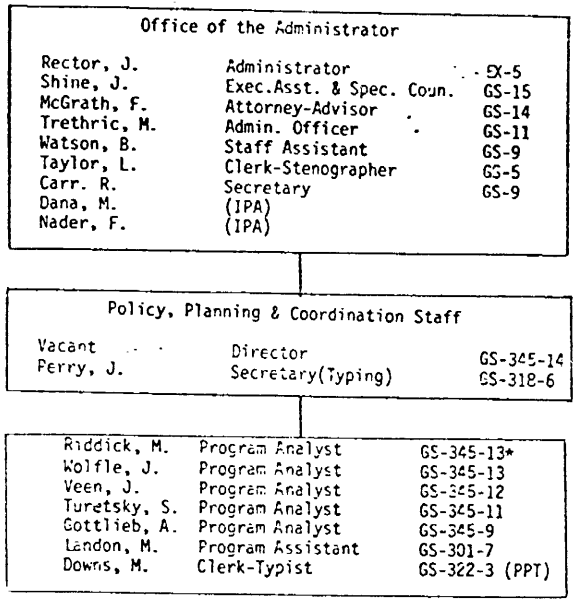
Question 1:

Could you provide an up-dated organization chart for the Office, with the existing number of staff positions available and a listing of vacancies by position?

Response:

Attached is an up-dated organization chart for the Office with the existing number of staff positions available and a listing of the vacancies by position.

OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

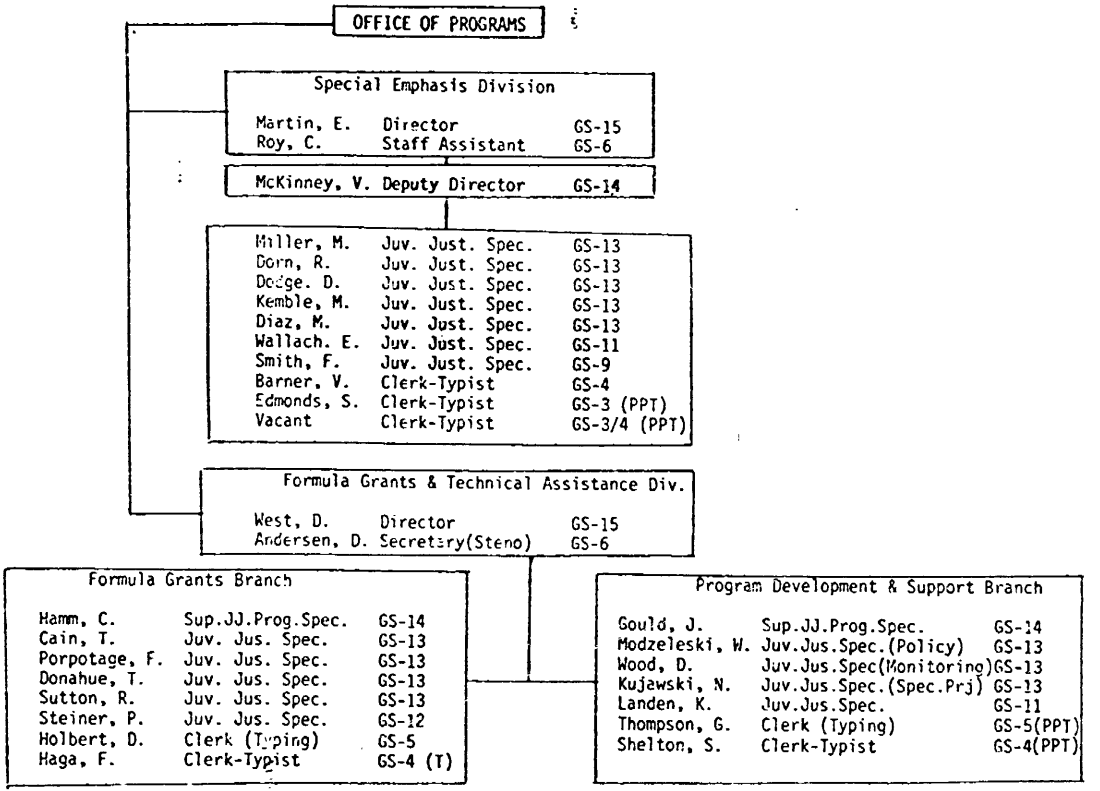


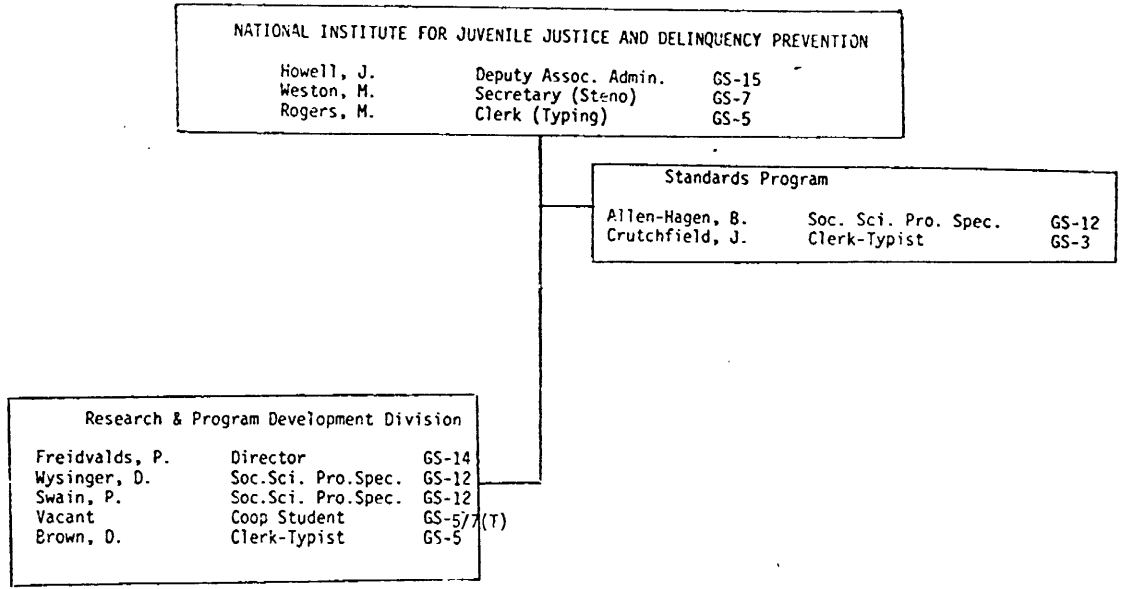
* Acting Director

(PFT) - Permanent Full Time
(PPT) - Permanent Part Time
(T) - Temporary

Positions Available	Vacant
51 - (PFT)	1 - Dir., PPC
5 - (PPT)	1 - Clerk-Typ.
2 - (Temp)	1 - Coop stude

MAR 16 1979





MAR 16 1979

Question 2:

According to Section 204(b)(5) of the Act, prior to December 31, 1978, an annual report is to be submitted to the President and the Congress. It is to include:

a. An analysis and evaluation of Federal juvenile delinquency programs including expenditures made and results achieved;

b. A description of the problems in the operation and coordination of such programs;

c. A brief but precise comprehensive plan for Federal delinquency programs; and

d. Recommendations for modifications necessary to increase the effectiveness of these programs.

Could you please provide the Subcommittee with a copy of this report?

Response:

The annual report required by Section 204(b)(5) of the Act is not yet completed. The delay is a result of staff shortages and our decision to limit the scope of the report to the specific policy issues and Federal programs identified by the Coordinating Council as having the highest priority. Our approach to the report is consistent with the National Advisory Committee's recommendation that the number of programs included in the report be limited to those that are of greatest importance to the success of the overall Federal juvenile delinquency effort. It is also responsive to criticism of previously submitted reports. Those reports failed to distinguish juvenile delinquency programs and expenditures from general youth programs and expenditures and lacked specific recommendations on ways to improve coordination and effectiveness of Federal juvenile delinquency activities. As a result, the reports were of little value. As soon as our report is completed, I will submit a copy to the Subcommittee.

Question 3:

Last June during testimony before the Subcommittee, you attributed the Office's shortcomings to a number of factors including low morale, understaffing, and the absence of basic control and monitoring mechanisms. What has been done to correct these situations? What problems still exist?

Response:

We have established a paperflow control desk responsible for acknowledging correspondence and logging assignments of applications or concept papers. While this system has remedied many of the more glaring deficiencies referred to last June, we are working to further improve on this record. Project monitoring plans exist for active grants within each division of the Office specifying a range of types of monitoring from telephone contact to site visits by the OJJDP project monitor. Staff morale has improved over last June. A more appropriate re-delegation of authority has been made to division directors. Overall Office productivity has increased.

COORDINATING COUNCIL

Question 4:

During testimony, in answer to criticism that the Coordinating Council had not met in 18 months, you stated, "You are going to see emerging from our efforts in the Council. . .something that is rather unique in the area of intergovernmental activity. It is going to be targeted activity. It is going to assess Title XX; it is going to assess the Bureau of Indian Affairs; it is going to assess Economic Development money at Commerce." How has the Council progressed in meeting this projection? During FY 1978, did the Council fulfill its mandated requirement to meet four times? On what dates has the Council met since the June hearing? Would you forward copies of minutes and a list of attendees?

Response:

The Council is required to meet four times per year. During 1978, it met on the following dates: August 24, December 18, December 19, and December 20. Copies of the minutes and the list of participants for each of these meetings are enclosed. Since June 1978, the Council unanimously agreed to undertake a detailed review of Federal policies, programs and practices and report on the degree to which Federal funds are used for purposes that are consistent with Sections 223(a)(12) and (13) of the Act. The Juvenile Justice Amendments of 1977 specifically authorize the Council to conduct this review. During its 1978 meetings, the Council discussed in detail the deinstitutionalization and separation requirements of the Act, the Formula Grant Program and the Runaway Youth Program. At the direction of the Council, OJJDP submitted to the Council the titles and brief descriptions of 14 Federal assistance programs that have an important bearing on successful implementation of the deinstitutionalization and separation policies of the Act. Each program was discussed, and seven were selected for intensive study by the Council during 1979. Final selection criteria were: (1) programs that are consistent with Sections 223(a)(12) and (13) but could be used more effectively to implement the Act; and, (2) programs that are inconsistent with Sections 223(a)(12) and (13). Two or more programs will be presented for discussion during each two-day meeting held in 1979. The Titles IVa, IVb and XX programs under the Social Security Act will be the subject of the next meeting.

Question 5:

In your letter to the Subcommittee of June 20, 1978, you said that juvenile delinquency development statements required by Section 204(1)(1) of the Act would be submitted on December 31, 1978. Would you provide the Subcommittee with copies of those statements?

Response:

In my letter to you of June 20, 1978, I stated that procedures for submission of juvenile delinquency development statements would be submitted as part of the third analysis and evaluation of Federal juvenile delinquency programs (the Annual Report). The procedures will be included in the report when it is submitted. The statements will be prepared according to these procedures as required in FY 1979.

NATIONAL ADVISORY COMMITTEE

QUESTION 6:

At the time of your testimony in June, there were seven vacancies including that of the chairman. Have these vacancies been filled? Has the Committee fulfilled its obligation to meet at least four times a year?

RESPONSE:

The vacancies on the National Advisory Committee have been filled. On June 28, 1978, President Carter appointed seven persons to the Committee for terms expiring March 18, 1982. Mr. C. Joseph Anderson of Terre Haute, Indiana was appointed chair. Attached for your review is a list of the names and addresses of the newly appointed members. The Committee has met its obligation to meet four times per year. The meeting schedule for 1978 was as follows:

February 6-8
Arlington, Virginia

July 12-14
Kansas City, Missouri

August 16-18
San Antonio, Texas

November 30 - December
Arlington, Virginia

The Committee's first meeting during 1979 was held February 22-24 in San Diego, California. Three other meetings are scheduled for the following dates:

February 22-24
May 17-19
August 2-4
November 29-December 1

APPOINTED JUNE 28, 1978, TO TERMS EXPIRING MARCH 18, 1982

Mr. C. Joseph Anderson, Chair
28 South 3rd Street
Terre Haute, Indiana 47801

** Mr. Kenneth McClintock-Hernandez
1716 Santa Evuigis Street
San Juan, Puerto Rico 00926

Mr. Ron LeFlore
10448 Summerset
Detroit, Michigan 48224

Ms. D. Laverne Pierce
325 Miller Street, South
Salem, Oregon 97302

Mr. Kenneth F. Schoen
250 Broadway
Room 1422
New York, New York 10007

Mr. David Tull
1758 First Avenue
New York, New York 10028

Ms. Alice Udall
142 Calle Chaparita
Tuscon, Arizona 85716

** Temporary address:
Kenneth McClintock-Hernandez
P. O. Box 5022
Tulane University Station
New Orleans, Louisiana 70118

David Tull
CUCS
[illegible]
P. O. Box 90
[illegible]

NATIONAL ADVISORY COMMITTEE RECOMMENDATIONS

Question 7:

Would you provide the Subcommittee with a copy of the Advisory Committee's 1978 recommendations?

RESPONSE:

1. The National Advisory Committee for Juvenile Justice and Delinquency Prevention is in full support of the 1979 International Year of the Child and, accordingly, urges all State Advisory Groups, Juvenile Justice and Delinquency Prevention Act funded projects, and citizen supporters of the Act to participate in the International Year of the Child by holding special seminars, research projects and educational programs on some aspect of the value and needs of children and youth. Further, the Committee encourages citizen groups to sponsor legislative programs to improve laws affecting children, youth, and families.

2. Status offenders should not be removed from the jurisdiction of the juvenile court.

3. The Committee opposes the waiver of any person under the age of 18 to the jurisdiction of the adult court.

4. Greater emphasis should be placed on research in the area of delinquency prevention.

5. Juvenile justice and delinquency prevention research and action programs should be better coordinated and designed to complement each other.

6. Regarding the relationship between action and research programs sponsored by the Office, the Institute should participate in, or sponsor directly, three types of research: small scale research and demonstration projects that test new program approaches; evaluations of programs that use alternative intervention approaches; and assessments or case studies of programs that use traditional service approaches.

7. The Institute should continue to support research programs that address the juvenile delinquency research priorities of the Coordinating Council. Further, the Institute should coordinate other Federal agency research activities that address Coordinating Council priorities.

8. More research should be done on the treatment of juveniles who have committed a violent offense. Specifically research efforts are needed to:

   a. determine the nature of treatment programs for juveniles in this category ;

   b. examine the issue of voluntariness in treatment programs;

c. assess the feasibility of integrating rehabilitation and punishment objectives.

9. The NAC recommends to the Office of Juvenile Justice and Delinquency Prevention that a priority be given to research into the impact of waiver to the adult court.

10. The NAC recommends that the Office of Juvenile Justice and Delinquency Prevention, in cooperation with HEW's Office of Child Development, place a priority on research into the incidence and relationship between child abuse, family violence, and incest and violent offenses later in life.

11. The NAC recommends that the Institute gather information on training needs from the State Advisory Group members.

12. The Committee made the following recommendations to the Administrator of the National Institute for Juvenile Justice and Delinquency Prevention:

    a. clarification about the role that research is to play in the overall program is needed;

    b. The Institute is understaffed in areas of training and research with only 10 of 18 positions presently filled. These positions need to be filled and additional staff added in order for the appropriated $16 million to be spent.

13. Support and assistance should be provided to the Coordinating Council to facilitate its efforts on coordination.

14. Standard Federal definitions of terms relating to juvenile delinquency should be developed.

15. The detailed statement of criteria for classification of Federal juvenile delinquency programs should be refined.

16. The development of a coordination agreement among the members of the Coordinating Council should be encouraged. The agreement would include pledges to:

    a. Regularly participate in and support the work of the Coordinating Council;

    b. Designate high level policy staff to work with the Coordinating Council on a regular basis;

    c. Support the developmental plans which would describe how their various programs would fall within the definition of youth-serving programs and would relate to the objectives and plans that are set forth by the Law Enforcement Assistance Administration (LEAA);

d. Cooperate in collaborative research;

e. Provide resources to staff the Coordinating Council.

17. The Office of Management and Budget should be represented on the Coordinating Council.

18. The National Advisory Committee strongly recommends that a line item appropriation be made for the Committee.

19. The National Advisory Committee recommends that appointees to the Committee be allowed to actively serve until their successors are named by the President.

20. The NAC recommends that subsection (b) be deleted from Paragraph 52n (2) which defines juvenile detention or correctional facilities for purposes of monitoring.

21. The Office should set as a top priority the identification and evaluation of all programs serving juveniles who have committed violent offenses and also the identification of programs that have some measurable degree of success.

22. Treatment programs for juveniles who have committed a violent offense funded by the Office should continue to contain, and make more extensive evaluation components; in the alternative, OJJDP should awar an independent evaluation contract to develop comparative data on program effectiveness.

23. The Office should develop training modules for line staff in community based and institutional settings which are tested in geographically representative areas and the results of which are made available to the public.

24. The Office should develop some model training curricula and related materials for training line staff working in community-based and institutional settings with juveniles who have committed a violent offense.

25. The Committee recommends to the Office that the areas of vocational training and work study for juveniles be addressed in the Special Emphasis Program on Alternative Education.

26. With respect to the requirements of the legislation concerning the appointment of youths under the jurisdiction of the juvenile justice system, special consideration should be given to the appointment of at least one black person.

27. The NAC recommends that the Committee seat, currently held by an inactive member be filled by someone of comparable age.

Question 8:

In FY 1978, by your own admission, the Office confronted "extraordinary fiscal problems" in the buildup of special emphasis funds to a disturbingly high level. You stated that you had developed a "viable strategy" designed to address this situation. Please describe the strategy and discuss its implementation. Has it been successful? What is the amount of unobligated special emphasis funds for FY 1978 and for FY 1979?

Response:

As indicated at our June 27, 1978, Oversight Hearings, a strategy was developed to address the problems associated with the OJJDP Special Emphasis fund flow difficulties. A discussion of that strategy is summarized below:

1. The Office originally sought to fund more discretionary programs directly, thus avoiding the use of State Planning Agencies (SPAs) as grantees. This practice was initiated to remove at least one layer of processing and speeding the flow of funds to the operational level. In instances where the Office has been able to utilize the direct funding approach, there has been a reduction in application/grant processing time.

2. The Office has chosen to expend Juvenile Justice Act funds prior to expenditures of allocated Crime Control Parts C and E funds. Consistent with the Office's Fiscal 1979 program plan. Almost all of the FY 1979 Special Emphasis funds have been at least allocated to specific program areas which are scheduled for funding during the current fiscal year. We are especially pleased with the Office's rate of expenditure, to date.

3. The Model Programs category was incorporated as a part of the Office's FY 79 program and workplan. This funding category was developed in order to increase access to Special Emphasis funding above and beyond dollars made available through the highly competitive, national initiatives. Model programs makes available funds for a broad range of innovative program types. As was indicated in my testimony at the June 27, 1978 hearings, the Office has "...been bending over backwards to be open and allow access to the program by the very kinds of groups that work with young people intimately and who have basically been getting short shrift from the Office over the past three years" (see p. 69 Hearing on the Subcommittee on Economic Opportunity of the Committee on Education and Labor House of Representatives). For this fiscal year the Office allocated $5,318,000 to the Model Programs category.

4. The Office has also instituted several administrative changes which have assisted our other efforts to resolve the fund flow difficulties. Among these are stricter adherence to the 90-day application processing rule. The Office is requiring that, with only few exceptions, all new applications be processed within the 90-day period allowed for grant processing and the practice of suspending the processing period has been discontinued completely. Secondly, the practice of granting repetitive project extensions has also been discontinued. Both of these actions have resulted in improved grant management and better control of fund flow.

Relative to the second part of your question concerning the level of unobligated Special Emphasis funds for fiscal years 1978 and 1979, the following information is provided:

FY 78 Special Emphasis funds unobligated	$ 0
*FY 79 Special Emphasis funds unobligated as of 3/15/79	$20,150,417

*As indicated earlier almost all of the unobligated Juvenile Justice Special Emphasis funds have been allocated to program areas, dated for expenditure during FY 79. Those programs and their current allocations are listed below:

Youth Advocacy	$ 8,000,000
Alternative Education	4,000,000
Model Programs	2,468,417
School Resource Center	2,599,000
Prevention (Continuations)	2,996,000
Track II	87,000
Total JJ funds (only)	$20,150,417

Question 9:

What is the current status of obligations for FY 1978 Formula Grant funds?

Response:

All funds allocated for the states and territories as part of the FY 1978 Formula Grant Program have been obligated through awards made by this Office to states and territories participating in the JJDP Act program. A total of 50 states and territories participated in the JJDP Act program in 1978. $71,997,000 was allocated for those states the total amount was awarded (obligated).

QUESTION 10:

In answering a question concerning OJJDP's use of "unsolicited proposals" you promised for FY 1979 to publish in the Federal Register" ... a laundry list, basically reflecting things in the statute, as to what so-called unsolicited' activity will be. Included will be programs in the Institute, in the formula grants area, and in special emphasis." Could you please forward a copy of the appropriate pages in the Federal Register? What portions of funding for each area mentioned above were funded through unsolicited proposals in FY 1978?

RESPONSE:

The following is a summary of discretionary funds awarded by each of the above mentioned divisions for projects which were either solicited or unsolicited during fiscal year 1978:

Division	Solicited	Unsolicited
Special Emphasis	$ 25,465,190	$ 4,067,309
National Institute of Juvenile Justice and Delinquency Prevention	3,803,038	12,084,116
Formula Grants and Technical Assistance	9,006,913	9,549,715

Attached is the information which was included in the Federal Register dated July 27, 1978.

THURSDAY, JULY 27, 1978
PART III

federal register

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

DRAFT FISCAL YEAR 1979 GUIDE FOR DISCRETIONARY GRANT PROGRAMS

Request for Public Comment

CHAPTER 6. JUVENILE JUSTICE AND DELINQUENCY PREVENTION PROGRAMS

60. JUVENILE JUSTICE AND DELINQUENCY PREVENTION PROGRAMS.

(a) During FY 79, the Office of Juvenile Justice and Delinquency Prevention (OJJDP), plans to provide discretionary program funding for projects which fall basically within three major program categories. These categories are:

(1) Programs to Assist Deinstitutionalization and Separation;

(2) Youth Advocacy Programs; and

(3) Unsolicited Juvenile Justice Pilot Projects.

The following is a listing of the programs which are being developed in each of these categories.

(b) Programs to Assist and Support State Deinstitutionalization and Separation

(1) State and Local Interagency Coordination to Support Deinstitutionalization and Separation Efforts;

(2) "Project New Pride" Replication Program;

(3) Children in Custody — Alternative Programs

(c) Youth Advocacy Programs

(1) National School Resource Center

(2) Law Related Education

(3) Alternative Education

(4) Juvenile Justice System Reform

(d) Juvenile Justice Unsolicited Pilot Program

(1) Role of Family Violence

(2) Sexual Abuse of Exploitation

(3) Media Violence and Delinquency.

(4) Improper Interstate placement of youth from one state to another.

(5) Enhancement of the Roles of Recreation and the Arts in the Juvenile Justice System.

(6) Unlawful Discrimination within the Juvenile Justice System.

61-70. RESERVED

Question 11:

What is the current status of OJJDP guidelines for the deinstitutionalization of status offenders?

Response:

At present, I have appointed a Task Force whose responsibility will be to prepare an initial Federal Register publication on this issue. The purpose of the publication will be to obtain public participation in the development of a modification to the definition of a Juvenile Detention and Correctional Facility criteria. It is expected that this initial publication will appear in the Federal Register by the end of this month.

Question 12:

In your letter to the Subcommittee, dated June 20, 1978, you answered a question regarding the Institute's annual report as required by Section 246 of the Act by saying, "The next such annual report from our Juvenile Justice Institute is due prior to September 30, 1978." Could you provide the Subcommittee with a copy of that report?

Question 13:

Would you provide the Subcommittee with a list of grants and contracts made by the Institute for FY 1978 and a brief description of each?

Response:

Please find attached a copy of the report, entitled "National Institute for Juvenile Justice and Delinquency Prevention, Office of Juvenile Justice and Delinquency Prevention Annual Report Fiscal Year 1978." Appendix #1 contains a list of projects funded through our NIJJDP during FY 1978. Appendix #2 contains summaries of each of these projects.

Question 14:

What is the current status of the school violence initiative referred to at last year's hearing?

The School Crime Initiative is being implemented in three (3) parts:

The Teacher Corps Student Initiated Activities Component, which terminates March 31, 1979; the Alcohol and Drug Abuse Education Component, which is in the final year, and the School Resources Network, which is in process of being awarded.

The following summarizes the status of each:

I. School Resources Network

The solicitation for applications to implement this component was issued in the Federal Register on August 30, 1978, and applications were submitted on December 1, 1978. Nine applicants responded, and we are now processing the proposal rated highest for grant award. We expect the award to be made by the end of April. The grant, if awarded, will be for $2,499,000, for the first 15 months of operation. It will provide for one national center located in Washington, D.C., and 4 regional centers (located in Boston, San Francisco, Atlanta and Chicago). The network will assist local schools and school districts design and implement school violence and vandalism prevention programs through training, technical assistance, and advocacy.

II. Interagency Agreement No. LEAA-J-IAA-028-6 - OJJDP/ADAEP - Awarded in 1976 and Extended in 1977

Summary of Work Accomplished to Date

1. The five Regional Training Centers trained 36 school clusters comprising 142 school teams in school year 1978-79.

2. The trained school teams implemented a large and varied number of activities such as: training to avoid victimization; developing school policy regarding offenders (such as positive discipline alternatives); group counseling; the development of values clarification and decision making skills; and the application of security hardware (such as electronic surveillance or detection devices).

3. A total of 782 days of technical assistance has been rendered to the 142 school teams trained in FY 78. A total of 267 days of technical assistance was delivered to 81 school teams trained

in FY 77. The Interagency Agreement called for a minimum of 922 days of technical assistance delivery to 135 school teams trained in FY 78 and 81 school teams trained in FY 77. The contractors delivered 1,046 days of technical assistance as of September 30, 1978, and will deliver, with approved time extension, a minimum of 120 additional days of technical assistance by March 30, 1979.

4. The Scope of Work with a detailed workplan was developed by USOE and approved by OJJDP for the period October 1, 1978, through September 30, 1979.

5. The final nine hundred sixty-seven thousand dollar ($967,000) was transferred to USOE from LEAA in July, 1978. These funds will be utilized from October 1, 1978 through September 30, 1979, according to the terms in the USOE-LEAA Interagency Agreement.

6. The five Regional Training Center contracts and the National Data Base contract have been negotiated and were funded on October 1, 1978.

The Training Schedule for School Year 1978-79 was:

1. Training schedule for the 75 school teams:

a.	Trinity University	October 30 - November 10, 1978
b.	University of Miami	October 22 - November 3, 1978
c.	Adelphi University	October 23 - November 3, 1978 December 4 - December 15, 1978
d.	Awareness House, Inc.	November 6 - November 17, 1978
e.	BRASS Foundation, Inc.	February 5 - February 16, 1979

2. Training has been completed and schedules for technical assistance delivery to the teams are being developed and delivered by the Training Centers.

III. Teacher Corps

Our funding has ceased for the 10 student initiated projects and the agreement was extended to permit finalization of reports and close-down. Some of the projects are continuing with local support. We do not have a final report which reflects status upon termination of our funds. We can provide the report when available.

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION
WASHINGTON, D.C. 20531

OCT 1978

Honorable Augustus Hawkins
Subcommittee on Economic Opportunity
Committee on Education and Labor
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Hawkins:

This is in response to your July 7, 1978, letter detailing concerns regarding my use of monies under Section 224(a) of the 1974 Juvenile Justice and Delinquency Prevention Act, as amended. The areas of special emphasis under this Section include the following: the deinstitutionalization of status offenders, diversion, prevention, restitution, advocacy, collaborative education projects with the Office of Education, learning disabilities, due process and the implementation of standards and statutes consistent with the Act. By law, twenty-five percent of the funds for Part B, Title II, not of the entire appropriation, "shall be available" for Section 224(a) grants and contracts. Such funds were in fact made available in each fiscal year. The Office funded one such effort each year:

(a)	FY 1975 - Deinstitutionalization of Status Offenders	$11,800,000
(b)	FY 1976 - Diversion plus a transfer of $6,000,000 to the Office of Education	$ 8,500,000
(c)	FY 1977 - Prevention	$ 6,100,000

During fiscal year 1978, we have funded a major restitution project aimed at minor and serious, including violent, offenders, not status offenders. Additionally, we have funded a children in custody project

which is directed across the board at dependent, neglected, status offenders, minor delinquent and serious delinquent youth. Thus, clearly we have not diverted resources from Section 224(a) projects, nor have we increased the emphasis on status offenders relative to other youth.

The responses to your questions are attached.

With warm regards,

John M. Rector

John M. Rector
Administrator
Office of Juvenile Justice
and Delinquency Prevention

Attachments

Question

1. What is the present organizational structure of the Office; what authority has been delegated to the Office; and what authority has been delegated to the operating program divisions within the Office.

Answer

1. Attached are copies of the organization chart, the delegation to OJJDP and the OJJDP internal delegation.

UNITED STATES
DEPARTMENT OF JUSTICE

LAW ENFORCEMENT ASSISTANCE
ADMINISTRATION

Instruction

I 1310.40B

January 4, 1978

Subject: DELEGATION OF AUTHORITY TO THE ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION (OJJDP)

1. PURPOSE. The purpose of this Instruction is to delegate authority for the administration and operation of the OJJDP to the Associate Administrator (hereafter Administrator, OJJDP).

2. SCOPE. This Instruction is of interest to all LEAA personnel.

3. CANCELLATION. This Instruction cancels LEAA Instruction I 1310.40A dated April 21, 1976.

4. FUNCTIONAL DELEGATION. The Administrator, OJJDP is delegated the authority and responsibility for implementing overall policy and developing objectives and priorities for all Federal juvenile delinquency programs and for activities relating to prevention, diversion, training, treatment, rehabilitation, evaluation, research and improvement of the juvenile justice system, as authorized under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, hereinafter referrred to as the "JD Act") and the related activities under the Omnibus Crime Control and Safe Streets Act of 1968, as amended, hereinafter referred to as "The Act"), including the following:

   a. Administrative Management. Plan, direct, and control the implementation and operations of all LEAA juvenile justice and delinquency prevention programs administered directly through OJJDP.

   b. Policy Development. Develop, approve, and promulgate juvenile justice and delinquency prevention policy for implementation by OJJDP and, to provide policy direction to all programs concerned with juvenile delinquency and administered by LEAA. Where such policies have major administrative or management implications or affect the general policies of LEAA, they are subject to approval by the Administration.

   c. Grants and Program Authority.

      (1) Grant and Program Management. Subject to the policy direction, allocation of funds; and in accordance with directives issued by the LEAA Administration, the Administrator, OJJDP, is delegated the authority to approve, award, administer, modify, extend, terminate, monitor and evaluate grants within program areas of assigned responsibility and to reject or deny grant applications submitted to LEAA within assigned programs

Distribution: All LEAA Personnel

Initiated By: Office of Planning and Management

including grants and agreements and programs supported by fund transfers from other Federal agencies, under the following categories:

(a) Grants under Part A of the "JD Act" separately and specifically delegated by the LEAA Administration.

(b) Formula grants under Part B of the "JD Act."

(c) Grants under Part B (II) of the "JD Act"; categorical grants using Part C and E funds of "The Act" transferred to OJJDP; and, National Institute of Juvenile Justice and Delinquency Prevention grants under Part C of the "JD Act" or using Part D funds of "The Act" transferred to OJJDP separately and specifically delegated by the LEAA Administration.

(d) The comprehensive juvenile justice program required under Part C of "The Act".

(2) Award, Approve, Modification, and Extension of Grants and Contracts. The Administrator, OJJDP is delegated authority to award, approve, modify, and extend grants and contracts as follows:

(a) Grants and contracts under Part A of the "JD Act".

1 Approve and award grants and approve for award contracts separately and specifically delegated by the LEAA Administration.

2 For FY 1977 and subsequent years, approve budget category deviations.

(b) Formula Grants under Part B of the "JD Act".

1 Approve Annual Plan.

2 Award Formula Grants according to applicable fiscal year allocation formula and appropriation.

3 Approve Formula Grant program deviations. (Since Formula Grant funds are not discrete budget items in a State Comprehensive Plan award, coordination with OCJP will be required prior to approval of program deviations.)

4 Approve Formula Grant extension by subgrant to allow expenditure from December 31 to March 31 provided that current acceptable fiscal reports are on file with none outstanding and that all special conditions are satisfied, under the following conditions:

a Delays in equipment deliveries which are unanticipated and are not the fault of subgrantee. (Submission of subgrantee/vendor contract is required).

b Unforeseen delays in obtaining FCC clearances for communication programs.

c Unforeseen delays in construction projects caused by strike, weather, environmental impact, equipment, energy crisis. (Submission of contract which outlines original completion dates is required).

d Delays related to compliance with Uniform Relocation Assistance Act.

5 Approve the use of Formula Grant funds as match for other Federal programs.

6 Approve the use of Formula Grant funds for construction of innovative community-based facilities.

7 Waive the "cash match preference" for Formula Grant funds established by M 7100.1A, Change 3, Chapter 7, paragraph 7 dated October 29, 1975.

(c) Grants and contracts under Part B (II) of the "JD Act"; categorical grants and contracts using Part C and E funds of "The Act" transferred to OJJDP; and, National Institute of Juvenile Justice and Delinquency Prevention grants and contracts under Part C of the "JD Act" or using Part D funds of "The Act" transferred to OJJDP separately and specifically delegated by the LEAA Administration.

1 Approve grant applications and RCAs (Requests for Contract Action) separately and specifically delegated by the LEAA Administration.

2 Award grants and approve for award contract: separately and specifically delegated by the LEAA Administration.

3 Approve budget category deviations.

4 Extend expenditure deadline of grants beyond the 90 day expenditure allowed following the end of the grant period.

(3) Concentration of Federal Effort. The Administrator, OJJDP, is delegated the authority to implement overall policy and develop objectives, and priorities for Federal juvenile justice and delinquency prevention programs and to advise the President, through the Attorney General and the LEAA Administrator, concerning planning, policy, priorities, operations, and management of all Federal juvenile delinquency programs.

(4) Research, Demonstration and Evaluation. The Administrator, OJJDP, is delegated the authority to support research and demonstration projects in order to improve juvenile justice and delinquency prevention programs; to evaluate all federally-funded projects under the "JD Act" and "The Act", and other Federal, State and local programs; and, to disseminate research and evaluation results, and pertinent data and studies in the area of juvenile delinquency.

(5) Training. The Administrator, OJJDP, is delegated the authority to conduct training programs and related activities under the "JD Act".

(6) Information. The Administrator, OJJDP, is delegated the authority to collect, analyze and promulgate useful information regarding treatment and control of juvenile offenders; and, to establish and operate an effective Information Clearinghouse and Information Bank.

(7) Technical Assistance. The Administrator, OJJDP, is delegated the authority to provide technical assistance to Federal, State and local governments and other public and private agencies in planning, operating, and evaluating juvenile delinquency programs.

(8) Audit Clearance. The Administrator, OJJDP, is delegated the authority to clear audit findings and recommendations for those reports in which OJJDP is the designated action office.

(9) Waivers on Consultant Fees. LEAA requirements on requests for waiver of consultant fees by grantees may be approved up to $200 per day.

(10) Pass-Through Funds. Subject to financial and program guidelines the Administrator, OJJDP, is delegated the authority to waive the requirement that 66 2/3 percent of Federal monies be made available to local units of government.

c. Operations. Subject to the general authority of the Administration, the Administrator, OJJDP, is delegated the authority and responsibility to represent the Administration with other Federal agencies and State and local governments in the following matters:

(1) Contacting State and local officials to encourage participation in OJJDP's program.

(2) Providing and/or arranging for the provision of assistance in the form of technical consultation to recipients of "JD Act" funds in the areas of juvenile justice planning, management, and program development.

(3) Reviewing and evaluating LEAA juvenile justice and delinquency prevention programs regardless of fund source.

(4) Monitoring OJJDP grants contracts, interagency agreements, and purchase orders.

(5) Interpreting LEAA juvenile justice and delinquency prevention policy.

5. REDELEGATION. The Administrator, OJJDP, may redelegate the authority in this Instruction, in whole or in part, provided that any redelegation is in writing and approved by the LEAA Administrator. This restriction does not apply to a temporary redelegation of authority to the Deputy Associate Administrator, under Section 201(e) of the "JD Act" or other deputy or assistant to be exercised during the absence or disability of the OJJDP Administrator or deputy or assistant. Authority redelegated by the OJJDP Administrator shall be exercised subject to the OJJDP Administrator's policy direction and coordination and under such restrictions as deemed appropriate.

I 1310.40B
Jan. 4, 1970

6. RECORDS. The Office of Juvenile Justice and Delinquency Prevention shall keep such records concerning the delegations in paragraph 4 as the Administrator, OOS, and the Comptroller shall require. Records shall be forwarded to these offices as required.

JAMES M. H. GREGG
Assistant Administrator
Office of Planning and Management

UNITED STATES
DEPARTMENT OF JUSTICE

LAW ENFORCEMENT ASSISTANCE
ADMINISTRATION

Instruction

OJJDP I 1310.1

August 8, 1978

Subject: REDELEGATION OF AUTHORITY TO THE DEPUTY ASSOCIATE ADMINISTRATOR FOR THE NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION AND DIVISION DIRECTORS, OJJDP

1. Purpose. The purpose of this instruction is to redelegate certain administrative and program authority to the Deputy Associate Administrator, National Institute for Juvenile Justice and Delinquency Prevention (hereinafter referred to as the Director, NIJJDP), OJJDP; Director, Special Emphasis Division, OJJDP; and Director, Formula Grants and Technical Assistance Division, OJJDP. This instruction DOES NOT APPLY to Federal Interagency activities and agreements.

2. Scope. This instruction is of interest to all OJJDP employees.

3. Background. Instruction I 1310.40 B, Delegation of Authority to the Administrator, Office of Juvenile Justice and Delinquency Prevention, dated January 4, 1978, provides that the Administrator, OJJDP, may redelegate the authority contained in that instruction, in whole or in part, provided that any redelegation is in writing and approved by the LEAA Administrator. That authority not specifically delegated will remain with the Administrator, OJJDP.

4. Redelegation of Administrative Authority.

   a. General Redelegation. Subject to Administration policies and procedures and under the general authority of the Associate Administrator, OJJDP, the Director, NIJJDP; the Director, Special Emphasis Division; and the Director, Formula Grants and Technical Assistance Division are delegated the authority and responsibility for directing and supervising the personnel, administration and operation of their division in the following areas:

      (1) Approve annual leave, sick leave, and other forms of leave permitted by law for all subordinates, subject to leave policies and regulations of the Administration and the Department of Justice.

      (2) Approve paid overtime for all subordinates and overtime for which compensatory time will be granted, subject to overtime and premium pay policies and regulations of the Administration and the Department of Justice.

      (3) Subject to Federal travel regulations and OJJDP and LEAA travel policies, request travel and approve travel vouchers for all subordinates.

Distribution: All OJJDP Personnel;
All Central Office Heads
(Info Only)

Initiated By: Associate Administrator,
Office of Juvenile Justice
and Delinquency Prevention

b. Exception. Leave, overtime compensation, and travel vouchers for all OJJDP Division Directors require the approval of the Administrator, OJJDP.

5. Redelegation of Program Authority.

a. General Redelegation. Subject to the policy direction and guidelines issued by the Administration and the General Program Authority of the Administrator, OJJDP, the OJJDP Division Directors are delegated the authority and responsibility to develop programs and solicit applications thereunder, and to administer, modify, and extend (in accordance with the regulations outlined in paragraphs 5.b and 5.c), evaluate, and close out grants and contracts assigned to them according to the following schedule:

(1) Director, Special Emphasis Division is responsible for:

(a) Grants and Contracts under Part B, Subpart II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, hereinafter referred to as the "JD Act," which have been specifically assigned by the Administrator, OJJDP.

(b) Discretionary grants under Parts C and E of the Omnibus Crime Control and Safe Streets Act, as amended, hereinafter referred to as the "Crime Control Act," which have been specifically assigned by the Administrator, OJJDP.

(2) Director, National Institute for Juvenile Justice and Delinquency Prevention is responsible for:

(a) Grants and Contracts under Part C of the "JD Act."

(b) Discretionary grants under Parts C and E of the "Crime Control Act," which have been specifically assigned by the Administrator, OJJDP.

(3) Director, Formula Grants and Technical Assistance Division is responsible for:

(a) Formula grants under Part B of the "JD Act."

(b) Technical assistance grants and contracts utilizing "Crime Control Act" and "JD Act" Technical Assistance funds, as specifically assigned by the Administrator, OJJDP.

(c) The juvenile justice related grant funds allocated under Parts B, C, and E of the "Crime Control Act".

(d) Other grants or contracts under Parts A and B, Subpart II of the "JD Act" or Parts C and E of the "Crime Control Act" which have been specifically assigned by the Administrator, OJJDP.

b. All OJJDP Division Directors are authorized to modify and extend their assigned categorical grants as follows:

(1) Approve budget category deviations in excess of five percent or $10,000, whichever is greater except that deviations in excess of $50,000 will be approved by the Administrator, OJJDP.

(2) Extend grants for up to 12 months with total grant period not to exceed 24 months. Where the SPA has extended the grant period for 3 months, this extension is included as part of the 24 month grant period. Requests to extend grants beyond 24 months require the concurrence of the Administrator, OJJDP, and the approval of the Administrator, LEAA.

(3) Extend expenditure deadline of grants for 3 months beyond the 90 days allowed following the end of the grant period, provided that the total grant period does not exceed 24 months. Expenditure extensions beyond three months shall be granted only by the Administrator, LEAA, after concurrence by the Administrator, OJJDP.

(4) Approve programmatic alterations which are justifiable and satisfactorily documented. This is limited to changes that do not significantly alter the goals and objectives as set forth in the approved project. Major alterations (e.g., change in project scope or change in project director) must be approved by the Administrator, OJJDP.

(5) Approve clearance of special conditions when adequate documentation has been provided.

c. The Director, Formula Grants and Technical Assistance Division is authorized to modify and extend formula and block grants as follows:

(1) Approve grant extensions by subgrant to allow expenditure from December 31 to March 31, provided that current acceptable fiscal reports are on file with none outstanding and that all special conditions are satisfied, under the following conditions.

(a) Delay in equipment deliveries which are unanticipated and are not the fault of the subgrantee. (Submission of subgrantee/vendor contract is required.)

(b) Unforeseen delays in obtaining FCC clearances for communication projects.

(c) Unforeseen delays in construction projects caused by strikes, weather, enviornmental impact, equipment or energy crisis. (Submission of the contract which outlines the original completion date is required.)

(d) Delays related to compliance with the Uniform Relocations Assistance Act.

(2) Approve program deviations in excess of 15 percent or $10,000, whichever is greater, up to $50,000. Deviations in excess of $50,000 will be approved by the Administrator, OJJDP.

(3) Approve clearance of special conditions when adequate justification has been provided.

(4) Impose OJJDP special conditions to Part B, Part C, and Part E "Crime Control Act" awards to assure compliance with the maintenance of effort requirement.

(5) Concur/Non-Concur with the removal of special conditions attached to the Part B, Part C, and Part E "Crime Control Act" grants and contracts that apply to juvenile justice projects or programs.

(6) Concur/Non-Concur with requests to extend juvenile justice subgrants awarded under the "Crime Control Act".

(7) Concur/Non-Concur with requests for reprogramming affecting juvenile justice programs funded under the "Crime Control Act".

6. Redelegation of Authority for Grant Applications.

a. All OJJDP Directors are authorized to:

(1) Suspend the processing of grant applications, when adequately justified.

(2) Request budget reviews from the Comptroller's Office.

7. RECORDS. The OJJDP Division Directors shall keep such records concerning the redelegations as the Administrator, OJJDP shall require.

John M. Rector

JOHN M. RECTOR
Administrator
Office of Juvenile Justice
and Delinquency Prevention

James M.H. Gregg

JAMES M.H. GREGG
Assistant Administrator
Office of Planning and
Management

Question

2. Where is the responsibility for management of the Special Emphasis funds located; how are program priorities established; what procedures are used for funding these programs, and how were these procedures developed?

Answer

A. Prior to October 1977, all Special Emphasis funds except those which reverted from states not participating in the Juvenile Justice Act were managed by the Special Emphasis Division. Reverted funds were transferred to the Regional Offices to support small states in meeting the deinstitutionalization and separation requirements of the Formula Grants program. Since October 1977, because of the extraordinary carryover of FY's 75, 76 and 77 funds, the management of Special Emphasis funds has been split between the Formula Grants and Technical Assistance Division and the Special Emphasis Division.

B. Program priorities for expenditure of Special Emphasis funds are established by the Administrator of OJJDP.

C. Special Emphasis funds managed by the Division of Special Emphasis are funded by the following procedures:

1. Awards are made to applicants submitting applications in response to program guidelines issued by OJJDP. The steps involved in this process are:

(a) A program guideline is issued which focuses upon a problem area or need determined to be of national significance within the context of the requirements of Section 224(a) of the Juvenile Justice and Delinquency Prevention Act. The guideline provides for selected program strategies, judged to have potential for having major impact upon achieving the requirements mandated by Section 224(a). The guideline also outlines performance standards which reflect the intent of the legislative requirements, and sound program methodology.

(b) Applicants submit preapplications or full applications by an identified submission date. Applications are then reviewed and rated by staff teams in relation to predefined selection criteria. Those applicants meeting selection

criteria at a defined level of acceptability are identified as the fundable group, and are recommended for grant award. The total number funded depends upon the funds allocated for a given program, and the number meeting selection criteria at an acceptable level.

2. Awards are made to applicants submitting solicited and unsolicited applications and concept papers. The steps involved in this process are:

   (a) Upon receipt, unsolicited applications and concept papers are assigned to a staff reviewer. The applications are reviewed in relation to the following criteria:

   - Impact upon problems addressed.
   - Degree of need for the proposed services or activities.
   - Feasibility of the program methodology and use of innovative or improved program approaches and techniques.
   - Degree to which the program addresses the requirements identified in Section 224(a) of the Act.
   - Cost effectiveness.
   - Capability and basis of applicant interest in implementing the proposed program.

   (b) The staff reviewer prepares a summary of the merits of the proposal and makes recommendations regarding funding.

   (c) The application is then reviewed by the Deputy of Special Emphasis.

   (d) If the Deputy concurs with the staff rating, either a memorandum recommending its consideration for award is prepared and forwarded to the Director of Special Emphasis, along with a letter identifying programmatic deficiencies which need to be addressed, or a rejection letter is prepared.

   (e) If the Director concurs with the staff review and recommendations, the recommendation is forwarded to the Administrator of OJJDP for a final decision regarding grant award.

(f) Where there is non-concurrence, the reviewers meet to resolve and clarify differences of opinion; and, the Director of Special Emphasis makes the final recommendation to the Administrator.

D. The procedures developed for funding programs by national initiatives were developed in 1975 by the Special Emphasis Division at the direction of the Acting Administrator of OJJDP, with the first major initiative being Deinstitutionalization of Status Offenders. This represented a departure from the initial approach of funding unsolicited proposals. This approach was abandoned because it was determined to have limited impact upon definable goals and was viewed as an inefficient way to manage funds, given a small staff, a broad mandate, and a relatively small amount of money. The procedures for funding unsolicited proposals are presently evolving and a guideline has been submitted to the Administrator of OJJDP which, if issued, would provide guidance to applicants in submitting applications.

Question

3. What was the Office budget for the following periods: July 1975, October 1976, October 1977, October 1978, and June 1978? How were these funds distributed across the operating Office divisions?

Answer

A. The Office of Juvenile Justice and Delinquency Prevention is organized along program lines. Therefore, the following tables reflect the distribution of funds among the Office divisions, as well as among funding categories:

JUVENILE JUSTICE AND DELINQUENCY PREVENTION-BUDGET HISTORY

(Rounded to Thousands of Dollars)

FY 1975

	Appropriation
Formula Grants	$10,600,000
Special Emphasis	10,750,000
Technical Assistance	-0-
National Institute (NIJJDP)	3,150,000
Conc. of Federal Effort	-0-
Total	$24,500,000

FY 1976 and T. Q. (As of July 1, 1975)

	Appropriation	Carryover	Total Availability
Formula Grants	$29,050,000	$10,600,000	$39,650,000
Special Emphasis	14,450,000	10,750,000	25,200,000
Technical Assistance	-0-	-0-	-0-
National Institute (NIJJDP)	5,000,000	3,150,000	8,150,000
Conc. of Federal Effort	500,000	-0-	500,000
Total	$49,000,000	$24,500,000	$73,500,000

FY 1977 (As of October 1, 1976)

	Appropriation	Carryover	Total Availability
Formula Grants	$47,625,000	$ -0-	$47,625,000
Special Emphasis	18,875,000	15,463,000[1]	34,338,000
Technical Assistance	-0-	-0-	-0-
National Institute (NIJJDP)	7,500,000	2,537,000	10,037,000
Conc. of Federal Effort	1,000,000	288,000	1,288,000
Total	$75,000,000	$18,288,000	$93,288,000

FY 1978 (As of October 1, 1977)

	Appropriation	Carryover	Total Availability
Formula Grants	$63,750,000	$ -0- [2]	$63,750,000
Special Emphasis	21,250,000	28,317,000	49,567,000
Technical Assistance	3,000,000	-0-	3,000,000
National Institute (NIJJDP)	11,000,000	5,067,000	16,067,000
Conc. of Federal Effort	1,000,000	858,000	1,858,000
Total	$100,000,000	$34,242,000	134,242,000

FY 1978 (As of June 30, 1978)

	Allocations	Obligat.	Unobligat. Balance
Formula Grants	$63,750,000	$61,218,000	$ 2,532,000
Special Emphasis	49,567,000	4,604,000	44,963,000
Technical Assistance	3,000,000	2,873,000	127,000
National Institute (NIJJDP)	16,067,000	6,621,000	9,446,000
Conc. of Federal Effort	1,740,000[3]	1,039,000	701,000
Total	$134,124,000	$76,355,000	$57,769,000

FY 1979 (As of October 1, 1978) - Projected

	Appropriation	Carryover	Total Availability
Formula Grants	$63,750,000	$ -0-	$63,750,000
Special Emphasis	21,250,000	-0-	21,250,000
Technical Assistance	3,000,000	-0-	3,000,000
National Institute (NIJJDP)	11,000,000	-0-	11,000,000
Conc. of Federal Effort	1,000,000	-0-	100,000,000
Total	$100,000,000	$ -0-	$100,000,000

1. Includes $4,403,000 formula funds which became Special Emphasis during 1976 due to non-participating States.

2. Includes $4,403,000 formula funds which became Special Emphasis during 1976 due to non-participating States.

3. Does not include $118,000 transferred to Commission on International Year of the Child.

Question

4. What do you see as the major mandate and goals of the Juvenile Justice and Delinquency Prevention Act, as amended in 1977? How are the programs now operating, and those projected for funding in this fiscal year achieving these goals?

Answer

A. From my perspective, the major mandate of the legislation is to prevent delinquency through providing national leadership in modifying laws and institutional practices which negatively impact upon youth and their families, while increasing opportunities and services for all youth especially under Section 226(a). This, in my view, would be accomplished by expanding existing services, developing new and more effective services, and coordinating and redirecting existing Federal and state resources now available to youth.

B. The programs now operating and projected for funding in FY 78 are impacting these goals in the following way:

1. The Deinstitutionalization of Status Offender program, funded in 1975 at a cost of $11.8 has provided services in excess of 17,000 youth, and has contributed to the enactment of new juvenile codes in 4 of the states funded. Four of the states have made general revenue funds available to support continuation of services initiated under these grants. In addition to having direct impact in these states, the national initiative has supported and stimulated similar activity in other states not a part of the national initiative. Of the projects funded, all except 5 have terminated, and in all the 11 sites, status offenders are no longer being placed in training schools, and detention is only occurring on a very limited basis.

2. The Diversion program funded in 1976 at a cost of $8.5 million has served in excess of 3,000 youth. The population served by this program is youth living in disadvantaged communities, who have committed multiple felony and misdemeanor offenses who would have been adjudicated if it were not for this program. The program is designed to force change in local ordinances and juvenile codes which result in fewer youth being arrested and detained for minor offenses and fewer youth being adjudicated because of having a prior record of multiple offenses. In addition to providing new opportunities like alternative education and jobs, the program is also redirecting existing resources so that they focus on more serious juvenile offenders. In addition, some of the performance standards for diversion programs as promulgated in the program guideline were included in one state juvenile code enacted in 1977. We have good reason to believe that these standards have also been applied in other revised juvenile codes, and in diversion programs not funded under this program.

3. The Prevention program funded in August 1977 at a cost of $6.1 million has served in excess of 8,000 youth who live in disadvantaged communities where there are limited or non-existent youth services. The program requires public and private agencies to expand existing services, redirect and coordinate available resources. Projects provide extensive out-reach so as to involve youth who do not normally use neighborhood based youth services. The program, community residents, youth and parents participate in implementing all phases of the program. As a result of this program, the participating national youth serving agencies are expected to direct more resources toward serving youth who have not normally used their services.

4. The School Crime Program funded in Fiscal 1976 and 1977, for a total of $6 million transferred funds to the Office of Teacher Corps, and the Office of Drug and Alcohol Prevention in the Department of Health, Education and Welfare, to develop programs initiated by students to prevent crime and disruption in public schools in disadvantaged neighborhoods through existing Teacher Corps projects; and, train teams of school and community persons to develop programs in local schools to prevent and reduce crime and disruption in public schools where there were high incidences of such activities, through use of the Office of Drug and Alcohol's regional training centers. In addition to involving students' educational staff and community persons in implementing programs in public schools, the program was designed to be responsive to the needs and interests of students by involving them in decision-making. Program monitoring and internal assessments from the Teacher Corps component indicates that substantial change has occurred as a result of this program. This is reflected in modification of Teacher Corps regulations to increase youth advocacy services and provide for more student participation in decision-making; increase of funds allocated to support youth advocacy components; and expansion of the program to other schools in districts where the program operated at the expense of local boards of education.

5. A Restitution Program is projected for funding by September 30, 1978, at a cost of $24 million for 2 year projects. It will provide funds for adjudicated juvenile offenders as an alternative to incarceration. Projections provided by the Institute for Policy Analysis, the evaluators, indicate that the program could involve 8,000 to 10,000 youth over 2 years if 45 projects are funded.

Question

5. What is the present strategy for utilization of Special Emphasis monies? What is your rationale for this strategy? How does it differ (if there is a difference) from the strategy pursued prior to your administration? How is the present strategy impacting the basic goals of the legislation?

Answer

A. The strategy for use of these funds both prior to and after July 1977 included the following elements:

1. Funds are used to initiate major programs of national scope which defined national priorities and goals with respect to changes required in institutions having the greatest impact upon youth and their families. These institutions are public schools, juvenile justice system agencies, public and private youth services agencies.

2. National program initiatives are funded based upon identified priorities in a selected number of sites, and as a result of a competitive selection process based upon pre-defined selection criteria. National initiatives were to be designed so that they reinforced each other and addressed successive layers of problems in the key institutions while defining national goals.

3. Programs seek measurable objectives over a specific time period, and awards are made for multiple years with grant periods usually ranging from 2 to 3 years.

4. Program objectives and performance standards are defined for each program in ways which require changes in laws, ordinances and institutional practices which negatively impact youth.

5. Services are provided consistent with performance standards which require non-duplication, coordination, redirection of resources and responsiveness to the expressed needs of youth and community persons.

6. Programs would be comprehensive in scope, and would aim to institutionalize youth services within the local community. Beyond providing specific objectives and performance standards, program design would be responsive to local conditions, resources and needs.

7. Programs would be developed and implemented to facilitate intergovernmental coordination of resources, at the national and local levels to increase and make better use of existing resources.

Additionally the following factors are considered:

1. The relative cost and effectiveness of the proposed program in effectuating the purposes of this part.

2. The extent to which the proposed program will incorporate new or innovative techniques.

3. The extent to which the proposed program meets the objectives and priorities of the State plan, when a State plan has been approved by the Administrator under Section 223(c) and when the location and scope of the program makes such consideration appropriate.

4. The increase in capacity of the public and private agency, institution, or individual to provide services to delinquents and other youth to help prevent delinquency.

5. The extent to which the proposed project serves communities which have high rates of youth unemployment, school dropout, and delinquency.

6. The extent to which the proposed program facilitates the implementation of the recommendations of the Advisory Committee as set forth pursuant to Section 247.

7. The adverse impact that may result from the restriction of eligibility, based upon population, for cities with a population greater than forty thousand, located within States which have no city with a population over two hundred and fifty thousand.

Lastly, as I stressed in my prepared text for the June 27, 1978 hearing, at pp. 10-11, a targeted approach has been adopted:

> "Rather than adopting an unrealistic, unachievable agenda of programs that includes a little of something for everyone, we have targeted our activities. Congressional guidance has helped to facilitate this more national approach. Among this guidance is that found at page 44 of the Senate Report, No. 95-165 entitled "The Juvenile Justice Amendments of 1977":

'The Office has also announced a program to prevent delinquency through strengthening the capacity of private nonprofit agencies serving youth. It is expected that 14 to 18 grants totaling $7.5 million will be awarded. A number of other special emphasis grants have been brought to the attention of the Committee. The Office has indicated tentative plans for future initiatives dealing with serious juvenile offenders, youth gangs, neighborhood prevention, restitution, youth advocacy, alternative education, probation, standards, and alternatives to incarceration. While the Committee acknowledges that all of these areas are important and may deserve extensive attention in the future, the Office should be cautious not to deviate too quickly from using its limited resources to support those related to the primary focuses of the 1974 Act, namely, alternatives to incarceration, youth advocacy, and restitution. Once the priority mandates have been fulfilled, then the Office should certainly explore the possibility of initiatives in other areas. Care must be taken, however, that the available resources not be diluted through programs in tangential areas at this early period of the Act's implementation. A targeted focus relative to the Act's primary thrust with fewer initiatives each year would serve to clearly state the priorities of the Office. The implementation of standards would, of course, be one vehicle to achieve these goals.'"

Question

6. Of the Special Emphasis funds available since October 1977, how much has actually been expended? If less than the available amount, why?

Answer

A. On October 1, 1977, $45,213,000 was available under Section 224, namely the special emphasis section. This included $21,250,000 of FY 78 dollars and a Section 224 carryover of $23,963,000.

B. Of the $45,213,000 available under Section 224, $45,213,000 has been processed as of today. Thus, as of October 1, 1978, there will be no FY 1977 or 1978 224(a) dollars available.

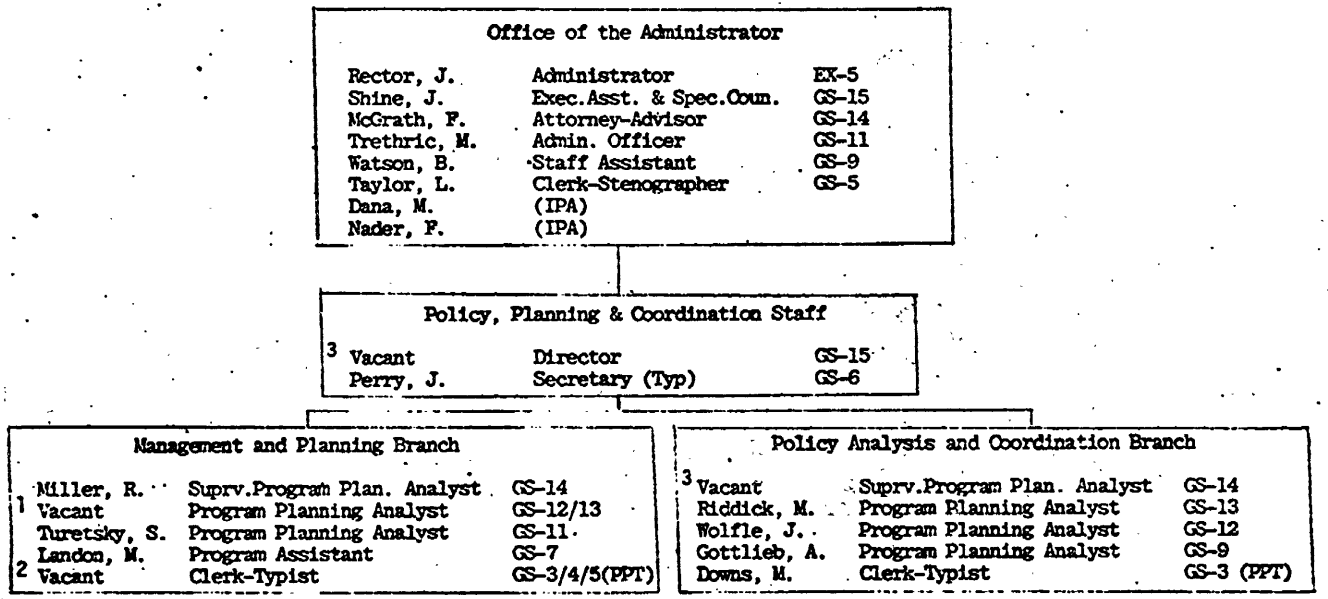
Question

7. Please provide the Office staffing plan, and indicate how much full time professional staff are assigned to each division, by grade level, race, sex and ethnic origin? How many staff have been employed by you since July 1977? Of this number, how many are minorities?

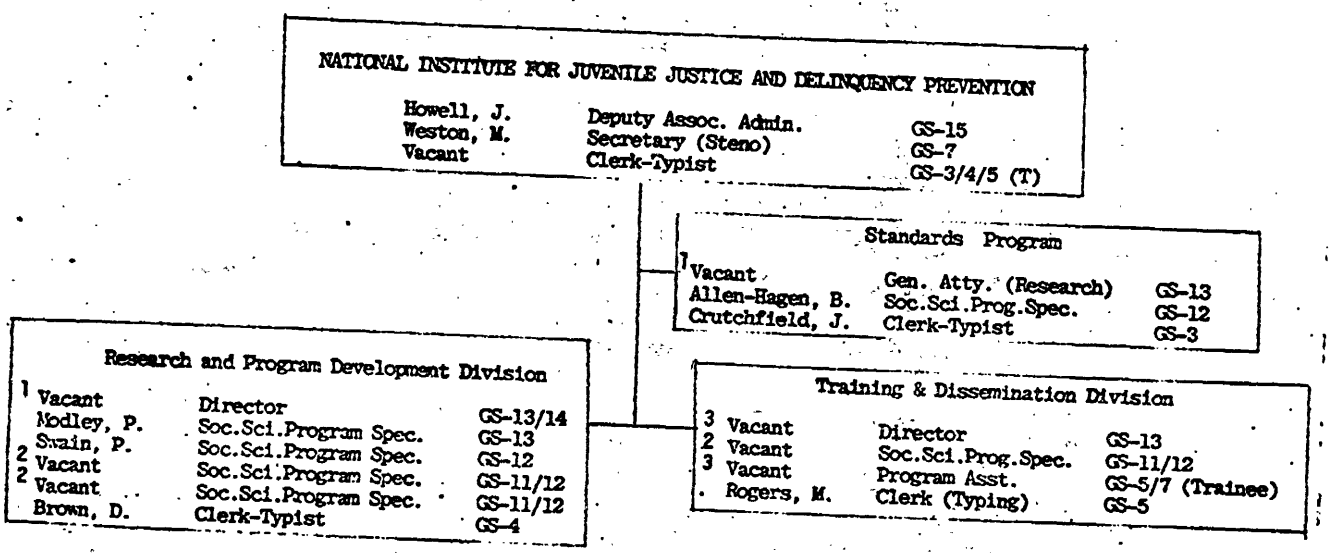
Answer

7. Attached is the current OJJDP staffing chart and minority statistics by grade and sex for each office within OJJDP. Since July 1977, 23 staff persons have been employed in the Office. Of this total, 12 are female, 9 Black female, and two Black males.

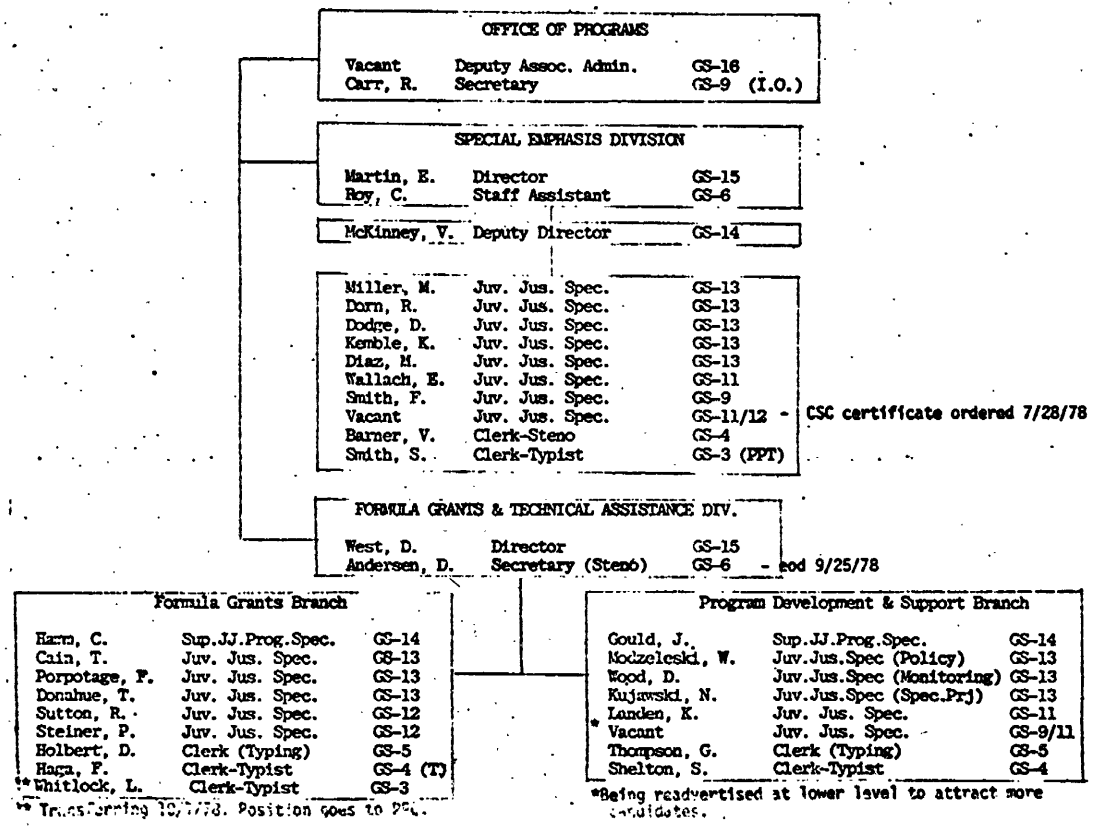
OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION



1 - Position being readvertised to attract more candidates.
2 - New position from Formula Grants & Technical Assistance.
3 - Position descriptions being written.



1 - In final stage
2 - Awaiting Civil Service Commission certificate of eligibles requested on 8/2/78.
3 - Position descriptions being rewritten. The Program Assistant position will be advertised as an Upward Mobility position.


OFFICE OF PROGRAMS
Vacant Deputy Assoc. Admin. GS-16
Carr, R. Secretary GS-9 (I.O.)
SPECIAL EMPHASIS DIVISION
Martin, E. Director GS-15
Roy, C. Staff Assistant GS-6
McKinney, V. Deputy Director GS-14
Miller, M. Juv. Jus. Spec. GS-13
Dorn, R. Juv. Jus. Spec. GS-13
Dodge, D. Juv. Jus. Spec. GS-13
Kemble, K. Juv. Jus. Spec. GS-13
Diaz, M. Juv. Jus. Spec. GS-13
Wallach, E. Juv. Jus. Spec. GS-11
Smith, F. Juv. Jus. Spec. GS-9
Vacant Juv. Jus. Spec. GS-11/12 - CSC certificate ordered 7/28/78
Barner, V. Clerk-Steno GS-4
Smith, S. Clerk-Typist GS-3 (PPT)
FORMULA GRANTS & TECHNICAL ASSISTANCE DIV.
West, D. Director GS-15
Andersen, D. Secretary (Steno) GS-6 - eod 9/25/78
Formula Grants Branch
Harm, C. Sup.JJ.Prog.Spec. GS-14
Cain, T. Juv. Jus. Spec. GS-13
Porpotage, F. Juv. Jus. Spec. GS-13
Donahue, T. Juv. Jus. Spec. GS-13
Sutton, R. Juv. Jus. Spec. GS-12
Steiner, P. Juv. Jus. Spec. GS-12
Holbert, D. Clerk (Typing) GS-5
Haga, F. Clerk-Typist GS-4 (T)
** Whitlock, L. Clerk-Typist GS-3
** Transferring 10/7/78. Position goes to PSC.
Program Development & Support Branch
Gould, J. Sup.JJ.Prog.Spec. GS-14
Modzeleski, W. Juv.Jus.Spec (Policy) GS-13
Wood, D. Juv.Jus.Spec (Monitoring) GS-13
Kujawski, N. Juv.Jus.Spec (Spec.Prj) GS-13
Landen, K. Juv. Jus. Spec. GS-11
* Vacant Juv. Jus. Spec. GS-9/11
Thompson, G. Clerk (Typing) GS-5
Shelton, S. Clerk-Typist GS-4
*Being readvertised at lower level to attract more candidates.

MINORITY STATISTICS BY GRADE AND SEX

GS		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	EX 3	EX 4	Total	%	Gra Tot
K	F			3	3	4	2	2		1				2		1						18	34.6	2
	M									1					1							2	3.8	38
ISH WED	F													1								1	1.9	
	M																							1
IVE RICAN	F																							
	M																							
N RICAN	F																							
	M																							
ER	F			1	1					2		3	3	5								15	28.8	
	M											1	2	5	4	3					1	16	30.7	
AL				3	4	4	2	2		4		4	5	13	5	4					1	52	99.8	

IC Juvenile Justice and Delinquency Prevention

MINORITY STATISTICS BY GRADE AND SEX

GS		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	EX 3	EX 4	Total		Grand Total
<	F					1	1	1		1				1								5	33.3	5
	M																							33.3
ISH AMED	F																							
	M																							
VE MON	F																							
	M																							
N RICAN	F																							
	M																							
ER	F			1						2		1	1									5	33.3	
	M											1			2	1					1	5	33.3	66.
AL																						15		

SOURCE: Office of the Administrative Officer, Planning & Coordination Staff; Off. of Deputy Assoc. Administrator, Programs

MINORITY STATISTICS BY GRADE AND SEX

GS		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	EX 3	EX 4	Total		Grand Total
	F			1	1		1									1						4	33.3	6
	M									1					1							2	16.6	49.9
SH	F													1								1	8.3	1
SED	M																							8.3
	F																							
CAN	M																							
	F																							
CAN	M																							
	F											1		3								4	33.3	5
	M													1								1	8.3	41.6
																						12		

Special Emphasis Division, OPPP
2, 28, 78

MINORITY STATISTICS BY GRADE AND SEX

ss		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	EX 3	EX 4	Total		Grand Total
	F			1	1	2								1								5	29.4	5
	M																							29.4
	F																							
D	M																							
	F																							
I	M																							
	F																							
I	M																							
	F				1							1		1								3	17.6	12
	M												2	4	2	1						9	53.0	70.6
																						17		

Formula Grants & Technical Assistance Division, OJJDP

MINORITY STATISTICS BY GRADE AND SEX

		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	EX 3	EX 4	Total	%	Grand Total
	F			1	1	1		1														4	50.0	4
	M																							50.0
	F																							
	M																							
	F																							
	M																							
	F																							
	M																							
	F												2	1								3	37.5	4
	M															1						1	12.5	50.0
																						8		

Question

8. How many grants and contracts have been awarded by the Office since October 1977? For What purposes? Of the grants and contracts awarded, how many have gone to minority agencies and organizations? When were these grants awarded, and what procedures were used in their selection?

Answer

A. As of July 1978, eight grants and contracts have been awarded since October 1977 by the Special Emphasis Division. These include the following:

1. Deinstitutionalization of Status Offenders - $247,500 awarded 3/31/78 to the Arizona State Justice Planning Agency. Subgrantee -- Pima County Juvenile Court Center, Tucson, Arizona.

   This project continues community based services to status offenders, pending the ability of local agencies to assume the cost. It projected serving 1,345 youth and has to date served 1,057 youth. Four hundred and forty-four of these youth were minority. The project was originally funded as part of the national Status Offender Program Initiative, and provides alternative education, counseling and group homes.

2. The Status Offender - An Alternative to Incarceration - $46,166 awarded 2/1/78 to the Office of Criminal Justice Planning. Subgrantee -- Tahoe Human Services, Inc., South Lake Tahoe, California.

   This project continues community based services to status offenders, pending the ability of local agencies to assume the cost. It projected serving 200 youth and has to date served 235 youth. Of this number 20 were minority youth. The project was originally funded as part of the national status offender program, and provides counseling, foster care, and group homes.

3. Juvenile Delinquency and Prevention - $352,784 awarded 11/15/77 to Boys' Club of America, New York, New York.

   The project expects to reduce the arrest rate of 1,000 project youth by 50% and serve an additional 1,000 marginal members of the Boys' Clubs in 9 cities in disadvantaged communities. They are providing employment, leadership development training, and other social and recreational opportunities for youth. The project was funded as part of the national program initiative, Prevention of Delinquency Through Skills Development. The project has served 667 youth to date, and of this number 485 were minority youth.

4. Youth Diversionary Program - $72,966 awarded 2/15/78 to the Rhode Island State Planning Agency. Subgrantee -- Opportunities Industrialization Center, Providence, Rhode Island.

   This project is diverting youth referred by the police and juvenile court to a community based program of assistance and mediation. The program provides mediation, referral for social services, diagnostic assessments of educational and medical needs, and the services of a youth advocate to assist in implementing a service plan. This is a continuation grant pending local assumption of cost. The project projected serving 150 youth, and to date has served 50 youth. Of this number 40 were minority.

5. Juvenile Court Advocacy Program - $117,098 awarded 2/24/78 to the Massachusetts State Planning Agency. Subgrantee - Open Harbor, Incorporated, Cambridge, Massachusetts.

   This project provides legal defense to court involved youth, and referral for social services following court involvement. It follows-up to assure that youth receive the needed services. The program projected serving 250 youth, and has served 225 to date. Ninety of this number have been minority youth.

6. Labor Youth Sponsorship Program - $331,082 awarded 6/2/78 to National Council on Crime & Delinquency - AFL-CIO Labor Participation Department, Washington, D.C.

   The project will serve youth in 3 cities through an apprenticeship and job training program, tutoring, counseling and other social and recreational programs. The project is not yet operational.

7. Railroad Restitution Project - $510,699 awarded July 1978 to Massachusetts Department of Youth Services, Boston, Massachusetts.

   This is a cooperative project with the Department of Labor and involves restitution through work done on railroads by youth committee to the Department of Youth Services. DOL is supporting the employment component, and OJJDP is supporting the administrative and social services component. It is not yet operational.

8. Female Offender Project - $419,280 awarded June 1978 to the Massachusetts State Planning Agency. Subgrantee - Massachusetts Department of Youth Services, Boston, Massachusetts.

   This project provides residential living and social services for more serious female juvenile offenders who have not been successful in other placements. It is not yet operational.

B. The OIC grant is the only grant in this group awarded to a minority agency.

C. The Boston Female Offender project, Pima County Juvenile Court, Tahoe Human Services and OIC were continuation grants and their requests for funding were reviewed in the context of their specific needs by Special Emphasis staff and recommendations were made to the Administrator to fund them. The Boys' Club was selected as part of the national Prevention Program Initiative, but was late being awarded because of an administrative issue which had to be resolved; the Juvenile Court Advocacy project requested funding pending their ability to develop local funding to continue their project. It had been funded by the Massachusetts State Planning Agency and their grant was terminating.

   The AFL-CIO project and the Massachusetts Restitution project submitted applications. They were reviewed favorably, and the decision was made to award them as they were regarded as worthwhile projects. The AFL-CIO/NCCD project is a joint project funded by the Office of Community Anti-Crime in LEAA and OJJDP.

Question

9. How many youth have been served by Special Emphasis projects funded since October 1977, and of this number, how many have been minority youth?

Answer

9. The 8 projects funded since October 1977 served 2,234 youth and of this number, 1,079 were minority youth.

Question

10. a. What actions have you taken since October 1977 to facilitate and support formula grant and maintenance of effort block grant funds going to minority organizations and disadvantaged communities?

Answer

10. a. There are several provisions in the JJDP Act and the guidelines for the formula grant program pertaining to minority involvement.

(1) The guideline pertaining to the composition and representative character of the State Supervisory Board encourages minority group representation in connection with juvenile justice representation requirements (par. 22b(f)7).

(2) Sections 223 (7) and (15) of the JJDP Act and the guidelines require States to provide for an equitable distribution of funds received under the JJDP Act and to assure that equitable assistance be available to disadvantaged youth, particularly females, minority youth, and mentally retarded or emotionally handicapped youth.

(3) In addition, the guideline requires that all formula grant subgrantees and contractors comply with nondiscrimination requirements spelled out in Appendix 4 in M 4100.1F. Thus, States and subgrantees must have affirmative action plans to preclude discrimination on the basis of race, color, religion, national origin or sex.

Question

10. b. Finally, I would like to reiterate the question which I raised in the June 27th Hearings: Why were the planned initiatives on gangs and serious offenders cancelled after July 1977? And further, how is the restitution program expected to impact minority youth in relation to number of youth involved, and kinds of services available? How does this compare with the two cancelled programs with respect to types of agencies affected, and types of services provided? Please provide me with copies of the guidelines or program descriptions of the cancelled initiatives.

Answer

10. b. We cannot project how the restitution program will impact minority youth, as the jurisdictions invited to submit applications are diverse. However, incarcerated youth, who are targeted in the program, are disproportionately minority.

Although a credible comparison would be difficult, many youth assisted under the restitution program would have been eligible under either the gangs or serious offender programs. The serious offender program was in fact a socalled "aftercare" program and many of the services such as job training, employment, and counseling will be provided under the restitution project just as the range of services contemplated under the draft gang guideline were provided under our Prevention Initiative funded September 1977.

As with the serious offender project, most of the eligible agencies under restitution are justice system agencies. The restitution guideline, however, does encourage the participation of private not-for-profit youth agencies in the employment and community services components. The "aftercare" program would have been available to both urban and rural areas and as I mentioned in my testimony this effort was in part replaced by our replication of Project New Pride scheduled for FY 1979. The draft gang program would have been concentrated in areas with significant gang problem, including urban areas. The Restitution program is available to all communities and of course the extent to which the project serves communities which have high rates of youth unemployment, school dropouts and delinquency rates are all factors in restitution on any 224 programs.

Concerning the gang project, there appears to be a significant misunderstanding. The cities that you mentioned at the June 27 hearing: New York, Los Angeles, Chicago, Detroit, Philadelphia had not been selected for funding. In fact, the draft guidelines related hypothetically to many communities or neighborhoods in the country, including those in major urban areas. Had the project proceeded as drafted, a competitive process was envisioned and thus no cities or neighborhoods had been identified by July 1977. Any unofficial designation of cities would have violated agency competitive procedures and guidelines. Lastly, we are prohibited under 224(a) from selecting an application solely on the basis of population.

MAY 15 1979

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION
WASHINGTON, D.C. 20531

MAY 15 1979

Mr. Gordon Raley, Staff Director
Subcommittee on Human Resources
Committee on Education and Labor
House of Representatives
2178 Rayburn Building
Washington, D.C. 20515

Dear Mr. Raley:

As you know, Section 204(b)(5) and (e) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, requires that the Administrator of LEAA submit to the President and Congress, prior to December 31, an analysis and evaluation of Federal juvenile delinquency programs. In testimony before the Sub-committee on Human Resources on March 20, 1979 the former Administrator of this Office told the Members that the Report would be submitted by May 15, 1979. Because of the resignation of the former Administrator and the resultant transitional framework in which we now find ourselves, I regret that the Office will not be able to submit the report by May 15, 1979. It is our expectation that the 1978 report will be formally submitted by October 30, 1979. The 1979 report will be submitted prior to December 31, 1979.

We would like to restrict our 1978 report to the following elements:

A. An analysis of the following federal programs:

I. SOCIAL SECURITY ACT

a. Title IVA

The AFDC Program, established by Title IVA of the Social Security Act, provides Federal funds on a matching basis to states to cover the costs of food, shelter, clothing and other necessities for poor families with dependent children. Most of the funds in this program are used to maintain children in their own homes. Under Section 408, however, payments are provided for foster care and institutionalization in cases of court-adjudicated abandonment, abuse and neglect. Section 408 is the major source of Federal support for out-of-home care of dependent and neglected children (although payments for out-of-home care represent only a small percentage of total AFDC expenditures). Section 408, insofar as it covers insti-

tutional costs, covers only the cost of maintaining a child in a public or private non-profit institution; it does not cover in-home services to prevent placement, reunite separated families, or move neglected children into permanent living arrangements (e.g., costs connected with termination of parental rights and placement for adoption).

b. Title IVB

Title IVB funds supplement state and local funds for non-AFDC child welfare activities, such as services to prevent the removal of children from their homes, provision of protective services, licensing and setting standards for private child-care institutions, and assistance in providing day care, homemaker services, and adoptive placements. The program also provides reimbursement for out-of-home care. The tendency of states under Title IVB has been to de-emphasize in-home services and accentuate out-of-home care. For example, in 1976, 70% of total Title IVB expenditures went to foster care; less than 10% was spent on day care, and 2% on adoption services.

c. Title XX

Under Title XX, the Federal Government provides states with partial reimbursement for social services for low income families. In addition, four services are mandated to be provided without charge regardless of income level: information and referral, protective services for children, protective services for adults, and family planning. Out-of-home services subsidized under Title XX included basic costs for institutionalizing abused, neglected, crippled, emotionally disturbed, mentally retarded, and physically handicapped youth. Other child welfare services paid for in all or in part by Title XX funds include adoption, group home and residential treatment arrangements, and emergency shelter and interstate placements.

Critics of Titles IVA, IVB and XX have pointed to several weaknesses in these enactments which tend to contribute to the unnecessary removal of children from their homes. For example, the requirement that children eligible for Title IVA funds must be under a court order promotes excessive reliance on shifting legal custody in order to obtain reimbursement for necessary services. Title IVB foster care payments are higher than monthly AFDC payments for care of children in their homes.

II. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES

CHAMPUS is the military counterpart of Medicaid. It establishes a system of reimbursing private medical care providers for treatment of military personnel and their dependents. Because psychiatric care was added to the list of reimbursable services in 1967, the number of eligible private profit making residential treatment centers expanded. These treatment centers have been plagued with problems of fraud and mismanagement as well as alleged abuse of children maintained within these facilities. It has also been charged that CHAMPUS provides incentives for out-of-home placements, since parents are required to pay less toward the cost of care in residential facilities than for clinical treatment when children remain in their home.

III. HOUSING AND COMMUNITY ACT

Under this Act, subsidies are available for low income rental housing. Although there is no uniform policy within the Department of Housing and Urban Development as to whether group homes for neglected children and status offenders are eligible for subsidy, it has been suggested that the program may have potential in assisting local deinstitutionalization initiatives.

IV. COMPREHENSIVE EMPLOYMENT AND TRAINING ACT (CETA)

CETA has the potential for offering the target population (particulary status offenders) programs which would keep them out of institutions. Programs under CETA include classroom training, on-the-job training, public service employment, work experience, and the like. A special section of the Act provides employment, training, counseling and job preparation for economically disadvantaged youth during summer months. Funds are channeled through prime sponsors (SMSA's or State Manpower Offices) and through state manpower services councils. A difficulty with the administration of CETA funds has been the Department of Labor's policy of measuring success and awarding future funding on the basis of the success of job placements and the number of temporary jobs which have become permanent -- thus discouraging inclusion of court-related youth in local employment programs.

V. ELEMENTARY AND SECONDARY EDUCATION ACT (ESEA)

Under Title I of ESEA, funds are available for the design and implementation of special educational programs to meet the needs of educationally disadvantaged children in low-income areas whether enrolled in private or public schools. Although theoretically funds are available for educational assistance in various settings, the tendency under ESEA has been to support institutional education of children at the expense of smaller, innovative community-based treatment programs. It has also been alleged that institutions receiving ESEA funds frequently commingle status offenders, delinquents, and dependent and neglected children.

The Vocational Education Amendments of 1968 also relate to status offenders and dependent and neglected children. Assistance is provided to states in offering courses which combine classroom work and on-the-job training through part-time employment in local business and industry. Special programs are also aimed at children with academic, socio-economic, or other types of impairment preventing success in the regular vocational education program.

VI. THE U.S. BUREAU OF PRISONS OPERATION OF CHILDREN AND YOUTH INSTITUTION

B. The report will also include a description of activities of OJJDP, and in particular, the Coordinating Council and its agenda vis-a-vis the above programs, as well as the work of the NAC in relation to Concentration of Federal Effort.

I look forward to being of assistance to the Committee on this and other matters of concern.

Sincerely,

David D. West

David D. West
Acting Associate Administrator
Office of Juvenile Justice
and Delinquency Prevention

cc: Senator Birch Bayh

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION
WASHINGTON, D.C. 20531

PROGRAM ACTIVITY

OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

DEPARTMENT OF JUSTICE

Prepared By

JOHN M. RECTOR, ADMINISTRATOR
OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

MARCH 20, 1979

Introduction

Many interested persons and supporters have sought specifics regarding our efforts to implement the Senator Birch Bayh Juvenile Justice Act since October 1, 1977, the beginning of Fiscal Year 1978. I'm certain that the information herein will assist in developing a fuller understanding of the nature and extent of the progress to date.

Among the highlights are the following:

A. 74% of the Bayh Act discretionary funds appropriated since FY 75 have been awarded since October 1, 1977;

B. 70% of the total Bayh Act discretionary awards have been made since October 1, 1977;

C. 63% of the Bayh Act formula grant funds appropriated since FY 75 have been awarded since October 1, 1977; and

D. 70% of the FY 79 Bayh Act funds available to OJJDP on October 1, 1978 were awarded by March 1979.

It is obvious that OJJDP critics who have unjustly dwelt on issues of performance will be murdered by this cruel gang of facts.

With warm regards,

John M Rector

John M. Rector
Administrator
Office of Juvenile Justice
and Delinquency Prevention

INTRODUCTION

I. Juvenile Justice Act Formula Grant

II. Juvenile Justice Act Discretionary Grants

III. Office of Juvenile Justice and Delinquency Prevention's Crime Control Act Grants

IV. TOTAL ACTIVITY

I. Formula Grant Program (October 1, 1978 to March 1979)

A. Grant Activity

(a)	FY 79 Appropriation	$63,750,000
(b)	47 Awards to date	59,136,000
(c)	3 Awards with serious problems (N.J., D.C. and Mont.)	2,495,000
(d)	Reverted formula funds available as discretionary from awards not made to non-participating states. (Neb., Nev., N.D., Okl., S.D. and Wy.)	2,119,000

B. Performance to date

(a)(i)	Percent of FY 79 OJJDP Formula funds awarded by March 1979:	95.9%
	allocated: $61,631,000 awarded: $59,136,000	
(ii)	Percent of FY 78 OJJDP formula funds awarded by March 1978	60.0%
	allocated: $71,711,750 awarded: $43,416,000	
(b)	Percent of grants awarded by March 1979:	94%
	planned: 50 awarded: 47	

C. Formula Grant Award History

(a)	FY 75	$ 8,936,648
	FY 76	24,129,580
	FY 77	43,077,406
	FY 78	71,711,750
	FY 79	59,136,000
	(3/79)	$206,991,384

(b) Since October 1, 1977, OJJDP has awarded $130,847,750 in formula funds.

(c) Since October 1, 1978, OJJDP has awarded 29% of total formula funds appropriated in OJJDP history.

(d) Since October 1, 1977, OJJDP has awarded 63% of total formula funds appropriated in OJJDP history.

D. Relative figures on the award, subgranting and expenditure of formula grant funds.

(a) Testimony before Congress in April 1977 by then Acting LEAA Administrator revealed the following:

FY/Formula Grant Award	% Subgranted as of 12/3/76	% Expended as of 12/3/76
75 -- $9.25M		
76 -- 24.50M		
33.8M	27% (9,126,000)	6% (2,000,000)
(b) As of 9/30/78	9/30/78	9/30/78
75	96%	91%
76	94.4%	73.2%
	95.2%	82.1%
(c) As of 9/30/78		
77 -- $43,077,406	85.6%	44.9%
78 -- $61,211,750	48.5%	8.1%

(d)

(1) In 17 months (5/77 through 9/78) the states increased the percent of FY 75-76 funds subgranted from 27% to 95.2% and increased the percent of FY 75-76 funds expended from 6% to 82.1%.

(ii) Of the $97,946,515 subgranted by the states as of 9/30/78, 90% or $88,820,515 occurred between 5/77 and 9/78.

(iii) Of the $50,106,300 expended by the states as of 9/30/78, 96% or $48,106,300 occurred between 5/77 and 9/78.

(e) For comparative purposes it is noteworthy that at the end of LEAA's third fiscal year, 1971, the following was reported by the House Committee on Government Operations:

FY 69-71 Awarded	Subgranted	Expenditures
$552,034,602	25.1% ($138,475,771)	No figures kept
	18.8% (9 major states)	

The Committee, in its Report entitled, "Block Grant Programs of the Law Enforcement Assistance Administration," House Report No. 92-1072 (92nd Cong., 2d Session), 5/18/72, Chairman Chet Holifield, concluded the relevant chapter III, Program Paralysis with the following observations:

> The 'difficulties and delays' are no less now than 4 years ago when the programs started.
>
> Delays caused by reasonable grant application procedures, procurement actions, review steps, and guideline interpretations are understandable. The problem discussed here, however, goes deeper than those obvious factors. It is one which has as its root the inadequate management and direction which have been provided to the programs by LEAA and the States. A more fundamental cause may be the structure of the block grant delivery system itself.
>
> Block grants provide a guaranteed annual income to a State upon submission of a technically sufficient plan without regard to the amount which the SPA has been able to usefully spend in previous years.

II. Juvenile Justice Act Discretionary Programs (Concentration of Federal Effort, Special Emphasis, Technical Assistance and the Institute)

A. Grant Activity

(a)	Available for FY 79	$ 44,122,000
(b)	Awarded by March 1979	16,506,000
(c)	Remainder earmark as follows:	
(i)	OJJDP's Institute for Juvenile Justice and Delinquency Prevention	3,923,000
(ii)	Technical Assistance	2,651,000
(iii)	Continuation of Prevention Projects	2,996,000
(iv)	Continuation of Federal Effort Projects	914,000
(v)	Model Programs	2,632,000
(vi)	School Resource Center	2,500,000
(vii)	Youth Advocacy Initiative	8,000,000
(viii)	Alternative Education Initiative	4,000,000
		$ 27,616,000

B. Performance to date:

(a)(i)	Percent of total available awarded to date	38%
	allocated: $44,122,000 awarded: $16,506,000	
(ii)	Percent of total available awarded March 78	8%
	allocated: $70,500,000 awarded: $ 5,400,000	

(b)(i) Percent of discretionary grants awarded by March 1979 — 38.5%

planned: 112
awarded: 43

(ii) Percent of discretionary grants awarded by March 1978 — 11%

78 year total: 172
awarded: 20

C. Juvenile Justice Act Discretionary Funds

(a) Juvenile Justice Act Discretionary Awards 75-78

F. Year	Amount	Number	Appropriation	% of Total Approp. Awarded
1975	0	0	$14M	0
1976	$14.2M	46	$16M	15
	- 5.7M OJJDP Institute - 4.1M Transferal to HEW - 1.5M To SPAs - 2.9M Unsolicited			
1977	$13.8M	45	$27.375M	15
	- 5.8M OJJDP Institute - 2.0M Transferal to HEW - 5.8M Prevention - .2M Other			
1978	$65M	172	$36.250M	70
	- 16M OJJDP Institute - 6.6M Prevention - 1.8M Technical Assistance - 1.8M Concentration of Federal Effort - 7.6M Model Programs - 3.5M Restitution - 4.0M Children in Custody:Incentive - 4.7M Children in Custody:Privates - 10.5M Nonoffender/Children in jail state project - 6.0M State and local projects (Track II) - 1.7M Deinstitutionalization of Status Offenders 65M			
	$93M	263	$93M	100

III. Crime Control Act Funds Available to OJJDP

(a)	LEAA Parts C and E funds available for FY 79		$21,000,000
(b)	Part C		
	-- available		5,000,000
	-- awarded		3,772,000
	-- percent of total awarded	75%	
	-- remainder earmarked for Project New Pride (Serious Offenders)		1,228,000
(c)	Part E		
	-- available		16,000,000
	-- awarded		3,419,000
	-- percent of total awarded	21%	
	-- remainder earmarked for:		
	(i) Continuation of Diversion		3,221,000
	(ii) New Pride		9,360,000
			$12,581,000
(d)(i)	Percent of OJJDP's C and E awarded by March 1979	34%	
(ii)	Percent of OJJDP's C and E awarded by March 1978	0%	

IV. OJJDP TOTAL ACTIVITY

A. Grant Activity

(a)	Available Oct. 1, 78	Awarded March 79
Formula Grants	$ 61,631,000	$ 59,136,000
Juvenile Justice Act Discretionary	44,122,000	16,506,000
Crime Control Act Discretionary	21,000,000	7,191,000
	$126,753,000	$ 82,833,000

(b) Percent awarded of total available as of March 79 — 65%

-- available $127M
-- awarded $ 83M

(c) Percent awarded of total Juvenile Justice Act available as of March 79 — 70%

-- available $107,872,000
-- awarded $ 75,642,000

(d)(i) Percent awarded of all available discretionary funds as of March 79 — 37%

-- available $65M
-- awarded $24M

(ii) Percent awarded of all available discretionary funds as of March 78 — 5.8%

-- available $93M
-- awarded $5.5M

(e) Total projects awarded of total planned for FY 79, March 1979 — 55%

-- planned 162
-- awarded 90

(f) As of Feb. 5, 1979, OJJDP awards accounted for 47.7% of the total awarded by LEAA in FY 1979. This contrasts with 7.25% at the same juncture last year.

(g) Of the total $110M Juvenile Justice Act discretionary funds awarded since FY 1975, 74% or $81.5M has been awarded in the past 18 months (since Oct. 1, 1977).

(h) Of the total 296 awards of Juvenile Justice discretionary funds made since FY 1975, 69% or 205 have been awarded in the past 18 months (since Oct. 1, 1977).

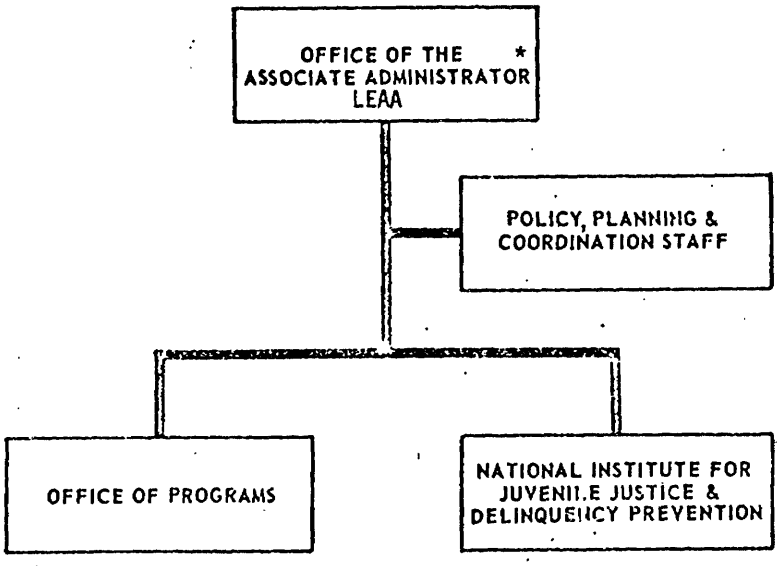
(i) As of March 1979, a total of 50 full-time OJJDP employees were on board. As of March 1978, 44 such persons were employed.

(j) The following chart reflects relative grant activity of major LEAA Offices. It is based on information submitted by the Office of Comptroller, LEAA, and published in the November 1978 Monthly Management Briefs prepared by the LEAA Office of Planning and Management:

PERCENT OF TOTAL CATEGORICAL AWARDS PER QUARTER -- FY 1978

Office	Oct/Dec	Jan/Mar	Apr/June	July/Sept	Percent
Office of Juvenile Justice and Delinquency Prevention	8.1	10	40	41.9	100
Office of Criminal Justice Programs	12.2	13.5	23	51.3	100
Office of Community Anti-Crime	3.5	14.1	30	52.1	100
National Institute of Law Enforcement and Criminal Justice	12.5	10.5	22.2	54.8	100
Average: OJJDP OCJP OCAC NILECJ	9.5	12.5	27.5	50.5	
All LEAA	11.0	17.7	27.1	44	

FIGURE 15-1. OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION ORGANIZATION CHART



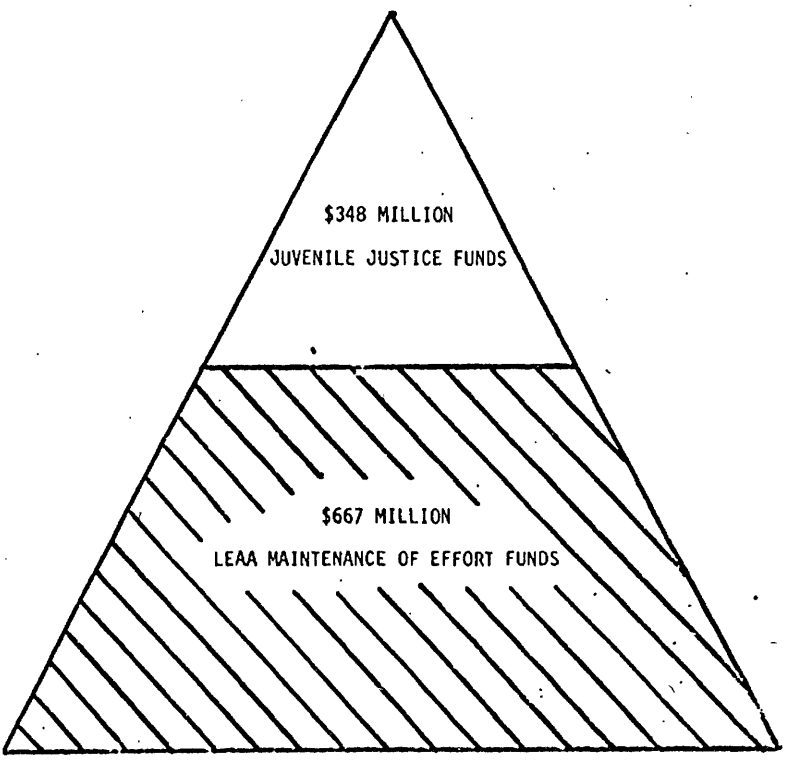
* ALSO ADMINISTRATOR, OJJDP

FEDERAL JUVENILE DELINQUENCY FUNDS

AVAILABLE THROUGH

THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT*

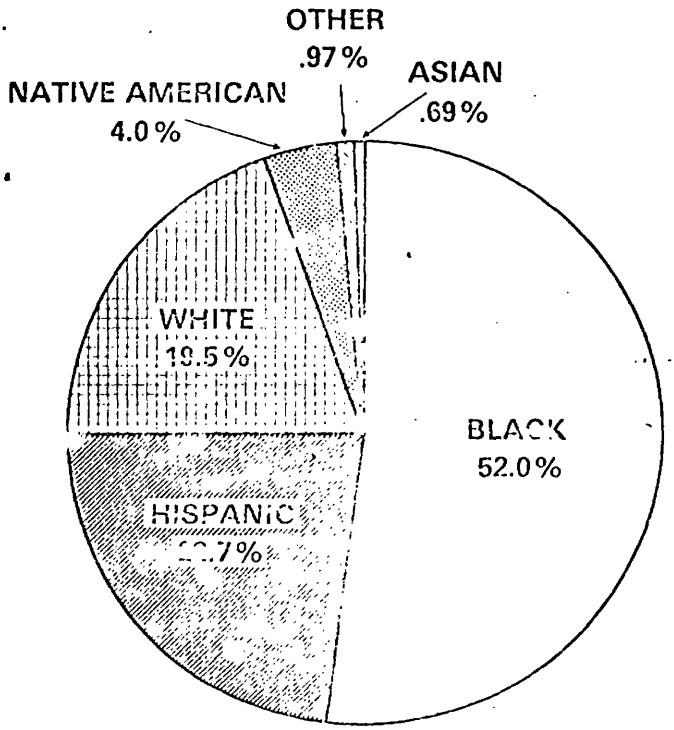
FY75 - FY79



*Excludes Title III Funds

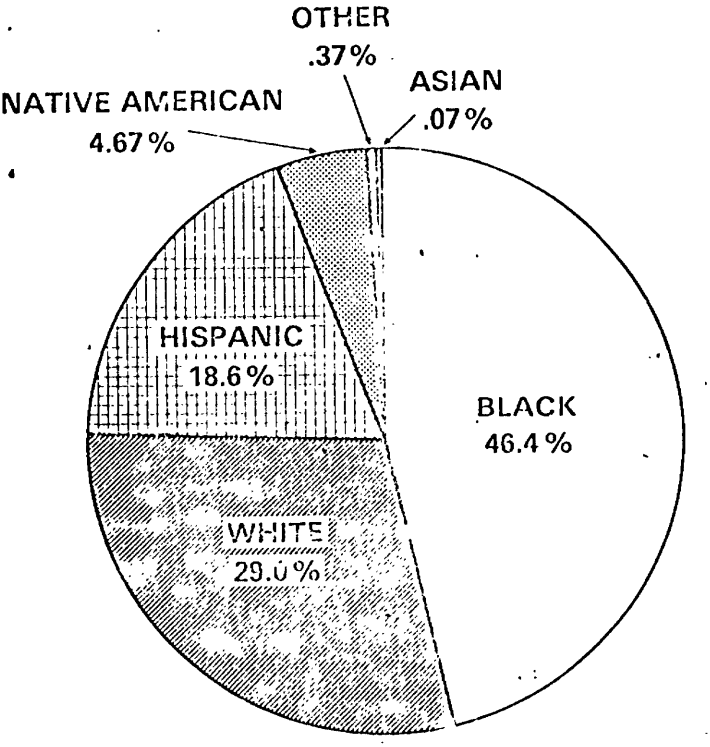
PREPARED BY THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SPECIAL EMPHASIS PREVENTION INITIATIVE BY RACE AND SEX — OCTOBER 30, 1978



NOTE: MALE 52.0%
FEMALE 48.0%

SPECIAL EMPHASIS DIVERSION PROGRAM BY RACE AND SEX — SEPTEMBER 1, 1978



SPECIAL EMPHASIS PREVENTION INITIATIVE BY RACE AND SEX - OCTOBER 30, 1978

	MALE	FEMALE	ASIAN	BLACK	HISPANIC	WHITE	NATIVE AMERICAN	OTHER	TOTAL
*VENICE	119	67	1	74	79	27	0	4	185
TULARE	171	83	8	43	131	59	3	10	254
SALVA. ARMY	547	322	0	618	4	216	27	4	859
CHICAGO	76	62	0	72	48	14	1	3	138
NFS	194	131	0	243	4	73	4	1	325
**BOYS CLUBS (1 site)	44	5	0	47	2	0	0	0	49
PHILADELPHIA	0	642	1	361	136	142	1	1	642
TUSKEGEE	720	505	0	1223	2	0	0	0	1,225
FT. PECK	133	132	1	2	0	1	261	0	265
UNITED NEIGH. HOUSES	442	267	17	366	199	125	0	3	710
DALLAS	805	647	0	956	195	285	13	2	1,452
SEATTLE	573	493	28	525	58	356	54	42	1,063
*GIRLS CLUBS	0	172	8	19	61	81	2	1	172
NEW HAVEN	375	423	1	242	100	416	91	17	785
BOSTON	35	25	0	14	36	7	0	3	60
ASPIRA	601	503	0	32	1056	16	0	0	1,104
TOTAL	4,835	4,479	65	4,837	2,112	1,818	375	91	9,298
% of TOTAL	52.0	48.0	.69	52.0	22.7	19.5	4.0	.97	

*Only partial count/data not yet in computer
**Only 1 site reporting according to NCCD all data is 20% less than actual count (Total Minority 7480 % of Total 80%

SPECIAL EMPHASIS DIVERSION PROGRAM BY RACE AND SEX SEPT. 1, 1978

	% of TOTAL	Central Denver	Rosebud	Memphis	Boston	Florida	Kentucky	Milwuakee	Puerto Rico	MFY	Harlem	John Jay	Total
FEMALE		31	NA	185	39	161	95	NA	NA	NA	NA	37	547
MALE		287	NA	1,369	275	527	599	NA	NA	NA	NA	510	3,567
WHITE	29.0	56		532	175	444	232	119				112	1,670
BLACK	46.4	116		1,020	90	239	451	233		2	189	266	2,605
HISPANIC	18.6	141			44			16	489	187	1	167	1,045
ASIAN	.07						4	NA					4
NAT. AM.	4.67		260					2					262
OTHER	.37			2	5	4	7	1				2	21
TOTAL		313	260	1,554	314	687	694	371	498	189	190	547	5,603

Total Minorities - 3938
% of Total 70%

SPECIAL EMPHASIS DEINSTITUTIONALIZATION OF STATUS OFFENDERS INITIATIVE THROUGH JUNE, 1978

BY RACE AND SEX

	Arizona	Alameda	S.Lake Tahoe	Conn.	Delaware	Illinois	Ohio	S.C.	Vancouver	Spokane	Total	% of Tot
EMALE	1,800	1,632	381	287	736	1,679	88	2,758	411	580	10,352	52.9
ALE	793	1,305	246	128	877	1,038	63	4,102	283	352	9,197	47.0
HITE	2,167	1,843	596	304	1,231	1,424	148	4,636	679	881	13,909	67.7
LACK	325	660	3	76	357	1,104	2	2,210	3	20	4,760	23.1
ISPANIC	859	290	19	30	22	154			1	1	1,376	6.6
SIAN	15	45	2		1	3		2	4	7	79	.3
AT. AM.	189	20	2	1	1	14	1	5	3	25	261	1.2
THER	39	75	2	4	6	20		6	1	7	160	.7
OTAL	3,594	2,933	624	415	1,618	2,719	151	6,859	691	941	20,545	
of Total	17.4	14.2	3.0	2.0	7.8	13.2	.7	33.3	3.3	4.5		

otal Minority 6,635
of Total .32%
ost Per Child $577

OTE: Disparity between sex and ethnic count totals. Data has not been finalized by evaluators

JJDP FUNDS AWARDED TO STATES BY FISCAL YEAR

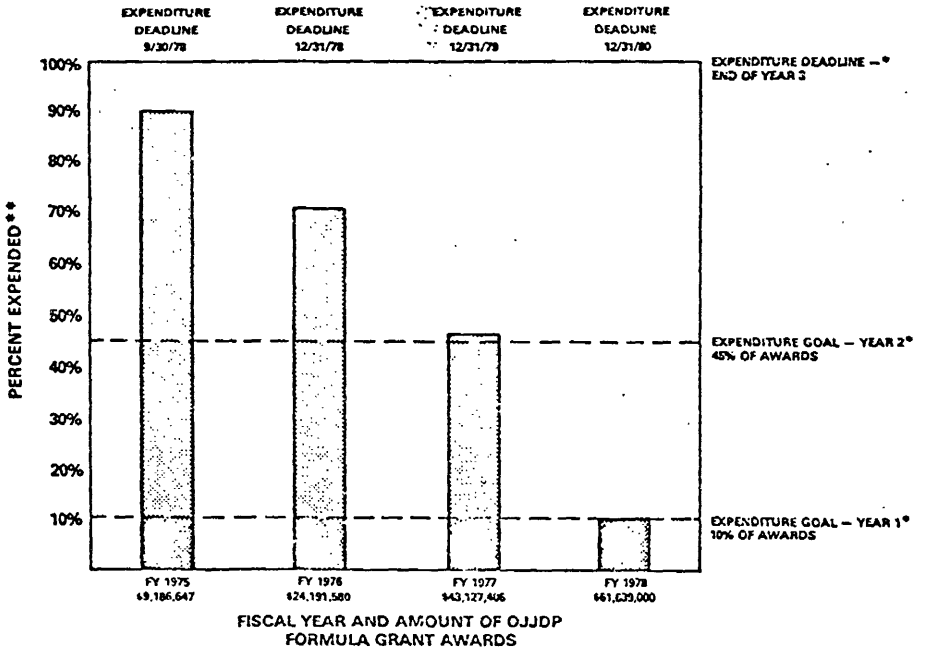
	1975	1976	1977	1978 & Supp. #1	1979	TOTAL
ALABAMA	$	$	$ 813,000	$ 1,280,000	$ 1,101,000	$ 3,194,000
ALASKA	200,000	250,000	200,000	246,000	225,000	1,121,000
ARIZONA	200,000	240,000	425,000	807,000	701,000	2,383,000
ARKANSAS	200,000	250,000	432,000	726,000	616,000	2,224,000
CALIFORNIA	680,000	2,450,000	4,373,000	6,910,000	5,949,000	20,362,000
COLORADO		286,000	510,000	872,000	755,000	2,423,000
CONNECTICUT	200,000	378,000	673,000	1,006,000	853,000	3,110,000
DELAWARE	200,000	250,000	200,000	253,000	225,000	1,128,000
DIST. OF COLUMBIA	200,000	250,000	200,000	256,000	225,000	1,131,000
FLORIDA	216,000	779,000	1,390,000	2,545,000	2,165,000	7,095,000
GEORGIA	200,000	607,000	1,083,000	1,776,000	1,519,000	5,185,000
HAWAII			200,000	308,000	268,000	776,000
IDAHO	200,000	250,000	200,000	303,000	262,000	1,215,000
ILLINOIS	389,000	1,402,000	2,501,000	3,801,000	3,255,000	11,348,000
INDIANA	200,000	679,000	1,213,000	1,892,000	1,578,000	5,532,000
IOWA	200,000	360,000	643,000	972,000	825,000	3,000,000
KANSAS				735,000	635,000	1,370,000
KENTUCKY	**		734,000	1,176,000	1,011,000	2,921,000
LOUISIANA	200,000	512,000	915,000	1,433,000	1,239,000	4,299,000
MAINE	200,000	250,000	227,000	366,000	313,000	1,356,000
MARYLAND	200,000	510,000	910,000	1,401,000	1,192,000	4,213,000
MASSACHUSETTS	200,000	693,000	1,236,000	1,885,000	1,583,000	5,397,000
MICHIGAN	333,000	1,200,000	2,142,000	3,278,000	2,753,000	9,706,000
MINNESOTA	200,000	510,000	910,000	1,374,000	1,173,000	4,167,000
MISSISSIPPI	* 200,000			901,000	770,000	1,871,000
MISSOURI	200,000	573,000	1,024,000	1,568,000	1,333,000	4,698,000
MONTANA	200,000	250,000	200,000	267,000	227,000	1,144,000
NEBRASKA	**					
NEVADA	* 13,211					13,211
NEW HAMPSHIRE	200,000	250,000	200,000	281,000	239,000	1,170,000
NEW JERSEY	245,000	881,000	1,571,000	2,411,000	2,043,000	7,151,000
NEW MEXICO	200,000	250,000	268,000	446,000	386,000	1,550,000
NEW YORK	599,000	2,157,000	3,850,000	5,938,000	4,919,000	17,338,000
NORTH CAROLINA				1,867,000	1,588,000	3,455,000
NORTH DAKOTA	*** 20,750	*** 7,680	**			27,430
OHIO	353,000	1,380,000	2,463,000	3,756,000	3,114,000	11,096,000
OKLAHOMA						
OREGON	200,000	258,000	460,000	742,000	644,000	2,302,000
PENNSYLVANIA	395,000	1,420,000	2,536,000	3,772,000	3,201,000	11,324,000
RHODE ISLAND		250,000	200,000	298,000	252,000	1,000,000
SOUTH CAROLINA	200,000	353,000	629,000	1,028,000	881,000	3,091,000
SOUTH DAKOTA	*** 55,668	*** 37,000	* 56,406			149,074
TENNESSEE	* 97,018		874,000	1,409,000	1,204,000	3,584,000
TEXAS	410,000	1,476,000	2,635,000	4,369,000	3,797,000	12,687,000
UTAH				491,000	430,000	921,000
VERMONT	200,000	250,000	200,000	248,000	225,000	1,123,000
VIRGINIA		587,000	1,047,000	1,676,000	1,434,000	4,743,000
WASHINGTON	200,000	429,000	764,000	1,180,000	1,020,000	3,593,000
WEST VIRGINIA				597,000	513,000	1,110,000
WISCONSIN	200,000	584,000	1,044,000	1,664,000	1,355,000	4,787,000
WYOMING						
PUERTO RICO	200,000	435,000	776,000	1,283,000	1,353,000	4,047,000
AMERICAN SAMOA		62,000	50,000	58,250	56,250	226,500
GUAM	50,000	62,000	50,000	62,250	56,250	280,500
TRUST TERRITORIES	50,000	62,000	50,000	60,250	56,250	270,500
VIRGIN ISLANDS	50,000	62,000	50,000	64,250	56,250	282,500
No. Marianas					56,250	
TOTAL	$9,186,647	$24,191,580	$41,127,406	$65,997,000	$61,630,250	

*State received and obligated this amount of JJDP funds; subsequently withdrew from Act.

**State received Formula Award forthis FY; but withdrew and returned full amount to LEAA.

*** Participated for full fiscal year; withdrew in FY 1977 and returned all unobligated formula funds

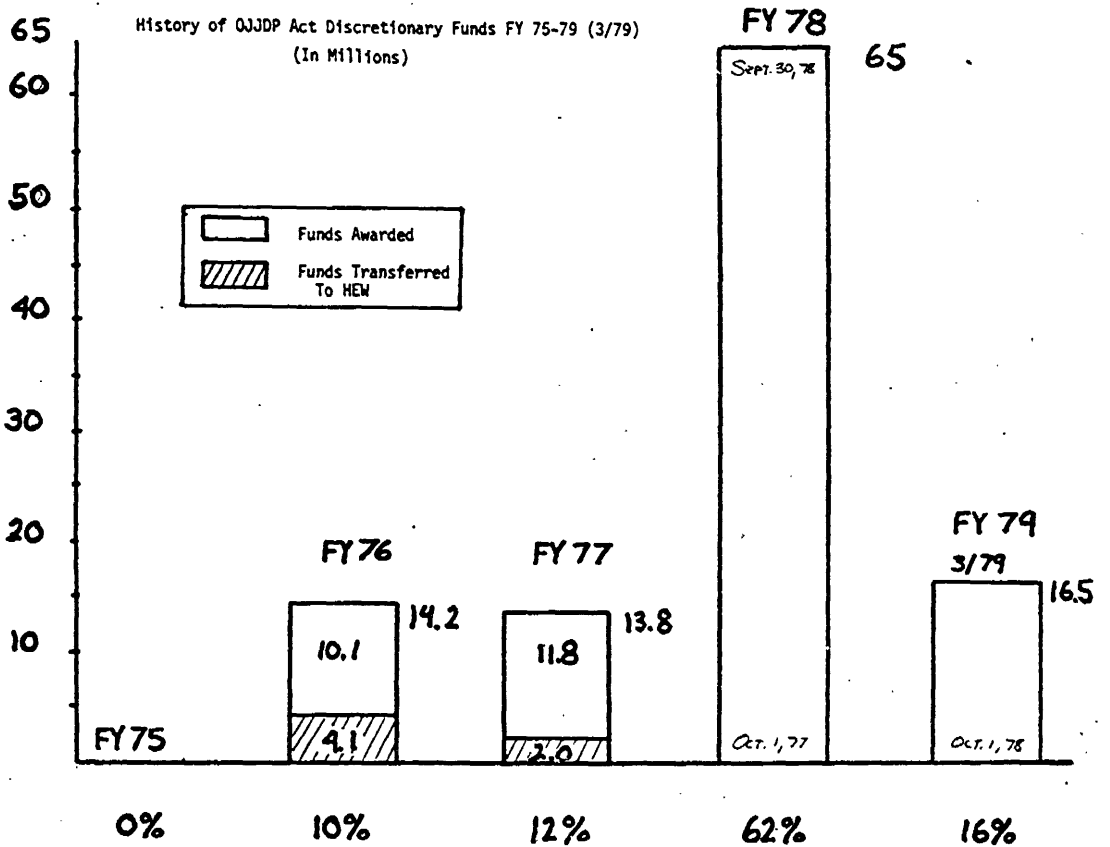
FORMULA GRANT FUND FLOW
AS OF 3/1/79



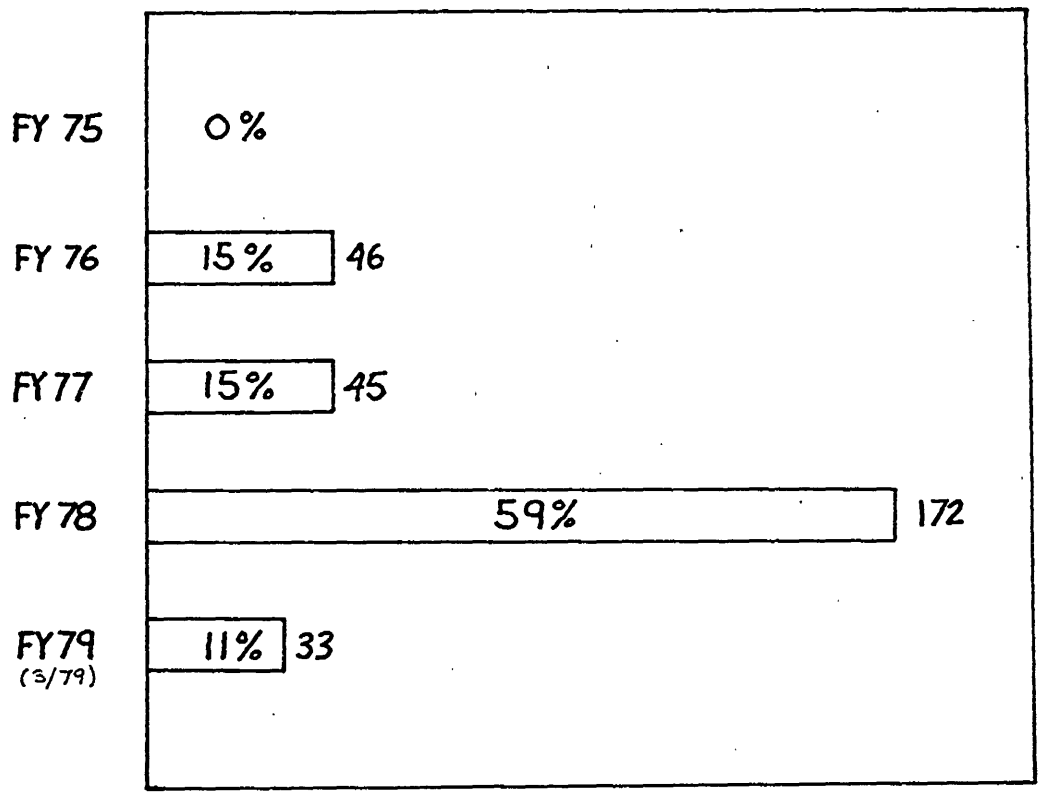
* FORMULA FUNDS HAVE 3 YEAR LIFESPAN: EXPENDITURE RATE GOALS ESTABLISHED BY LEAA'S COMPTROLLER

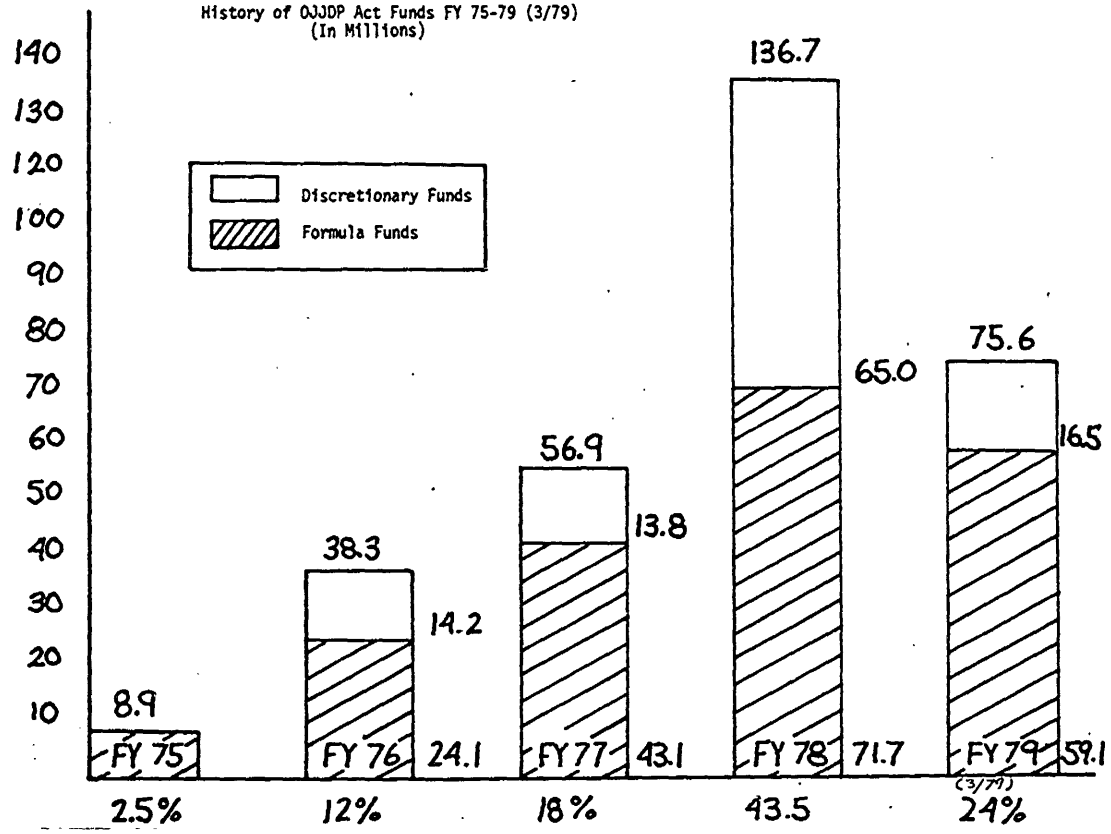
** PERCENTAGES REPRESENTATED ARE BASED ON INCOMPLETE DATA. FY 76 AND FY 78 EXPENDITURE PERCENTAGES WILL NEAR 100% WHEN ALL STATES HAVE SUBMITTED FINAL FISCAL DATA.

BASED UPON DATA DEVELOPED BY THE LEAA COMPTROLLER AND THE NATIONAL CONFERENCE OF STATE CRIMINAL JUSTICE PLANNING ADMINISTRATORS


History of OJJDP Act Discretionary Funds FY 75-79 (3/79)
(In Millions)
65
60
50
40
30
20
10
Funds Awarded
Funds Transferred To HEW
FY 75
FY 76
10.1
4.1
14.2
FY 77
11.8
2.0
13.8
FY 78
Sept. 30, 78
65
Oct. 1, 77
FY 79
3/79
16.5
Oct. 1, 78
0%
10%
12%
62%
16%

OJJDP ACT DISCRETIONARY GRANT ACTIVITY FY 75-79 (3/79)
(Percent of Total To Date by Year)




History of OJJDP Act Funds FY 75-79 (3/79)
(In Millions)
140
130
120
100
90
80
70
60
50
40
30
20
10
Discretionary Funds
Formula Funds
8.9
FY 75
2.5%
38.3
14.2
FY 76
24.1
12%
56.9
13.8
FY 77
43.1
18%
136.7
65.0
FY 78
71.7
43.5
75.6
16.5
FY 79
(3/79)
59.1
24%

OJJDP UPDATE

THE NATIONAL ACADEMY OF SCIENCES PROJECT

Under the sponsorship of the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, the National Academy of Sciences today convened the first meeting of its Panel on the Study of Public Policies Contributing to the Institutionalization and Deinstitutionalization of Children and Youth. The panel was funded by the Office to review the programs and practices of Federal agencies and report on the degree to which Federal funds are used for purposes that are consistent or inconsistent with the Juvenile Justice and Delinquency Prevention Act. The panel is composed of distinguished experts drawn from such fields as juvenile justice, economics, political and social sciences, medicine and education.

John M. Rector, Administrator of the Office, served as guest speaker at the panel meeting. In his remarks, Mr. Rector stated that the panel is expected to play an important role in assisting his Office implement the deinstitutionalization mandate of the Juvenile Justice Act. He added that he intends to incorporate the findings of the study into the deliberations of the cabinet level Coordinating Council on Juvenile Justice and Delinquency Prevention of which he is Vice Chair. The Coordinating Council will hold three meetings in December to establish a detailed working agenda for 1979.

The National Academy of Sciences Panel study will include four analytical tasks: (1) an assessment of Federal resources and the administrative and regulatory channels governing these resources; (2) an assessment in three to five states of patterns of public and private agency responsibility for status offenders and dependent and neglected children; (3) an assessment in the same states of the impact on state delivery systems exerted by Federal programs and policies; and (4) selected case studies on particular problems of deinstitutionalization.

For further information, contact the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, Washington, D.C. 20531.

The text of Mr. Rector's comments follow:

Welcome!.

We commend you for your obvious concern about youth who are inappropriately jailed, detained and imprisoned. We share your outrage at such scandalous practices.

We join you in the acknowledgement of our collective duty to protect the rights of our young citizens to develop physically, mentally and spiritually to their maximum potential.

The theme of this gathering--deinstitutionalization--is a cornerstone of the Birch Bayh Juvenile Justice Act which established our Office.

While we focus on non-criminal cases as the logical first step, we should not lose sight of the clear need for the next step, which is the more appropriate placement for delinquent youth.

On October 3, 1977, Jimmy Carter signed the Juvenile Justice Amendments of 1977. The President in stressing its significance said in part:

> In many communities of our Country, two kinds of crimes -- one serious and one not very serious -- are treated the same, and young people have been incarcerated for long periods of time, who have committed offenses that would not even be a crime at all if they were adults. . . . This Act very wisely draws a sharp distinction between these two kinds of crimes.

Thus, the Administration is committed to implementing the 1974 Act, especially as it relates to the subject of your gathering. On these crucial human rights issues there is Federal leadership for a change.

What we are saying is that indiscriminate or punitive placement, whether in public or private facilities, masquerading under the questionable disguise of "rehabilitation" or "the best interest of the child," only do further disservice to our next generation while increasing our already critical crime rate by supplying new recruits for the jails, detention centers, state farms, camps and training schools, which are often nothing more than wretched academies of crime.

Our aim is to minimize harm caused by State intervention.

Our aim is to help secure basic human rights for children and their families.

The traditional response to troubled children and children in trouble has been to upgrade personnel, improve services or refurbish facilities. This is not acceptable. Let us first ask whether any services are necessary before arguing for expansion. What we need is an uncompromising departure from the current practice of unnecessary, costly detention and incarceration of scandalous numbers of young Americans which make a mockery of the notion that we are a child oriented society.

The current overreach of the child welfare juvenile justice industry in its reliance on detention and incarceration is particularly shocking as it affects non-criminal cases. These youths are actually more likely to be detained, more likely to be institutionalized, and once incarcerated, more likely to be held in confinement than those who are charged with or convicted of actual criminal offenses. Incredibly, seventy percent of the young women in the system are in this category. This system then is clearly the cutting edge of the double standard.

Many non-criminal youth are arrogant, defiant and rude--and some are sexually promiscuous. Detention or incarceration, however, helps neither them nor us. Some of these children cannot be helped, and

others do not need help. Real help, for those who need it, might best take the form of diverting them from the vicious cycle of detention, incarceration and crime.

Sane youth policies will have to be based on a greater acceptance of young people on their own terms, a willingness to live with a variety of life styles, and a recognition of the fact that young people of our society are not necessarily confused, troubled, sick or vicious. Such healthy attitudes emerge too seldom in the child welfare juvenile system with its paternalistic sometimes even hostile philosophy.

Some youthful offenders must be removed from their homes, but detention and incarceration should be reserved for those who commit serious, usually violent offenses.

Yet, as Susan Fisher, in The Smell of Waste, reminds us we must be forever vigilant regarding such matters:

> This detention center represents the failure of all structures in urban society--family life, schools, courts, welfare systems, organized medicine, hospitals. It is a final common pathway to wretchedness. Occasionally, a scandal in the newspaper, an outraged lawyer, an interested humanitarian judge makes a ripple. The surface smooths rapidly over again, because, locked away in a distant part of town, society forgets the children it does not want or need.

We have a moral obligation -- in fact our Office has a statutory obligation -- to help assure that business as usual is rejected, at least, as it relates to indiscriminate placement of children and youth.

Thus, we are not solely in a service program exclusively interested in the development of a service package. We have a statutory mandate to curb the inappropriate placement of non-offenders and offenders. Thus, through all of our Office activities we are attempting to discourage the inappropriate intervention into the lives of our youth and their families, while helping to assure appropriate out of home alternatives when necessary.

By coupling this approach with a broad range of community-based social and human services we hope to help provide "justice" for youth. Similarly, we will be helping to protect our citizens from the vicious cycle of abuse inherent in present child welfare juvenile justice system and its burdensome tax levies.

The Council, which is chaired by the Attorney General, is composed of myself as Vice Chair, the Secretaries of the Departments of Health, Education, and Welfare, Housing and Urban Development and Labor; the Commissioner of Education, and the Director of the ACTION Agency. It is responsible for coordinating all Federal juvenile delinquency programs

and for making recommendations to the President and Congress on overall Federal juvenile delinquency policy. Under the 1977 Amendments, the Council was specifically authorized to conduct an indepth review of the practices of all Federal agencies and report on the degree to which Federal funds are used for purposes that are consistent with the provisions of the Juvenile Justice Act. During a recent meeting, the Council members unanimously adopted as their number one priority for the coming year a review of Federal programs and practices to identify inconsistencies with the deinstitutionalization mandate of the Juvenile Justice Act and to make recommendations on ways by which other Federal assistance programs can be used to encourage and further state and local deinstitutionalization efforts.

If the objectives of the Juvenile Justice Act are to be achieved -- and specifically the objectives of deinstitutionalization and development of alternative services and programs -- a partnership must be fashioned among juvenile justice and other Federal assistance programs.

We should not be thinking in terms of new programs and greater expenditures. Such proposals are neither necessary nor, in this time of nationwide tax revolt, acceptable. The overall level of Federal assistance funds available is more than adequate, but the allocation and use of these funds need to be re-examined and realigned. The Council will focus on assessing current programs in terms of their conformity with the Administration's concern

about indiscriminate or punitive placement of children. We intend to work diligently to assure that the Federal Government responds consistently with the Juvenile Justice Act priority of deinstitutionalization that the States are pursuing. It is vitally important not solely from a consistency sake, but to provide the necessary resources.

We intend to draw significantly upon the work and findings of the National Academy of Sciences, Panel on the Deinstitutionalization of Children and Youth. We view our collaboration as essential to any progress toward a more rational Federal policy regarding the placement of children and youth.

The Coordinating Council is one vehicle that can be used at the Federal level to examine these programs and make recommendations to eliminate the inconsistencies and disincentives. Simultaneously, State and local officials with responsibility for non-criminal children must actively seek to identify and rechannel available resources in their own jurisdictions so that the best interests of these children are indeed served.

As we move toward removing increasing numbers of non-criminal children from institutions -- children who never should have been placed in institutions to start with -- we should also invest in primary intervention through efforts to improve not just the legal system but the other social systems as well. This is not to say that our attention

should be in any way diverted from resolving the problems of the juvenile justice system. Quite the contrary. Each person in this room is painfully aware of the need for improvement. But we must recognize that much of the workload that is relegated to the courts is a result of the breakdown in our other social service systems. When our education, employment, health, and welfare systems are racked with problems, the clients of those systems -- our young people -- reflect and magnify the problems in their behavior. The too frequent result is involvement in the juvenile justice system. This burden should be lifted off the courts so that they can properly devote their attention to the small number of serious and/or violent juvenile offenders who require the attention of the juvenile justice system. The courts should not be used as a last resort remedy for the failures of other social service systems. It is time to begin to hold these other systems accountable for preventing delinquency in the first instance rather than allowing them to point the finger of blame on the courts and other juvenile justice agencies after the process has taken its toll and much of the damage is irreparable.

SUMMARY OF THE RESTITUTION BY JUVENILE OFFENDERS:
AN ALTERNATIVE TO INCARCERATION PROGRAM

HISTORY AND INTRODUCTION

The Office of Juvenile Justice and Delinquency Prevention funded 41 projects for nearly $21,000,000 in Fiscal Year 1978 and 1979 under the initiative entitled "Restitution by Juvenile Offender: An Alternative to Incarceration".

Guidelines for this program were released as Change 1 to M4500.1F "A Guide for Discretionary Grant Programs" on February 27, 1978. One hundred sixteen pre-applicants submitted pre-applications on April 21, 1978. From these, the Office selected 54 and requested that they submit final applications by July 21, 1978. Fourty-one projects were funded from this group; 23 were funded by September 30, 1978 and another 18 were funded by March 9, 1979.

PROGRAMS FUNDED

Restitution projects have been funded in 26 states, Puerto Rico and the District of Columbia, and these projects encompass 87 different sites. There are six state wide projects, (Delaware, Nevada, New Jersey, New York, Washington, and Wisconsin) and 35 projects that will be implemented in local jurisdictions. Nine of the 41 projects are being administered by private not-for-profit agencies under agreement with courts; the rest are being administered by courts or court related agencies.

A list of names and addresses of all the projects and also the names and addresses of contact persons for IPA and NOSR is available.

EVALUATION OF PROGRAM

A contract has been awarded to the Institute for Policy Analysis (IPA) Eugene Oregon to implement an intensive evaluation of six restitution sites. IPA will also be implementing a management information system for all projects which includes supplying all projects with a monthly management information report.

TECHNICAL ASSISTANCE TO PROJECTS

A contract has also been awarded to the National Office of Social Responsibility, Arlington, Virginia to provide technical assistance to the restitution grantees. They have developed several manuals on implementing a restitution project and they are providing technical assistance and training to the restitution grantees at regional sessions.

SUMMARY DESCRIPTION OF THE RESTITUTION PROGRAM

Restitution for the purposes of this program is defined as payments by an offender in cash to the victim or service either to the victim or the general community, when such payments or service are made within the jurisdiction of the juvenile and criminal justice process.

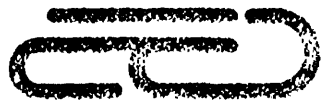
The primary focus of the restitution program in on reducing incarceration of juvenile offenders. Consequently, the program requires that projects design restitution projects that will apply restitution to youth who have committed offenses that would be misdemeanors of felonies if committed by adults who are adjudicated delinquent after the fact finding hearing or who enter a counseled plea of guilty.

Project models which are being implemented include, a mixed models of monetary, community and victim service restitution, exclusively monetary restitution or exclusively community service restitution.

If more detailed information about the restitution program is desired, please write the Office of Juvenile Justice and Delinquency Prevention at 633 Indiana Avenue, N.W., Washington, D.C. 20531 or call (202) 376-3774.

Law Enforcement Assistance Administration
United States Department of Justice

affirmative action plan



Equal Employment Opportunity

Fiscal Year 1979

THIS TRANSMITS LEAA HANDBOOK 1563.1C

HB 1563.1C

January 19, 1979

FOREWORD

1. PURPOSE. The purpose of this Handbook is to disseminate LEAA EEO policies, procedures, and EEO Plan for FY'79.

2. SCOPE. This Handbook is of interest to all LEAA employees and applicants for LEAA employment.

3. CANCELLATION. LEAA HB 1563.1B, dated February 2, 1978 is cancelled.

4. BACKGROUND. This Handbook is required by and based upon United States Department of Justice Order 1713.4, "Equal Employment Opportunity," dated November 6, 1972. This LEAA Handbook incorporates new requirements of the EEO Act of 1972, the Civil Service Commission regulations and FPM Letter 713-40 which mandates the format:

   a. Introduction.

   b. Accomplishment Report.

   c. Assessment Report

   d. Affirmative Action Plan.

5. EXECUTIVE ORDER 11491. This plan creates no new obligations to consult, or negotiate with recognized labor organizations beyond those contained in Executive Order 11491, Title VII of the Civil Service Reform Act of 1978 (effective January 13, 1979), and U.S. Department of Justice regulations issued thereunder. However, management officials, supervisors and other representatives or management responsible for formulating, implementing and administering EEO plans and programs must meet their obligations to consult, confer or negotiate with recognized labor organizations in accordance with their level of recognition and appropriate rights.

Henry S. Dogin
Deputy Administrator
for Policy Development

HB 1563.1C
January 19, 1979

APPENDIX 3-1. (Cont'd)

OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

OJJDP did one of the best assessments by any office of its EEO status and covered all of the required areas.

The following problems were identified:

1. Black males, Asians, Hispanics and Native Americans are underrepresented.

2. Black females are underrepresented in professional occupations with OJJDP.

3. Training has been haphazard with a lack of planning and counseling in terms of career development.

4. Minorities and women are concentrated in lower level positions, and often capabilities are not fully utilized.

Positive action objectives selected to resolve the problems are addressed by problem number.

PROBLEMS #1 and #2:

Objective: To seek out and hire qualified women and minorities into professional occupations with underrepresentation.

This is to be accomplished through the maintenance of contact with OEEO and personnel offices for assistance in recruiting qualified women and minorities through the monitoring of the recruitment and hiring of minorities and women.

PROBLEM #3:

Objective: To provide training opportunities and counseling for all OJJDP employees.

This objective is to be accomplished by developing training and career development plans for all OJJDP employees by 3-30-79. Also, there will be continuous monitoring of training requests to assure that equal opportunity for training is provided.

PROBLEM #4:

Objective: To utilize the Upward Mobility Program with OJJDP.

This objective will be accomplished by each Division Director.

APPENDIX 3-1. (Cont'd)

reviewing vacancies within his/her division to determine their suitability for the Upward Mobility Program, and assuring that information regarding career counseling is made available to OJJDP employees. Target date: 5-30-79.

OFFICE OF CONGRESSIONAL LIAISON

OCL indicates it has no problems, and its data justifies this finding.

OFFICE OF GENERAL COUNSEL

OGC identified, as its problem, the fact that full integration of minorities and women into OGC's attorney positions has not been attained.

Its objective is to seek out and hire qualified women and minorities for OGC Attorney-Advisor positions.

The affirmative actions and target dates are as follows:

1. To monitor recruitment and hiring of minorities and women in attorney positions. The responsible official is the Deputy General Counsel and the target date is 3-30-79.

2. To maintain contact with OEEO and the Personnel Division for assistance in recruiting qualified women and minority candidates. The General Counsel and Deputy General Counsel are responsible for this continuing responsibility.

OFFICE OF CRIMINAL JUSTICE EDUCATION AND TRAINING

OCJET, under recruitment, selection, and promotion, identified the lack of minority males in professional positions as its problem area.

Its objective is to insure that as vacancies occur, the recruitment program is designed to reach and attract qualified minority males.

Positive action: As vacancies occur, OCJET will utilize all available recources to recruit minority applicants.

PUBLIC INFORMATION OFFICE

PIO with no representation of minorities at any professional level and underrepresented by females with only 1 or 16% did not submit an assessment and identified no EEO deficiencies.

[4410-18]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

FORMULA GRANT PROVISIONS OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974, AS AMENDED

Final Guideline Reivsion for Implementation

The Juvenile Justice and Delinquency Prevention Act Amendments of 1977 (Pub. L. 95-115), as well as the importance both Congress and the Administration place on juvenile justice, require a revision of the State Planning Agency Grants Guideline Manual, M 4100.1F, January 18, 1977, chapter 3, paragraphs 51 and 52. This revision reflects the major areas changed by the 1977 amendments. Those are: (1) The use of Juvenile Justice formula grant funds for planning and administration purposes; (2) formula grant matching funds; (3) formula grant requirements on the deinstitutionalization of such status offenders and nonoffenders as dependent and neglected children; (4) provision for confidentiality in program records; and (5) the Office of Juvenile Justice and Delinquency Prevention's role in formula grant development and the review and approval of plans.

OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION

New provisions reflect the Congress's intention that this Office administer LEAA juvenile programs, including the formula grants. That intention appears in the following statement from the conference report on the amendments:

> The conferees intend that the Department of Justice fully implement section 527 of the 1974 Act so as to assure that all Crime Control Act juvenile programs are actually administered by the Administrator of the Office, or at least subject to the Office's policy direction and concurrence. In this regard, it is expected, as required by the 1976 maintenance of effort amendment and by comparable language in the 1974 Act, that each Crime Control Act program component of activity, including, but not limited to, all direct assistance, all collateral assistance, and management and operations, allocate at least 19.15 percent of its resources for juvenile justice and delinquency programs. (Conference Report, Juvenile Justice Amendments of 1977, report No. 95-368, July 27, 1977, p. 15.)

The executive head of the Office is both Associate Administrator of LEAA and the Administrator of the Office of Juvenile Justice and Delinquency Prevention. The amendments provide that the Associate Administrator shall report directly to the LEAA Administrator. They also add the Associate Administrator to the executive schedule of Presidential appointees.

FORMULA GRANTS

The formula grant program is designed to help prevent delinquency, divert juveniles from the juvenile justice system, provide community-based alternatives to juvenile detention and correctional facilities, and encourage a diversity of alternatives within the juvenile justice system. This is accomplished through developing, maintaining and expanding programs and services in the following areas:

1. Community-based programs and services for the prevention and treatment of juvenile delinquency through the development of: (a) Foster-care and shelter-care homes for runaway, homeless, neglected or abused youth; (b) group homes; (c) halfway houses; (d) homemaker and home health services; and (e) any other designated community-based diagnostic, treatment or rehabilitative service.

2. Community-based programs and services helping parents and other family members maintain and strengthen the family unit, so that the juvenile may stay at home.

3. Youth service bureaus and other community-based programs either diverting youth from the juvenile court or supporting, counseling, or providing work and recreational opportunities for delinquents and potential delinquents.

4. Educational programs or supportive services helping delinquents and other youths remain either in elementary and secondary schools or in alternative learning situations.

5. Expanded use of probation, and the recruitment and training of personnel-probation officers, other professionals and paraprofessionals, and volunteers to work effectively with youth.

6. Youth initiated programs and outreach programs helping youths otherwise not reached by traditional assistance programs.

7. A statewide program for units of local government using probation subsidies, other subsidies, other financial incentives or disincentives, or other effective means to:

a. Reduce the percentage of juveniles committed to any form of juvenile facility;

b. Increase the percentage of juveniles committed to nonsecure, community-based facilities; and

c. Discourage the use of secure incarceration and detention.

THE AMENDMENTS

While reaffirming that the JJDP Act seeks to strengthen both traditional and nontraditional families, in the amendments Congress stressed additional priorities by:

1. Extending prevention programs to all youths who would benefit from such services. Thus, a youth not "in danger of becoming delinquent" may be eligible.

2. Emphasizing programs and services that encourage alternatives within and outside the juvenile justice system, such as a 24-hour intake screening, volunteer, and crisis home programs, day treatment and home probation, youth advocacy programs for improving services and protecting the rights of youths and their families, and programs and activities to establish and adopt standards for improving juvenile justice.

3. Amending discretionary grant programs to complement changes in the formula program, including new programs. Those should now also:

a. Develop and support advocacy activities that improve services for and protect the rights of youths in the juvenile justice system;

b. Improve the juvenile justice system by conforming to standards of due process, doing this through the use of existing judicial orders; and,

c. Help State legislators support formula grant programs both by amending State laws where necessary and by committing greater resources (i.e, through an incentive program).

Additionally, the amendments provided new research priorities for the Office in the following areas: The role of family violence, sexual abuse or exploitation, and media violence in delinquency; the improper handling of youths placed in one State by another State; the possible ameliorating role of recreation and the arts; and the extent to which youths receive disparate treatment because of their sex, including the ramifications of that. In addition, the amendments encourage the Office to offer model State legislation implementing the mandates of the formula grant program.

The following statement in the conference report highlights the integrated structure of the Office, a structure designed to effect the purposes of the formula grant program:

> The conferees strongly reaffirm the original integrated approach comtemplated for the Office of Juvenile Justice and Delinquency Prevention and each of its component parts, especially as regards its Institute, which has helded to assure that the Office has avoided most of the disappointing experiences of the Crime Control Act program (conference report, supra, p. 22).

In signing the amendments, President Jimmy Carter said, in part:

> One of the most serious problems that faces our country, of course, is that of rampant crime. And we know from experience and from examining the statistics that almost half of the crimes are committed by juveniles. We also realize that, unfortunately, in our country there has been an absence of adequate distinction between those juveniles who commit serious crimes * * * and those who commit crimes that are no threat to their neighbors, like being a runaway

child. In many communities of our country these two kinds of crime—one serious and one not very serious—are treated the same, and young people have been incarcerated for long periods of time who have committed offenses that would not even be a crime at all if they were adults * * *. This act very wisely draws a sharp distinction between these two kinds of crime. It also encourages local administrators, States, and local governments to deinstitutionalize these young people who have not committed serious crimes (weekly compilation of Presidential Documents, October 10, 1977, volume 13, No. 41, pp. 1465-1466).

To achieve this congressional and administrative priority, the 1977 amendments strengthened the formula grant program. Recognizing this goal, the Office's proven integrated approach and, unfortunately, the need for stability, knowledgeable Congressmen on the Senate Judiciary and the House Education and Labor Oversight Committees provided the following: "It is the strong intention of the conferees that the Office of Juvenile Justice and Delinquency Prevention be retained with the Department of Justice" (conference report, supra, p. 22).

To help assure that Federal Government policy reflects the goals of the formula grant programs, the amendments require that the Federal Coordinating Council on Juvenile Justice and Delinquency Prevention review the programs and practices of Federal agencies, and report on Federal agencies using funds for purposes inconsistent with the formula grant goals of deinstitutionalization and the separation of juvenile offenders from adults in the justice system.

These amendments are among the cornerstone of the act and reflect the commitment of the committee to such priorities. It is important to know whether the Federal Government is engaging in practices or providing funds for any programs or activities that are inconsistent with this commitment (U.S. Senate Judiciary report, supra, p. 59).

The Office and the Council, which is chaired by the Attorney General and vice chaired by the Administrator of the Office, will work diligently to assure that the Federal Government consistently furthers the formula grant priority of deinstitutionalization. That is vitally important, not solely for consistency, but to provide necessary resources. That topic will be the sole item on the Council's agenda at its next meeting.

Similarly, as a fiscal year 1979 priority, the Office will implement fully a new section 341(b) of the act, which requires close coordination between the Office and programs within the Department of Health, Education, and Welfare—particularly those that exclusively assist status offenders (such as the runaway youth programs). Coordination with formula grant programs that deinstitutionalize status offenders is essential to the realization of such programs.

The 1977 amendments raise the minimum formula grant allocation from $200,000 to $225,000 for each State, and from $50,000 to $50,250 for the smaller territories.

Beginning with fiscal year 1979, the minimum non-Federal matching share for planning and administration funds will be 50 percent cash, with the Federal contribution to those activities limited to a maximum of 7.5 percent, rather than 15 percent, of a State's formula grant. This should streamline the planning process while freeing more money in the next few years for the key objectives of the formula grant program: namely, compliance with section 223(a) (12) and (13). The amendments deleted the requirement for matching funds in formula grant programs; this eliminates the complex accounting for matching and buy-in funds.

In addition of new resources and responsibilities strengthened State advisory groups, established by the 1974 act and advise and assist the State planning agency (SPA). The amendments provide that 5 percent of the minimum annual allotment of any State (i.e., $11,250) shall go to the advisory group. They also added further examples of private agencies representable in the State advisory groups, and they required that at least three of the youth members must have been or must currently be under the juvenile justice system's jurisdiction.

The amendments require: (1) A role for the advisory group in plan development as well as review; (2) that the advisory group may, upon request, advise the Governor and legislature on matters related to its functions; and (3) that it shall have an opportunity to review juvenile justice and delinquency prevention grant applications submitted to the State planning agency. SPA's have additional authority to involve the advisory group in monitoring compliance, and reviewing programs.

The amendments also require that the chairperson and at least two other citizen members of the advisory group sit on the SPA supervisory board and, in addition, that any SPA executive committee include proportional representation of advisory group/SPA agency members.

The amendments make programs of local private agencies eligible for direct award of formula grant funds. This modifies the previous requirement that 66⅔ percent of the formula grant award be passed through to units or to combinations of units of general local government. However, as a prerequisite, the private agency must have applied for and been denied funding by the appropriate local unit or combination of units prior to applying to the SPA. On a related point, the Congress clarified the relationship of State planning agencies or local agencies to Office discretionary programs:

* * * they have solely an advisory role and under no circumstances do the views of such agencies have a determinative effect. These sections were intended mainly to inform those agencies of special emphasis grants and contracts. (Senate report, supra, p. 62).

In 1974, States receiving JJDP Act funds had to show that within 2 years after submission of the initial plan juveniles charged with or who have committed offenses that would not be criminal for an adult, and such nonoffenders as dependent or neglected children, were removed from juvenile detention and correctional facilities.

For the deinstitutionalization of status offenders (section 223(a)(12)), the amendments extended the period for compliance from 2 to 3 years and specified that a failure here shall end a State's eligibility for funding. An exception to this requires that the Administrator, with the concurrence of the Associate Administrator, find the State in substantial compliance (defined as 75 percent deinstitutionalization) and, through appropriate executive or legislative action, unequivocally committed to full compliance within a reasonable time (not to exceed 2 additional years). In addition, the amendments state that nonoffenders fall within the scope of the deinstitutionalization requirement, while both status offenders and nonoffenders fall within the scope of section 223(a)(13). That section requires the separation of criminals from delinquent offenders in prisons.

A new subpart (B) to section 223(a)(12) requires an annual report to the Associate Administrator on the State's progress toward deinstitutionalization and a review of the State's progress in insuring that status offenders and nonoffenders, if placed in facilities, are placed in the least restrictive appropriate alternatives. Those should be in reasonable proximity to the juvenile's family and home community, and should provide appropriate services. Likewise, the amendments have the SPA submit its analysis and evaluation, including any modification and the survey of needs, to the Associate Administrator. Similarly, the Associate Administrator may prescribe additional terms and conditions to assure the effectiveness of assisted programs.

The Amendments add a significant new section, providing for the confidentiality of program records in activities supported by Juvenile Justice Act funds. This section restricts the disclosure of program records unless: (1) Otherwise authorized by law; (2) with the consent of the service recipient or legally-authorized representative; and

(3) as necessary for the functions the Act requires. LEAA's Guideline Manual, M 4100.1F, State Planning Agency Grants, revised in response to these amendments, was published in the FEDERAL REGISTER on March 24, 1978. The Office invited interested persons to send comments to Mr. John M. Rector, Administrator, Office of Juvenile Justice and Delinquency Prevention, on or before April 25, 1978.

The Office received 302 comments on the proposed guideline. The principal objections concerned: (1) The roles and responsibilities of the Juvenile Justice Advisory Group; (2) the definitions of juvenile detention and correctional facilities; (3) advanced techniques; and (4) the continuation support policy. After analysis of many diverse views and suggestions, the Office of Juvenile Justice and Delinquency Prevention modified the guideline as follows:

JUVENILE JUSTICE ADVISORY GROUP

This part now excludes elected officials, as of the effective date of the guideline, from chairing advisory groups. Such officials are considered full-time government employees. To avoid any breach in confidentiality, States may omit publishing the names of those youth members who were or are in the juvenile justice system's jurisdiction. The guideline now designates those appointed prior to their 26th birthday as youth members.

PASS-THROUGH REQUIREMENT

The guideline now states that a private agency may receive funds directly in States lacking regional or local planning units, and in which the SPA distributes funds directly; that private agencies need not first apply to a unit of general local government or to a combination of units for funding.

DEINSTITUTIONALIZATION OF STATUS OFFENDERS AND NONOFFENDERS

Now states should only describe their needs for technical assistance. OJJDP's needs assessment process will produce the names of those agencies requiring assistance. The requirements for separation of juveniles and adults and monitoring of jails, detention facilities and correctional facilities contain the same language on technical assistance needs.

MONITORING OF JAILS, DETENTION FACILITIES AND CORRECTIONAL FACILITIES

The definition of a juvenile detention or correctional facility is now less restrictive. It allows community-based facilities, or those with a bed capacity of 20 and less, to commingle status offenders, nonoffenders and delinquents.

It is OJJDP's intention to add the following clause to criterion (c)2 in paragraph 52n which would prohibit the placement of status offenders and nonoffenders in large facilities:

The use of non-community-based facilities over a bed capacity of 20, which serve status for monitoring purposes only through December 31, 1980. States should begin eliminating such facilities to meet the January 1, 1981, deadline. This portion of criterion (c) will not appear in guidelines for the 1981 monitoring effort.

The above clause will be published in the FEDERAL REGISTER for comment at a later date.

LEAA's Office of General Counsel has advised OJJDP to make available information pertaining to the development of the definitions. A copy of this information entitled "Background Information on the Criteria and Compliance for Juvenile Detention and Correctional Facilities," dated August 9, 1978, appears as appendix A to this Notice.

DETAILED STUDY OF NEEDS AND OF THE USE OF EXISTING PROGRAMS

States now must provide an assurance that they have conducted a detailed study of needs of the juvenile justice system.

ADVANCED TECHNIQUES

States must now show that 75 percent of their JJDP Act funds go for advanced techniques, as described in the act. Additional language encourages States to place special emphasis on projects to: (1) deinstitutionalize juveniles; (2) separate juvenile and adult offenders; and (3) monitor compliance, in order for States to ensure timely compliance with sections 223(a)(12), (13) and (14) of the JJDP Act.

CONTINUATION SUPPORT

States must now inform potential applicants of the minimum number of years projects may request and receive funding. States must also assure funding for that period unless the funded project ends prematurely, for reasons given in the guideline.

The revised guideline is much shorter than the original version and reduces the information SPAs must submit. The revised guideline contains only 20 subparagraphs; 2 require no response, 8 require merely an assurance, and 10 require a written response. This represents a major reduction in the amount of information required from the original version. These reductions highlight the act's priorities and reduce redtape. The original guideline contained 26 subparagraphs, only one of which allowed a mere assurance, and four of which required no response. Twenty-one subparagraphs required a written response!

In addition to reducing the information requirements, paragraphs 51 and 52 were shortened from 20 to 11 pages by: (1) eliminating act language; (2) inserting references to the act requirement, and (3) reducing required information. The guideline has been streamlined and rewritten. Bureaucratic jargon has been converted into plain English.

The final revision of LEAA State Planning Agency Grants Guideline Manual, M 4100.1F, January 18, 1977, Chapter 3, paragraphs 51 and 52 will apply to the preparation of fiscal year 1979 and fiscal year 1980 plans, with possible future amendments. The guideline is as follows:

51. REQUIREMENTS FOR JUVENILE JUSTICE UNDER THE CRIME CONTROL ACT

a. *Juvenile justice requirements of the Crime Control Act.* States not participating in the Juvenile Justice and Delinquency Prevention Act (herein referred to as the JJDP Act), should address the provisions for a comprehensive program for juvenile justice, as required by the Omnibus Crime Control and Safe Streets Act.

b. *Maintenance of effort for juvenile justice.* Pursuant to section 520(b) of the Crime Control Act of 1976 and section 261(b) of the JJDP Act, maintenance of effort is determined as follows:

(1) *Individual level of State funding.* To maintain a proportionate share of the statutory maintenance level, each State shall expend at least 19.15 percent of its total annual allocation of parts B, C and E block grant funds for juvenile justice and delinquency prevention-related programs and projects. Each State may, of course, expend more than the required minimum allocation.

(2) The State shall assure that it has allocated a percentage of part B funds for juvenile justice planning and administration activities equal to the aggregate percentage of parts C and E funds allocated for juvenile justice programs and projects.

(3) *Plan requirement.* Along with their corresponding fund allocations, the State plan must identify parts C and E funded programs and projects related to juvenile justice and delinquency prevention.

(4) *Juvenile justice reprograming.* Prior OJJDP approval is necessary for any reprograming.

52. REQUIREMENTS FOR STATE PLANNING AGENCIES PARTICIPATING IN THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

a. *Applicability.* This paragraph now contains all of the requirements for application and receipt of funds under the JJDP Act. The provisions of the comprehensive program for the im-

provement of juvenile justice, as required by the Omnibus Crime Control and Safe Streets Act, and the provisions of the JJDP Act are to be addressed jointly in a separate section of the comprehensive plan. The requirement of a separate juvenile section emphasizes the distinctions between the juvenile justice system and the criminal justice system, as well as the importance Congress places on juvenile justice.

b. *Plan review criteria.* OJJDP has established the following programmatic areas as critical: Deinstitutionalization of status offenders and nonoffenders; contact with incarcerated adults; monitoring of jails, detention facilities and correctional facilities; advanced techniques; and juvenile justice advisory groups. Failure to address these programmatic areas shall result in disapproval of the juvenile justice formula section of the plan. Unless indicated, an assurance is sufficient for compliance, providing that no change has been made from the previous year. Otherwise, the State shall revise and resubmit its response.

c. *Plan supervision, administration and implementation.* Pursuant to section 223(a) (1) and (2) of the JJDP Act, the State Planning Agency shall assure that it is the sole agency for plan administration and has the authority to carry out the mandate of the JJDP Act, even if an agency other than the SPA implements the formula grant.

d. *Planning and administration funds.* Pursuant to section 222(c) of the JJDP Act, the State Planning Agency shall indicate on attachment A the amount of planning and administration funds allocated to the State and the amount that units or combinations of units of general local government will use. Such funds shall not exceed 7½ percent of the total JJDP award, and must be matched dollar for dollar in cash.

e. *Juvenile justice advisory group.* Pursuant to section 223(a)(3) of the JJDP Act, the State planning agency shall:

(1) Provide a list of all current advisory group members, indicating their respective dates of appointment and how each member meets the membership requirements specified in this section of the Act. Indicate those members appointed prior to their 26th birthday as youth members; full-time elected officials are considered to be government employees and may not be appointed to chair advisory groups as of the effective date of this guideline.

(2) States shall assure that three youth members who have been or not under the jurisdiction of the juvenile justice system have been appointed to the advisory group.

(3) Indicate the roles, responsibilities and activities of the advisory group concerning those duties listed in section 223(a)(3) of the Act.

f. *Advisory group allotment.* Pursuant to section 222(e) of the JJDP Act, the advisory group shall develop a plan for using five (5) percent minimum allotment which, upon review by the State, it shall submit as part of the comprehensive plan. The State shall indicate the total amount of funds allocated to the advisory group. For computing that allotment, use the following procedures:

(1) Each State shall allocate a minimum of $11,250; the Virgin Islands, Guam, American Somoa, and the Trust Territories of the Pacific Islands shall allocate $2,812 50. Do not count these funds as part of the maximum 7½ percent moneys set aside for planning and administration. Calculate the latter on the total formula grant award.

(2) Use funds allocated to the advisory groups for such functions and responsibilities as are consistent with section 223(a)(3) of the JJDP Act. Funds allocated to the advisory group shall not supplant any funds currently allocated to them.

g. *Consultation with and participation of units of general local government.* Pursuant to sections 223(a) (4) and (6) of the JJDP Act, the State shall assure that:

(1) The chief executive officer of such a unit has assigned responsibility for the preparation and administration of its part of the State plan.

(2) The State recognizes, consults with, and incorporates the needs of such units into the State plan.

h. *Participation of private agencies.* Pursuant to section 223(a)(9) of the JJDP Act, the State shall assure that private agencies have been consulted and allowed to participate in the development and execution of the State plan.

i. *Passthrough requirement.* Pursuant to section 223(a)(5) of the JJDP Act, the State planning agency must specify the amount and percentage of funds to be passed through to units of general local government and to local private agencies. For purposes of this requirement, local private agency is defined as a private nonprofit agency or organization that provides program services within an identifiable unit or a combination of units of general local government.

(1) *Inclusion and compilation of passthrough.* (a) Formula grant funds that the State planning agency makes available to units of general local government or combination of units may be included in the compilation of passthrough. This includes funds for planning and administration as well as for programs.

(b) If a unit of general local government or a combination of units has denied funding to a private agency, yet that agency received formula grant funds for programs consistent with the State plan, then include those funds in the compilation of passthrough. In States lacking regional or local planning units, and in which the State planning agency distributes funds directly, a private agency need not first apply to a unit of general local government or to a combination of units for funding. Those funds can also be included in the compilation of passthrough. In addition, if a unit of general local government or a combination of units receives passthrough funds from the State and, in turn, refuses to fund a project submitted by a private agency, the State can reduce the local allocation if it funds the project.

(2) *Waiver of passthrough requirements.* Make all requests for waivers to the Administrator of OJJDP; enclose a statement setting forth the following:

(a) The extent of State and local implementation of juvenile justice and delinquency prevention programs.

(b) The extent of State and local financial responsibility for juvenile delinquency programs.

(c) The extent to which the State provides services or direct outlays for or on behalf of local governments (as distinct from statewide services).

(d) The approval of the state planning agency supervisory board.

(e) Specific comments from local units of government expressing their position regarding the waiver.

j. *Rights of privacy for recipients of services.* Pursuant to sections 223(a)(16) and 229 of the JJDP Act, the State shall assure that they have established procedures to insure that programs funded under the JJDP Act shall not disclose program records containing the identity of individual juveniles. Exceptions to this require: (1) Authorization by law; (2) the consent of either the juvenile or his legally authorized representative; or (3) justification that otherwise the functions of this title cannot be performed. Under no circumstances may public project reports or findings name actual juveniles in the program.

k. *Equitable arrangements for employees affected by assistance under this Act.* Pursuant to section 223(a)(17) of the JJDP Act, the State must assure that it has established all terms and conditions for the protection of employees affected by the JJDP Act. Appendix 3 states these.

l. *Deinstitutionalization of status offenders and nonoffenders.* Pursuant to section 223(a)(12) of the JJDP Act the State planning agency shall:

(1) Describe in detail its specific plan, procedure, and timetable for assuring that within 3 years of its initial submission of an approved plan, juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, or such nonoffenders as dependent or neglected children, shall not be placed in juvenile detention or correctional facilities.

(2) Describe the barriers, including financial, legislative, judicial, and administrative ones, the State faces in achieving full compliance with the provisions of this paragraph. All accounts shall include a description of the technical assistance needed to overcome these barriers.

(3) Submit the report required under section 223(a)(12)(B) of the JJDP Act as part of the annual monitoring report required by paragraph 52n.

m. *Contact with incarcerated adults.* (1) Pursuant to section 223(a)(13) of the JJDP Act the State planning agency shall:

(a) Describe in detail its specific plan and procedure for assuring that juveniles alleged to be or found to be delinquent, status offenders, and nonoffenders will be removed from any institution in which they have regular contact with incarcerated adults, including inmate trustees. This prohibition seeks as absolute a separation as possible and permits no more than haphazard or accidental contact between juveniles and incarcerated adults. In addition, include a specific timetable for compliance and justify any deviation from a previously approved timetable.

(b) In those isolated instances where juvenile criminal-type offenders remain confined in adult facilities or facilities in which adults are confined, the State must set forth in detail the procedures for assuring no regular contact between such juveniles and adults for each jail, lockup and detention and correctional facility.

(c) Describe the barriers, including physical, judicial, fiscal, and legislative ones, which may hinder the removal and separation of alleged or adjudicated juvenile delinquents, status offenders, and nonoffenders from incarcerated adults in any particular jail, lockup, detention, or correctional facility. All such accounts shall include a description of the technical assistance needed to overcome those barriers.

(d) Assure that offenders are not reclassified administratively and transferred to a correctional authority to avoid the intent of segregating adults and juveniles in correctional facilities. However, this does not prohibit or restrict waiver of juveniles to criminal court for prosecution, according to State law. It does, however, preclude a State from administratively transferring a juvenile offender to an adult correctional authority for placement with adult criminals either before or after a juvenile reaches the statutory age of majority. It also precludes a State from transferring adult offenders to a juvenile correctional authority for placement.

(2) *Implementation.* Each State shall immediately plan and implement the requirement of this provision.

n. *Monitoring of jails, detention facilities, and correctional facilities.* (1) Pursuant to section 223(a)(14) of the JJDP Act, the State planning agency shall:

(a) Indicate how it will annually identify and survey all public and private juvenile detention and correctional facilities and facilities usable for the detention and confinement of juvenile offenders and adult criminal offenders.

(b) Provide a plan for an annual onsite inspection of all such facilities identified in paragraph 52n(1)(a). Such plan shall include the procedure for reporting and investigating compliance complaints in accordance with sections 223(a) (12) and (13).

(c) Include a description of the technical assistance needed to implement fully the provisions of paragraph 52n.

(2) *For the purpose of monitoring,* a juvenile detention or correctional facility is:

(a) Any secure public or private *facility* used for the *lawful custody* of *accused or adjudicated juvenile offenders* or *nonoffenders;* or

(b) Any public or private facility, secure or nonsecure, which is also used for the lawful custody of accused or convicted adult *criminal offenders;* or

(c) Any nonsecure public or private facility that has a *bed capacity* for more than 20 accused or adjudicated *juvenile offenders* or *nonoffenders* unless:

1. The facility is community based and has a bed capacity of 40 or less; or

2. The facility is used *exclusively* for the lawful custody of *status offenders* or *nonoffenders.*

For definitions of italicized terms, see appendix I, paragraph 4 (a) through (n).

(3) *Reporting requirement.* The State shall report annually to the Administrator of OJJDP on the results of monitoring for both section 223(a) (12) and (13) of the JJDP Act. Submit three copies of the report to the Administrator of OJJDP no later than December 31 of each year.

(a) To demonstrate the extent of compliance with section 223(a)(12)(A) of the JJDP Act, the report must at least include the following information for both the baseline and the current reporting periods.

1. Dates of baseline and current reporting period.

2. Total number of public and private juvenile detention and correctional facilities and the number inspected onsite.

3. Total number of accused status offenders and nonoffenders held in any juvenile detention or correctional facility as defined in paragraph 52n(2) for longer than 24 hours.

4. Total number of adjudicated status offenders and nonoffenders held in any juvenile detention or correctional facility as defined in paragraph 52n(2).

(b) To demonstrate compliance with section 223(a)(12)(B) of the JJDP Act, the report must include the total number of accused and adjudicated status offenders and nonoffenders placed in facilities that are (a) not near their home community; (b) not the least restrictive appropriate alternative; and (c) not community based.

(4) *Compliance.* A State must demonstrate compliance with section 223(a) (12)(A) and (13) of the act. Should a State fail to demonstrate substantial compliance with section 223(a)(12)(A) by the end of the 3-year timeframe, eligibility for formula grant funding shall terminate.

o. *Detailed study of needs and utilization of existing programs.* Pursuant to section 223(a) (8) and (9) of the JJDP Act, the State planning agency shall assure that it has conducted a detailed study of the juvenile justice system. This study shall include: An analysis both of the juvenile crime for part I offenses and of the status offenses and nonoffenses, such as dependency and neglect; a listing and analysis of problems confronting the juvenile justice system; and a description of the existing juvenile justice system. These requirements correspond to the process described in paragraphs 34-37 and 39 of M 4100.1F. The result shall be a series of problem statements, listed in order of priority, that reflects an analysis of the data, the monitoring reports and requirements of the JJDP Act. This list shall be the basis for developing the annual action program, which shall follow the format described in paragraph 42 of M 4100.1F.

(c) To demonstrate the progress and extent of compliance with section 223(a)(13) of the JJDP Act, the report must at least include the following information for both the base line and the current reporting periods.

1. Designated date for achieving full compliance.

2. The total number of facilities that can be used for the secure detention and confinement of both juvenile offenders and adult criminal offenders.

3. Both the total number of facilities used for the secure detention and confinement of both juvenile offenders and adult criminal offenders during

the past 12 months and the number inspected onsite.

4. The total number of facilities used for secure detention and confinement of both juvenile offenders and adult criminal offenders and which did not provide adequate separation.

5. The total number of juvenile offenders and non-offenders not adequately separated in facilities used for the secure detention and confinement of both juveniles and adults.

p. *Equitable distribution of juvenile justice funds and assistance to disadvantaged youth.* Pursuant to section 223(a) (7) and (15) of the JJDP Act, the State planning agency shall assure that:

(1) The State will ahdere to procedures for the equitable distribution of JJDP Act formula grant money.

(2) The detailed study of needs analyzes the needs of disadvataged youth and that assistance will be available equitably. All subgrantees and contractors shall comply with general grant conditions and assurances regarding nondiscrimination. See appendix 4.

(3) It has developed and adheres to procedures for filing and considering grievances arising under this section.

q. *Advanced techniques.* Pursuant to section 223(a)(10) of the JJDP Act, the State planning agency shall:

(1) Demonstrate clearly in its plan that at least 75 percent of the JJDP funds support advanced techniques as enumerated in this section of the act.

In order to ensure timely compliance with sections 223(a) (12), (13), and (14) of the JJDP Act, States should place special emphasis on projects which are designed to deinstitutionalize juveniles, separate juvenile and adult offenders, and monitor compliance.

r. *Analytical and training capacity.* Pursuant to section 223(a) (11) and (20) of the JJDP Act, the State planning agency shall provide an assurance that it will conduct research, training and evaluation activities.

s. *Continuation support.* Pursuant to section 228(a) of the JJDP Act, the State planning agency shall:

(1) Indicate the minimum duration of each JJDP program described in its plan.

(2) Indicate the minimum number of years that funding may be requested and received for projects in each program.

(3) Assure that each funded project shall receive funding for the minimum number of years, unless prematurely ended due to:

(a) A substantial decrease in Federal funding to a State under the JJDP Act; or

(b) An applicant's failure to comply with the terms and conditions of the award; or

(c) An applicant's failure to receive a satisfactory yearly evaluation. Here "satisfactory yearly evaluation" refers to those activities defined as "monitoring" in paragraph 19 of M 4100.1F.

(4) The State must assure that potential applicants know the information submitted under 52s (1) and (2) when programs are announced.

t. *Other terms and conditions.* Pursuant to section 223(a)(21) of the JJDP Act, States shall provide a list of all juvenile projects funded under the prior year's approval plan. This includes projects funded with JJDP funds as well as crime control maintenance of effort funds. This list shall include the project title, location, address, level and source of funding.

APPENDIX 1: DEFINITIONS RELATING TO PARAGRAPH 52. REQUIREMENTS FOR PARTICIPATION IN FUNDING UNDER THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974.

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

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

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

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

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

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

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

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

(i) *Facility, nonsecure.*—A facility not characterized by the use of physically restricting construction, hardware and procedures and which provide its residents access to the surrounding community with minimal supervision.

(j) *Community-based.*—Facility, program, or service means a small, open group home or other suitable place located near the juvenile's home or family, and programs of community supervision and service which maintain community and consumer participation in the planning, operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, and other rehabilitative services. This definition is from section 103(1) of the JJDP Act. For purposes of clarification the following is being provided:

(1) *Small:* Bed capacity of 40 or less.

(2) *Near:* In reasonable proximity of the juvenile's family and home community which allows a child to maintain family and community contact.

(3) *Consumer participation:* Facility policy and practice facilitates the involvement of program participants in planning, problem solving, and decision making related to the program as it affects them.

(4) *Community participation:* Facility policy and practice facilitates the involvement of citizens as volunteers, advisors, or direct service providers; and provide for opportunities for communication with neighborhood and other community groups.

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

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

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

(n) *Bed capacity.*—The maximum population which has been set for day to day population and, typically, is the result of administrative policy, licensing or life safety inspection, court order, or legislative restriction. (Approved) James M. H. Gregg (July 21, 1978).

JOHN M. RECTOR,
Administrator, Office of Juvenile Justice and Delinquency Prevention.

APPENDIX A

SUPPLEMENTAL MATERIAL: BACKGROUND INFORMATION ON THE CRITERIA AND COMPLIANCE FOR JUVENILE DETENTION AND CORRECTIONAL FACILITIES

AUGUST 9, 1978.

The LEAA State Planning Agency grants guideline, M 4100.1F, January 18, 1977, in addressing the requirements of section 223(a) (12) through (14) of the JJDP Act of 1974, distinguished shelter facilities from juvenile detention or correctional facilities on the basis of a secure/non-secure dichotomy. There was confusion and uncertainty on the part of the states with regard to this guideline and many requested additional guidance from the Office of Juvenile Justice and Delinquency Prevention.

A review of the legislative history of the JJDP Act provided insight into the congressional concern that status offenders were being treated or placed in detention and correctional facilities with delinquents and criminal offenders. The Juvenile Justice Amendments of 1977 clarified that non-of-

fenders such as dependent and neglected children are also within the scope of the deinstitutionalization requirement and that both status offenders and non-offenders are within the scope of section 223(a)(13). The 1977 amendments also contain a new subpart (B) to section 223(a)(13) that requires states to report annually on their progress toward deinstitutionalization and to submit a review of their progress in meeting the goal of assuring that status offenders and non-offenders, if placed in facilities, are placed in the least restrictive alternative appropriate to the needs of that juvenile. The comments throughout both the legislative history and the JJDP Act of 1974, as amended, make it clear that status offenders and non-offenders are not to be treated or incarcerated like delinquents, as is the practice in many states.

The statute and legislative history did not define congressional intent with regard to the terms "juvenile detention or correctional facility" and "shelter facility" as used in section 223(a)(12). A study team, composed of OJJDP and Office of General Counsel staff, attempted to relate these terms to existing state definitions and recommended that OJJDP should use its rulemaking authority to promulgate definitions that would distinguish between these types of facilities. The distinctions were based on population, size, security, ownership and operations, nature of referral, staff requirements, services offered, admission and release policies, funding, length and stay, etc. OJJDP carefully reviewed the study team's recommendations and determined that it should provide a method which would allow any facility for juveniles to be characterized by some form of objective criteria that would enable both the states and the Federal Government to determine if a facility is a juvenile detention, correctional, or shelter facility where status offenders could be placed, if such placement was consistent with state law. These criteria were issued in M 4100.1F, Change 1, May 30, 1977.

The discriminating criteria selected were security, population composition, size and whether or not the facility is community-based. M 4100.1F, Change 1, paragraph 52k(2) identified four criteria to be used to determine if a facility was a juvenile detention or correctional facility.

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

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

3. Any public or private facility that has the bed capacity to house 20 or more accused or adjudicated juvenile offenders or non offenders, even if the facility is non-secure, unless used exclusively for the lawful custody of status offenders or non-offenders, or is community-based; or

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

In order to clarify the components of the definition relating to commingling, size, and location, a list of options regarding where status offenders may be placed was provided. These options assumed that no non-offenders or status offenders will be commingled with accused or adjudicated criminal offenders and were as follows:

1. Status offenders may be placed in non-secure facilities under 20 beds with criminal-type offenders; however, the percentage of criminal-type offenders may not exceed 50 Percent of the population during any consecutive 30-day period.

2. Status offenders may be placed in non-secure facilities of 20 beds or more if the facility is used exclusively for the care of status offenders or non-offenders.

3. Status offenders may be placed in non-secure facilities of 20 or more beds with criminal-type offenders if the ratio of criminal-type offenders does not exceed 50 percent of the population and the facility is community-based.

Although the above changes went through LEAA's clearance process prior to the promulgation of M 4100.1F, Change 1, many state, local, and private agencies failed to fully comprehend the impact and thus did not provide specific comments until after the official issuance. Thus, the comments and concerns which were presented to OJJDP after the guidelines were promulgated led to OJJDP's decision to formally reissue the criteria in another attempt to receive specific comments and recommendations. This time the guideline was published in the FEDERAL REGISTER as well as being processed according to LEAA's clearance procedures.

Review and Analysis of Clerance Comments and Recommendations. OJJDP received 301 comments regarding M 4100.1F, Change 3 (State planning agency grants); 248 were related to the definition of a correctional response on the criteria. The exceptions were the District of Columbia, Florida, Mississippi, Missouri, Nevada, Utah, Wyoming, American Samoa, Guam, Trust Territories, and the Virgin Islands. Most states submitted only one or two responses; however, numerous responses were submitted from other states (i.e., New York, California, and Pennsylvania). Although an overwhelming number of the comments were negative, there were several (mainly from Pennsylvania) that fully supported the definitions.

All comments and recommendations submitted to OJJDP in response to the clearance process of M 4100.1f, Change 3, were reviewed and analyzed. The first step involved reviewing approximately 175 responses, which included all those submitted by April 25, 1978. Of the 175 comments, 42 provided specific recommendations as to how the criteria should be changed. These 42 recommendations proposed 9 different criteria. After each recommended modification was identified and grouped, a comparison was made between the 9 proposed criteria and the current criteria. The nature of the coding allowed comparison of 5 of the 9 criteria. This coding and analysis was the basis for OJJDP's discussions relative to the development of viable, alternative criteria.

The second step under this task involved review of each of the comments received, whether from internal clearance, external clearance or the FEDERAL REGISTER, to ascertain whether or not they mentioned the criteria. Every response that referred to the criteria was analyzed and recorded. The analysis was based upon the comments each person/agency made on the following factors: size, security, commingling, community-based, public/private ownership, general comments, and positive or negative comments.

A majority of the comments received were either general in content or related to commingling. Security and public/private ownership were the least mentioned factors. OJJDP's review and analysis of the comments and recommendations received on the criteria through the 1978 clearance process was the primary determinant of whether the May 30, 1977, criteria should be changed. In addition, OJJDP considered relevant research, theory, standards and practices so that the most appropriate, viable criteria for classifying juvenile detention and correctional facilities would be adopted by OJJDP. It was the Office's decision to take all the previous work and analyze it to determine if a change was necessary.

As a result of this effort, the criteria were changed as follows and have been incorporated into M 4100.1F, Change 3, paragraph 52k(2).

For the purpose of monitoring, a juvenile detention or correctional facility is:

(a) Any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders or non-offenders; or

(b) Any public or private facility, secure or non-secure, which is also used for the lawful custody of accused or convicted adult criminal offenders; or

(c) Any non-secure public or private facility that has a bed capacity for more than 20 accused or adjudicated juvenile offenders or non-offenders (unless:

1 The facility is community-based and has a bed capacity of 40 or less; or

2 The facility is used *Exclusively* for the lawful custody of status offenders or non-offenders.

Definition of underlined terms appear in M 4100.1F, Change 3, Appendix I, and definitions are as follows:

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

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

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

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

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

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

(g) *Facility.*—A place, an institution, a building or part thereof, set of buildings or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles

and may be owned and/or operated by public or private agencies.

(h) *Facility, secure.*—One which is designed and operated so as to insure that all entrances and exits from such facility are under the exclusive control of the staff of such facility, whether or nor the person being detained has freedom of movement within the perimeters of the facility or which relies on locked rooms and buildings, fences, or physical restraint in order to control behavior of its residents.

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

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

This definition is from section 103(1) of the JJDP Act. For purposes of clarification the following is being provided:

1. *Small.*—Bed capacity of 40 or less.

2. *Near.*—In reasonable proximity to the juvenile's family and home community which allows a child to maintain family and community contact.

3. *Consumer participation.*—Facility policy and practice facilitates the involvement of program participants in planning, problem solving and decision making related to the program as it affects them.

4. *Community participation.*—Facility policy and practice facilitates the involvement of citizens as volunteers, or direct service providers and provides for opportunities for communication with neighborhood and other community groups.

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

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

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

(n) *Bed-capacity.*—The maximum population which has been set for day to day population and, typically, is the result of administrative policy, licensing or life safety inspection, court order, or legislative restriction.

The following is a discussion of the changes made, the rationale for such changes, and the justification for the criteria.

1. Criterion (a) is unchanged except for adding the term "non offenders" to the end of the criterion. This change is consistent with the 1977 amendments to section 223(a)(12)(A) of the JJDP Act. It was added as a safety measure to insure no secure facilities can be used to hold exclusively non-offenders. It was merely added for clarification and does not change an OJJDP policy.

The prohibition against placing status offenders and non-offenders in secure facilities is in keeping with the report of the advisory committee which recommends that status offenders not be placed in secure facilities, training schools, camps, and ranches. Cohen and Rutherford provide that:

A secure facility is one that is used exclusively for juveniles who have been adjudicated as delinquents. (Standard 7.1)

The difficulty with any definition that prohibits placement of status offenders in secure facilities lies in determining what program and architectural features make a facility secure. Discussions between OJJDP staff and knowledgeable people in the field resulted in the definition of security being related to the overall operation of the facility. Where the operation involves exit from the facility only upon approval of staff, use of locked outer doors, manned checkout points, etc., the facility is considered secure. If exit points are open but residents are authoritatively prohibited from leaving at anytime without approval, it would be a secure facility.

This definition was not intended to prohibit the existence within the facility of a small room for the protection of individual residents from themselves or others, or the adoption of regulations establishing reasonable hours for residents to come and go from the facility. OJJDP recognized the need for a balance between allowing residents free access to the community and providing facility administrators with sufficient authority to maintain order, limit unreasonable actions on the part of residents, and insure that children placed in their care do not come and go at all hours of the day and night or absent themselves at will for days at a time.

Experts advising OJJDP recommend that security rooms be used only in an emergency situation, and not without court approval. The OJJDP definition does not include this requirement. However, the limited use of security in individual emergency cases will have to be monitored to insure it is not used in excess.

2. The commingling provision which existed within M 4100.1F, Change 1, criterion (b) was deleted. Neither definitive research nor clear statutory support exists to retain this as a mandatory provision. However, it is OJJDP's position that commingling of status offenders and non-offenders with criminal-type offenders should be limited to the maximum extent possible. OJJDP discourages the commingling of status offenders/non-offenders with criminal-type offenders on the belief that such mixing violates the due process rights of those persons who have not been charged with or convicted of a criminal offense.

The Office was aware that such a provision may have required the development of a dual service system and would be burdensome for communities that could afford only a limited number of non-secure alternatives. Thus, the Office modified its stance to allow commingling on a limited basis, as long as the status offender and non-offender population is never outnumbered by the criminal-type offender population. This modification was reflected in the criteria issued in May 1977.

The rationale for a ratio was that the community often labels a program and its residents by the type of youth that comprise the majority of the resident population. Conceiveably, those juveniles who were not criminal-type offenders might be unjustly labeled as delinquents or criminals and be treated as such. However, research on the impact of negative labeling on the treatment and behavior of juveniles in such a setting does not provide a sufficient basis for a national policy which imposes strict limits on commingling in non-secure facilities. Other studies which examined the "schools of crime" or contagion theory of delinquency did not directly address the impact of delinquent (criminal-type) juveniles on non-criminal-type youth, particularly in a non-secure setting. In the absence of definitive research results which demonstrate the negative impact of commingling on status offenders and non-offenders, the lack of clear support for the commingling provision in the legislation, and difficulty in implementing this provision, OJJDP decided to eliminate this component of the criteria.

3. The term "adult" was added in criterion (b) to read "* * * convicted adult criminal offenders." This was added for clarification and is consistent with the original prohibition against placing status offenders and nonoffenders with criminal offenders.

This component of the criteria is in keeping with recent juvenile justice standards, including The Report of the Advisory Committee to the Administrator on Standards for Administration of Juvenile Justice, which was transmitted to the President and the Congress in March 1977 (Standard 3.11, limiting jurisdiction over matters relating to juveniles before the Family Court); Fred Cohen and Andrew Rutherford, Proposed Standards Relating to Correctional Administration (Standard 2.2(a), IJA/ABA, Draft, May 1966); Task Force to Develop Standards and Goals for Juvenile Justice and Delinquency Prevention Standard Introduction, Chapter 19, pages 11-12, 23.3 (July 1966).

There is little disagreement that status offenders and non-offenders should not be mixed with adult criminal offenders. Such placement should be and is prohibited by section 223(a)(13) of the JJDP Act which states that juveniles alleged to be or found to be delinquent, status offenders and non-offenders, shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges. To define a shelter facility in such a way as to permit contact between status and adult criminal offenders would constitute a failure to carry out mandates of section 223(a)(13) and (12).

4. Criterion (c) was clarified as to size limitation by changing "* * * twenty or more * * *" to "* * * more than twenty * * *"; thus, 20 is the cutoff point, not 19. Also incorporated into the criteria is the clarification of the word "small," as contained in the legislative definition of community-based. This clarification also appears in Appendix 1 of M 4100.1F, change 3. Since OJJDP has given States latitude by classifying community-based facilities with a maximum bed capacity of 40 as "small," we incorporated this into the criterion dealing with community-based characteristics.

As the following discussion indicates, OJJDP has documentation which promoted the establishment of 20 or less as the ideal size of a facility for the placement of youth;

OJJDP also recognizes the impracticality of an absolute restriction on the size of 20. The maximum bed capacity of 40 was chosen as a realistic compromise which allows a certain degree of latitude for facilities over 20, based on specific community-based programmatic features. It prevents large "institutions" from evading classification as juvenile detention or correctional facilities on the basis of being "community based," yet allows flexibility for facilities between the size of 21 and 40.

OJJDP's search of the recent literature found it to be replete with documentation of both the practicality and effectiveness of limiting the capacity of juvenile residential facilities. In particular, national legislation and leading authoritative bodies in the field of juvenile justice and delinquency prevention point to a level of 20 residents or less as being optimal in terms of cost efficiency and program effectiveness.

There exists a general consensus that a residential facility reaches a point of acceptable cost efficiency in terms of staffing and operation at 15 to 20 residents. For example, the National Council on Crime and Delinquency states that a capacity from 15 to 20 boys and girls is the smallest unit practical for satisfactory staff and program (Regional Detention for Juvenile and Family Courts, NCCD, 1970).

The 1974 Juvenile Justice and Delinquency Prevention Act is clear in its intent to limit new construction and renovation to community based facilities for less than 20 persons. While this language is specifically directed to the use of funds under the Act, it nonetheless underscores the desire of Congress to discourage the development of juvenile residential facilities over a capacity of 20 residents. Further, the use of the number 20 indicates the intent of the Act to be specific rather than leave the interpretation of a more vague word such as "small" to administrative discretion. The repeated use of a capacity of 20 throughout the Act adds strength to this intent.

Another major inducement to a capacity of 20 residents in the definition of juvenile residential facilities is the overwhelming support by leading authoritative bodies in the area of juvenile justice and delinquency prevention. For instance, the National Council on Crime and Delinquency supports juvenile residential facilities for a maximum of 20 boys and girls (Standards and Guides for the Detention of Children and Youth, NCCD, 1969); the National Advisory Commission on Juvenile Justice Standards and Goals supports community-based residential programs for a maximum capacity of 20 beds (Intake, Investigation and Corrections, NAC, 1979); and the American Bar Association - Institute for Judicial Administration supports interim detention facilities no larger than 12 residents and community-based correctional facilities for no more than 20 youth (Juvenile Justice Standards Project, IJA/ABA, 1976). Statistics show that juvenile residential facilities have a tendency to fill to capacity. Large facilities increase the misuse of detention through inappropriate placements (Under Lock and Key, NAJC, 1974); they are significant factor in impeding the exploration of alternatives to secure detention, as well as new types of secure settings (Juvenile Justice Standards Project, IJA/ABA, 1976); and they increase the chances for overcrowding (Corrections Task Force Report, NAC, 1973).

Other research points out that larger facilities require regimentation and routinization for staff to maintain control and restrict individual handling. Smaller groups reduce custody problems and allow staff to offer a more constructive and controlled environment (Planning and Designing for Juvenile Justice, LEAA, and Under Lock and Key, NAJC, 1974). Larger facilities convey an atmosphere of anonymity to the individual resident, and tend to engulf a child in feelings of powerlessness, meaninglessness, isolation and self-estrangement (Goffman, Erving, "On the Characteristics of Total Institutes", 1961). Larger facilities tend to produce informal resident cultures, with their own peculiar codes of group organization, which function as a potent influence on other residents (Grosser, George, "External Setting and Internal Relations of the Prison", 1960). Larger facilities reinforce the image of rejection of the individual by society, compounding the problems of reintegration into society (Sykes, Gresham, "The Inmate Social System", 1960). The larger the residential facility, the less the likelihood that youth will participate in community activities while incarcerated. Larger facilities tend to develop their own in house programs rather than utilize available community resources and thereby minimize the potential for successful reintegration into the community (Under lock and Key, NAJC, 1974). As the size of a detention facility increases the staff to youth ratio declines (Under Lock and Key, NAJC, 1974).

Juvenile Justice standards and studies generally agree that small facilities are less institutional in nature and more conducive to rehabilitation than large conglomerate facilities. The Standards in Administration of Juvenile Justice (LEAA, March 1977) provide that status offenders shall not be placed in larger type facilities such as training schools, camps, and ranches. These same standards permit status offenders to be placed in smaller facilities such as group homes and foster homes.

The Cohen and Rutherford standards (supra) recommend that no new residential program should exceed 20 beds and no existing program should exceed 100 beds (standard 7.2 IJA/ABA, 1976). However, the difficulty of mandating a specific number of beds was recognized:

"Only when one deals with the outer extremes are we on reasonably certain ground that, for example, living units of 50 or more and institutions of 500 and above will more nearly endanger depersonalization, regimentation, and reliance on custodial measures." (Commentary to standard 7.2.)

The proposed Architectural Standards for Group Homes and Secure Detention and Correction Facilities (IJA/ABA, April 1976) recognized that size was only one of many factors in determining effectiveness of residential programs. Other factors such as degree of security, community-based locations, degree of normalization, etc., were also important. It must be noted that these standards recommend a limit of 20 beds for secure detention and secure correction facilities, and a limit of four to twelve beds for group homes.

OJJDP recognizes that innovative residential treatment programs may exist or might be developed in excess of 20 beds, and that these programs might be structured to foster normalization in open, cost-effective settings. OJJDP further recognizes the possibility that some programs, which do not meet the criteria, could suffer. Instead of setting an absolute prohibition against placing status offenders in facilities with a bed capacity of 20 or less, OJJDP established a preference for facilities of 20 or less beds by providing more flexibility for the operation of these facilities. These facilities can be located outside the immediate community they serve and can commingle status offenders with juvenile delinquents. Pursuant to the OJJDP definition of correction and detention facilities, once a facility exceeds 20 beds, it must be community-based. This means, under the OJJDP definition of community-based, that the facility must be small, open, involve community participation in operations, and be located near a juvenile's home. If not community-based, such facilities have to be non-secure residential programs serving only status offenders or nonoffenders. In arriving at these definitions, OJJDP recognized that factors other than size may make a program desirable.

Although the position is justifiable that a 20-bed capacity should be considered "small" in the legislative definition of "community-based," OJJDP realizes that it is, at present, impractical in terms of practice and implementation across the Nation. The size of 20 is impractical because of the number of facilities which serve youth and are over the size of 20 and thus would not be in compliance. Therefore, the criteria allows a facility between the size of 21 and 40 to hold status offenders and nonoffenders and not be classified as a juvenile detention or correctional facility, if such facility can be classified as community-based by meeting all the characteristics contained in the "community-based" definition.

A review of practice across the Nation indicates that by using the definition of a community-based facility, approximately 94 private facilities which have over 20 but under 41 youth could continue to serve status offenders and nonoffenders without being in noncompliance. This figure is based on data from the 1974 Children in Custody Census, and represents about 10 percent of all private, nonsecure facilities in existence in 1974. On the other hand, even with the maximum size of 40, approximately 65 such private facilities (halfway houses, group homes, and shelter care facilities) would have to reduce their bed capacity and retain the other community-based characteristics or risk classification as a juvenile detention or correctional facility. With regard to public facilities, approximately 33 halfway houses, group homes, and shelter care facilities would fall into the 25 to 50 range. This represents approximately 14 percent of all such public facilities reported in the 1975 Children in Custody Census which could qualify as suitable community-based alternatives. There were no public facilities reported in the 1975 Children in Custody Census which could qualify as suitable community-based alternatives. There were no public facilities of these types reporting a design capacity over 49. However, due to the grouping of facility sizes, it is not possible to determine how many of the 33 facilities were over the design capacity of 40, and would be adversely affected by the new provision.

[FR Doc. 78-22948 Filed 8-15-78; 8:45 am]

[44-1018-M]

STATE PLANNING AGENCY GRANTS GUIDELINE MANUAL

Re-examination of the Definition of Detention and Correction Facilities

The Office of Juvenile Justice and Delinquency Prevention, Law enforcement Assistance Administration, pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601 *et. seq.*, is in the process of re-examining the present definition of juvenile detention and correctional facilities contained in the State Planning Agency Grants Guideline Manual, M 4100.1F, July 25, 1978, Chapter 3, Paragraph 52n(2).

Section 223(a)(12)(A) of the Juvenile Justice and Deliquency Prevention Act requires as a condition for the receipt of formula grants funds that the state plan submitted in accordance with the Act shall:

provide within three years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, or such non-offenders as dependent or neglected children, shall not be placed in juvenile detention or correctional facilities * * *

On March 24, 1978, the Office of Juvenile Justice and Delinquency Prevention published in the FEDERAL REGISTER the criteria for determining whether an institution constituted a detention and correctional facility within the meaning of Section 223(a)(12)(A). The Office invited interested persons to submit comments on or before April 25, 1978.

As a result of the comments received, the Office modified the criteria and published them in the August 16, 1978, FEDERAL REGISTER. See LEAA Guideline Manual, M 4100.1F, July 25, 1978, Paragraph 52n(2). As defined, a detention and correctional facility would consist of the following:

(a) Any *secure* public or private *facility used for the lawful custody* of *accused or adjudicated juvenile offenders* or *non-offenders*; or

(b) Any public or private facility, secure or *non-secure* which is also used for the *lawful custody* of accused or convicted adult *criminal offenders*; or

(c) Any *non-secure* public or private facility that has a *bed capacity* for more than 20 accused or adjudicated *juvenile offenders* or *non-offenders* unless:

1. The facility is *community-based* and has a *bed capacity* of 40 or less; or

2. The facility is used *exclusively* for the lawful custody of *status offenders* or *non-offenders*.

NOTE.—The underlined terms are defined in LEAA's State Planning Agency Grants Guideline M 4100.1F, Chg. 3, Appendix 1, Sec. 4. To assist the public in this, the developmental stage of the significant guideline process, these definitions appear as Appendix A to this publication.

Concern has, however, been expressed over these definitional criteria. The areas of concern that have been raised involve both the scope and the underlying basis of the present definition, its impact on such groups as private non-profits and community-based organizations as well as its potential impact on the eligibility of a number of jurisdictions to participate further in the Act. The Office of Juvenile Justice and Delinquency Prevention has determined that these concerns merit a re-examination of the above definition.

In light of the above, consideration will be given to definitional alternatives. One such alternative would be to develop a definition of detention and correctional facilities which is predicated solely on a secure/non-secure distinction. If adopted, this would result in the elimination of sub-parts (b) and (c) of the present definition. In order to assist this Office in formulating a draft guideline and in order to ensure that interested organizations, agencies and individuals have an opportunity to participate in its development, this notice and opportunity to submit written views, comments and specific recommendations is being provided. Following receipt and analysis of the comments, a proposed change will be published in the FEDERAL REGISTER. At that point in time, the views of the public will again be solicited.

Interested parties are invited to submit written comments or suggestions to Mr. John M. Rector, Administrator, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W. Washington, D.C. 20531, on or before April 30, 1979.

JOHN M. RECTOR,
Administrator, Office of Juvenile Justice and Delinquency Prevention.

APPENDIX A

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

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

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

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

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

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

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

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

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

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

(j) *Community-based*—facility, program, or service means a small, open group home or other suitable place located near the juvenile's home or family, and programs of community supervision and service which maintain community and consumer participation in the planning, operation, and evaluation of medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, and other rehabilitative services. This definition is from Section 103(1) of the JJDP Act. For purposes of clarification the following is being provided:

(1) *Small:* Bed capacity of 40 or less.

(2) *Near:* In reasonable proximity to the juvenile's family and home community which allows a child to maintain family and community contact.

(3) *Consumer Participation:* Facility policy and practice facilitates the involvement of program participants in planning, problem solving, and deci-

sion making related to the program as it affects them.

(4) *Community Participation:* Facility policy and practice facilitates the involvement of citizens as volunteers, advisors, or direct service providers; and provide for opportunities for communication with neighborhood and other community groups.

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

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

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

(n) *Bed Capacity*—the maximum population which has been set for day to day population and, typically, is the result of administrative policy, licensing or life safety inspection, court order, or legislative restriction.

[FR Doc. 79-8630 Filed 3-28-79; 8:45 am]

James Gregg
Acting Administrator

August 22, 1978

John Rector
Administrator/OJJDP

FY 80 Budget

After our noon discussion today regarding the Department of Justice's proposed budget cuts and position reductions for FY 1980, I considered an appropriate OJJDP response. I have decided that politically and otherwise I cannot voluntarily support a cut in either category for OJJDP, especially in light of the Attorney General's support for full implementation of the Juvenile Justice and Delinquency Prevention Act, the clear White House support and the Democratic platform.

The Juvenile Justice and Delinquency Prevention Act is recognized as one of the most promising youth oriented measures ever supported by the U.S. Congress. Any change at this juncture, in a downward direction, would be an unmitigated disaster. Additionally, the overall LEAA cut would measurably reduce the 19.15% Crime Control Act maintenance of effort well below the level to which the Attorney General pledged support during his confirmation hearing.

If OJJDP is ordered by the Attorney General to cut, such cuts should be part of a pro rata LEAA position reduction. The reduction should focus on those LEAA offices with the highest staff to dollar ratio (see attached partial breakdown). If this approach would impact OJJDP, our NIJJDP would sustain any reduction in staff or budget. It would be nearly an impossible situation but if between the rock and the hard place as I told the Senate at my confirmation hearings I will always support good action projects for troubled children and their families. As Ike Andrews puts it "on the streets and not in the research suites." The youth are clearly more important than remote or esoteric objectives.

Enclosure

COMMONWEALTH OF KENTUCKY

DEPARTMENT OF JUSTICE

FRANKFORT

John R. Lancaster
[redacted]
ADMINISTRATOR /Acting
EXECUTIVE OFFICE OF STAFF SERVICES

January 22, 1979

Representative Ike Andrews
320 Cannon Office Building
U.S. House
Washington, D. C. 20515

Dear Representative Andrews:

On behalf of the Kentucky Juvenile Justice Committee I am writing to express our concern and fear over the report that we have heard on the proposal by the Office of Management and Budget and the Administration to reduce the Office of Juvenile Justice and Delinquency Prevention budget by 50 percent. While we are all aware of the need to control the national budget during a time of escalating inflation, we believe that a reduction in the OJJDP budget of this magnitude would be crippling and inequitable. A 50 percent reduction, as suggested, would debilitate on-going efforts to deal with status offenders and render permanent long term damage to the juvenile justice system.

One of the major criticisms of the Juvenile Justice and Delinquency Prevention Act is the failure of the participating states to expend the awarded funds. While on the surface this appears to be the case, there are many underlying factors which have led to the present dilemma.

The first factor affecting the utilization of funds was the lack of public awareness of the Act and its ramifications. Consequently, the first year of participation in the Act by the states was spent primarily developing widespread public support for this program. Another factor was the lack of initial leadership on the national level, which also proved detrimental to implementation of the Act.

Despite the anticipated negative affect this 50 percent reduction would have on the Juvenile Justice system, if no other alternative exists we can only strive to continue offering basic services, as efficiently as possible, on a reduced budget. It is our hope, however, that a reduction of the above magnitude would be prorated and distributed among all criminal justice fields (i.e., courts, police, adult corrections), so as to minimize the deleterious repercussions of a 50 percent budget cut.

It is our sincere hope that this matter will merit your attention and consideration in the forthcoming review of the proposed budget cuts.

Respectfully,

Jack C. Lewis

Jack C. Lewis
Chairman
Juvenile Justice Committee

cc: Terry Andrews, EOSS
Juvenile Justice Planner

FEB 8 1979

RUTGERS
THE STATE UNIVERSITY
OF NEW JERSEY

RUTGERS COLLEGE • DEPARTMENT OF SOCIOLOGY • INSTITUTE FOR CRIMINOLOGICAL RESEARCH
NEW BRUNSWICK • NEW JERSEY 08903

February 5, 1979

Gordon A. Raley, Staff Director
Subcommittee on Economic Opportunity
Room 320
Cannon House Office Building
Washington, D.C. 20515

Dear Mr. Raley:

Carol Frank of ORPSCCA told me of your interest in the school-crime problem.

Our Institute has been concerned with school-crime for several years; we hope to try to develop more effective ways of preventing and controlling it. We expected that John Rector of the Office of Juvenile Justice and Delinquency Prevention would be a constructive force. As the enclosed correspondence will show you, John Rector has been a disappointment to us. Despite his background with the Senate Subcommittee to Investigate Juvenile Delinquency, John Rector has imposed a monolithic federal program on a complex problem. In my opinion the school resources network, as Rector conceives it, will not help to ameliorate the problem.

Sincerely,

Jackson Toby

Jackson Toby
Professor of Sociology
Director, Institute for Criminological Research

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Enclosures

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION
WASHINGTON, D.C. 20531

JAN 0 1 1979

12 DEC 1978

Mr. Jackson Toby
Director
Institute for Criminological
Research
Rutgers University
Department of Sociology
New Brunswick, New Jersey 08903

Dear Mr. Toby:

Thank you for your letter regarding our shared concern about reducing school violence and vandalism in American Schools and I regret the delay in responding due to the end of the fiscal year priorities and deadlines.

During the past several years our Office has supported projects to reduce school crime with particular attention given to the need to assist in the development of the knowledge base for the delivery of training, technical assistance and consultation to schools as outlined in the National School Resource Network Guideline.

Research for Better Schools, Inc., (RBS) produced a planning document, "Planning Assistance Programs to Reduce School Violence and Disruption," which provides a helpful knowledge base of information. In addition, we currently have interagency agreements with the Office of Education, HEW, to support school crime prevention programs that focus on some of the types of experimental programs you mentioned as examples of innovations. In excess of 304 schools have or will develop in the next year experimental projects which relate to local conditions.

The independent evaluation design for these programs is expected to generate additional knowledge as to the type of specific approaches that have been effective in the prevention and reduction of school violence and crime. The National School Resource Network will develop a compendium of information on the most effective approaches and program models for use in the development of new and improved programs to reduce violence and vandalism in and around schools.

The evaluation design for the national school resource network is expected to provide ongoing self evaluation feedback at the national, regional and local levels for the purpose of continual information feedback designed to improve and expand resources to schools.

Our guideline is designed to assist schools develop, implement and evaluate viable program approaches rather than provide direct funding support to operate these programs. We are encouraging the use of local resources for the operation of programs.

The major thrusts of past, present and future efforts of this Office has been focused on both support for the development of a knowledge base and the actual implementation of experimental programs and evaluation.

Your thoughtful comments and suggestions will be helpful in the development of the national school resource network. Once the grantee has been selected you may wish to contact them with respect to your availability as consultants in this area.

We appreciate your interest in the prevention and reduction of school violence, and enclosed is a copy of the document prepared by (RBS).

With warm regards,

Edith Harthun for John Rector

John M. Rector
Administrator
Office of Juvenile Justice and
Delinquency Prevention

Enclosure

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NEW BRUNSWICK • NEW JERSEY 08903

September 22, 1978

Mr. John M. Rector, Administrator
Office of Juvenile Justice and Delinquency Prevention
Law Enforcement Assistance Administration
633 Indiana Avenue N.W.
Washington, D. C. 20004

Dear Mr. Rector:

As sociologists with a long-standing interest in juvenile delinquency, we were excited by the preliminary announcement in the Federal Register of June 28, 1978, that the L.E.A.A. would be supporting a substantial program to reduce crime in American public schools. We alerted our respective organizations, the Educational Testing Service and Rutgers University, in anticipation of a joint proposal drawing upon the combined resources of various divisions of the Educational Testing Service and of Rutgers University. Quite frankly, we were motivated only partly by our criminological interests; we were more strongly motivated by an old-fashioned desire to help our country solve a serious national problem. We spent many hours discussing possible experimental programs to combat school crime and violence and the necessity for careful evaluation of them in order to determine which promising ideas worked and which did not.

When the actual guidelines for the school resource network were issued on August 30, we were no longer confident that the innovative approaches we had considered could be implemented and evaluated within the guidelines. We still would like to make a contribution to the solution of school crime problem, and our respective organizations have encouraged us to attempt to do so. But we have reservations about responding to the August 30 guidelines. We hope these reservations will be of interest to you.

Like the Senate Subcommittee to Investigate Juvenile Delinquency and the Office of Juvenile Justice and Delinquency Prevention, we believe that school violence is a fundamental obstacle to effective educational practices. We are not certain, however, that spending up to 2.5 million dollars to provide technical assistance and consultation to schools will reduce school crime and violence unless the knowledge base on which technical assistance and consultation rest is simultaneously developed. Unfortunately, the guidelines for the school resources network do not seem to make provisions for this need for experimentation with innovative approaches to crime reduction and their careful evaluation.

Mr. John M. Rector September 22, 1978

There is of course, a growing momentum in the public at large, the Congress, and the Executive Branch to take immediate action to deal with the school violence problem. We feel, however, that it would be short-sighted to create a federal program that claims to help school systems cope with crime and violence if the chances are poor that the program can succeed. We wish that the RFP issued August 30, 1978, addressed the crucial problem of developing and evaluating new techniques of coping with school crime. Have we misinterpreted them? To what extent would the design, implementation, and evaluation of several experimental programs to reduce school violence satisfy your guidelines? In order to be a little more concrete, we must mention examples of the innovations we have in mind: (1) compulsory work projects for adolescent offenders as alternatives to the current dispositions of suspension, expulsion, or incarceration; (2) increased para-professional parent- and other adult-involvement in school activities both during and after school hours; (3) student-administered vandalism control programs with fiscal incentives; (4) alternative education programs for school-violence recidivists; and (5) training programs for administrators to disseminate effective leadership styles for dealing with incidents of school violence.

We shall call your office shortly for an appointment to discuss these matters with you further. In order to give you some clearer understanding of our backgrounds and interests, we enclose copies of our resumes.

Sincerely,

Hugh F. Cline
Senior Research Sociologist
Educational Testing Service

Jackson Toby
Director, Institute for Criminological Research
Rutgers University

mfe

Enclosures

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NEW BRUNSWICK • NEW JERSEY 08903

January 15, 1979

Mr. John M. Rector, Administrator
Office of Juvenile Justice and Delinquency Prevention
Law Enforcement Assistance Administration
633 Indiana Avenue, N.W.
Washington, D. C. 20004

Dear Mr. Rector:

Thank you for your letter of December 12 and the enclosure of the planning document prepared by Research for Better Schools, Inc.

Frankly, I do not feel that either your letter or the planning document addresses the concerns that Dr. Cline and I expressed in our joint letter of September 22, 1978.

Perhaps I can state my position best by quoting from the planning document itself. On page 117, the authors suggest that there are three basic strategies employed by the federal government "to assist people in the educational field to solve problems." They are:

"1. The provision of funds to help schools solve problems by expanding certain services. This strategy is based on the assumptions that educators know what to do and that what they need are additional resources.

2. Funding the development of a variety of technical services which help schools solve problems by applying knowledge and practices with which they are unfamiliar. This strategy is based on the assumptions that some educators are more knowledgeable and are using more effective practices than others, and that what they need are services to help schools in difficulty implement more effective practices.

3. Funding research, development, and demonstration projects which result in the new knowledge and practices needed to solve a problem. This strategy is based on the assumptions that effective practices do not exist and, therefore, efforts to develop such practices are needed."

Mr. John M. Rector January 15, 1979

Dr. Cline and I believe that strategy 3 is crucial in coping with the problems of school violence. The guidelines published on August 29, 1978, under which you are in process of developing a school resources network, is committed to strategy 2. We regard this as a policy mistake. We tried to meet with you, not to obtain consultancies with the school resources network, but to attempt to convince you that you were proceeding in an unpromising direction. Unfortuately, you did not seem to feel that our unsolicited (but free) advice was worth listening to.

Sincerely,

Jackson Toby
Professor of Sociology
Director, Institute for Criminological Research

mfe

The Ohio Association of Child Caring Agencies, Inc.
REPLY TO: Virginia Colson, Ex.Dir.
P. O. Box 68
Worthington, Ohio 43085
(614)885-5020

February 26, 1979

MAR 5 1979

The Honorable Ike Andrews, Chairman
Committee on Education and Labor
Subcommittee on Economic Opportunity
House of Representatives
Room 320 Cannon House Office Building
Washington, D.C. 20515

Dear Mr. Andrews:

I had the good fortune to attend a Legislative Conference last week, sponsored by ORPSOCA, which is an office served by the Child Welfare League of America staff. Prior to leaving for Washington, D.C., I had received a copy of your letter to Patricia Wald, Assistant Attorney General of the Department of Justice. That letter, plus the opportunity to hear Gordon Raley, the Staff Director for the Subcommittee on Human Resources, speak to our group, has made life much brighter for the members of our Ohio Association of Child Caring Agencies.

It has never seemed reasonable to us that Congress intended to label all children's facilities over a certain size as detention and correctional facilities. As the attached Position Statement attests, there are many residential group care facilities for children in Ohio which are serving a large number of troubled children and youth, and who consider themselves as the alternative placements to detention and correctional institutions. Courts, schools, and others in the state also consider them in this manner.

Most of the facilities operated by the members of the Ohio Association have less than 50 beds. Many have less than 30 beds. A few have over 100 beds. The larger facilities, however, have program divisions which break up these groups into much smaller units. The atmosphere of a detention or correctional facility is just not present.

We are most grateful to you for the leadership and vision you have shown in helping to overcome the serious problems which would have been faced by youth-serving facilities in Ohio, if changes had not been made in the interpretation of the intent of Congress and in the Guidelines issued by OJJDP relating to the monitoring of these facilities. We are rather eagerly waiting to see the new Guidelines, which we understand will appear in the Federal Register in early March.

The Honorable Ike Andrews

We would like to state again our support for the original intent of the Juvenile Justice and Delinquency Prevention Act. The removal of status offenders and non-offenders from juvenile detention and correctional facilities and the separation of youthful offenders from adult offenders in correctional facilities are goals toward which we are very willing to work.

The proposed reduction of OJJDP funding to $50 million is of great concern to us, as we can forsee the termination of many community-based programs for youth, unless full funding can be maintained. Ohio is one of the states that has been slow to spend the money allocated to it, but that was true only as the program was initiated. There is a certain amount of time needed to gear up for such programs. Now that the preliminary problems have been overcome and many good programs are in place helping young people, it would be a real tragedy to have their funding terminated. Much of the original investment in these programs will be wasted, if this should occur.

We will be watching for the appearance of the new Guidelines, and will be working with others to maintain full funding for OJJDP and to support the work of our State Planning Agency to fulfill the intent of the JJDP Act.

Thank you, again, for the efforts you have made on behalf of the children and youth of Ohio.

Sincerely yours,

Virginia Colson

Virginia Colson
Executive Director

vc/hs
Enc.

THE OHIO ASSOCIATION OF CHILD CARING AGENCIES, INC.
Position Statement Relative To
LEAA Federal Guidelines of August 16, 1978

The Ohio Association of Child Caring Agencies, Inc., was organized in 1973, incorporated in 1974, and established a staffed office in 1976. The purpose of the Association is to promote the general welfare of children in Ohio by providing the leadership to develop cooperation and coordination among all public and voluntary child caring agencies, so that a broad spectrum of quality services will be available to the families and children of Ohio. OACCA is committed to developing standards for child care, to conducting educational activities related to staff development, and to serving as a public information source and as an advocate on matters relating to the needs of families and children.

The initial members of OACCA were children's residential group care facilities. Today, almost all of the voluntary residential group care facilities for children certified or licensed to operate in the State Of Ohio participate in the work of the Association. Public agency membership is increasing.

This position statement represents the concerns of this group related to the Final Revision of the LEAA State Planning Agency Grants Guidelines M4100, 1F, Paragraph 52(2)n(2), as published in the Federal Register of August 16, 1978.

The members of the Ohio Association of Child Caring Agencies, Inc., consider these Guidelines to be detrimental to the positive care for children in residential group care facilities in Ohio. The implementation of these Guidelines will be counter-productive in that it will act as an obstacle to the provision of quality services which are now available to all children in Ohio, based upon individual needs.

At the present time, all residential group care facilities holding membership in OACCA are licensed or certified to operate in the State of Ohio by either the Ohio Department of Public Welfare or the Ohio Department of Mental Health and Mental Retardation. They are considered child caring facilities, not correctional facilities, and are charged to provide care and special services for dependent, neglected, and abused children, many of whom are also emotionally disturbed children.

These facilities have never been, and are not now, part of the juvenile correction system in the State of Ohio. In fact, they serve as alternatives to that very system. They have provided the special treatment programs for emotionally disturbed and behaviorally impaired children without regard to what label was placed on the child. They are the only resource of this nature in the State of Ohio. If they are precluded from providing this special care and treatment, some of which is highly treatment oriented and almost at a hospital level, there are no other facilities in Ohio where children can receive this type of care.

While the great majority of the children served in these facilities are dependent, neglected, or abused, many suffering from emotional problems, these same facilities provide services for status offenders and even delinquent children, when the service needs are appropriate. The clientele served by a given facility is selected on an individual basis, because the service is appropriate and the chance of success is good. To deny such services to a youth because he or she has been declared a delinquent would certainly not be in the spirit of the Juvenile Justice Act.

The definitions in Paragraph 52(2)n(2) may be appropriate for a juvenile detention or correctional facility, but they do not relate to the realities of a child caring facility. Often, the expanded interpretations contained in the Federal Guidelines only add to the problem.

For example, if the stated definitions of "Facility-secure" and "Facility non-secure" stood on their merits, child caring facilities would have no problem being declared "non-secure". What causes a problem is the language on page 36409, Column 2, where it states that, "If the exit points are open, but residents are authoritatively prohibited from leaving at anytime without approval, it would be a secure facility". Child caring facilities cannot accept that explanation as part of the definition. There is no way a conscientious parent would allow a young child or a child whose behavior is unpredictable because of emotional problems, to leave a home without the parent's permission. Likewise, there is no way a conscientiously administered child caring facility can allow its residents to leave its premises without approval. Under the interpretation in the Guidelines, all child caring facilities in the State of Ohio would have to be declared "secure".

To go on to the definition of "Community-based", this, too, poses problems. The immediate problem is the definition of "small". Child caring facilities in Ohio come in a variety of sizes. This has been considered a strength, not a weakness.

OACCA
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Children of different ages and with different problems have different needs. Sometimes these needs are best met in a family foster home; sometimes in a group home; sometimes in a residential facility where there is more opportunity for being a part of a larger group.

At the present time in the State of Ohio most, if not all, of the facilities are broken down into small living units, either by having separate cottages which permit a family-like atmosphere, or by having separate living units under one roof, to provide a group-related atmosphere. For many emotionally disturbed adolescents, the opportunity to live with a peer group on this basis has been found to be more constructive and positive than living in any other setting.

The Guidelines restrictions on the number of beds a facility may have, present a serious problem for child caring agencies. In the experience of the members of OACCA, there is no magic number of residents which guarantees a good program or which guarantees success or failure in providing care and treatment for children. Many other factors come into play, such as intake procedures, program, qualified staff, staff ratio, case management procedures, and commitment to working with the family. There is no research available which shows that numbers alone are a legitimate measure of the quality of a facility or its program. To assemble a treatment staff and a treatment program, as well as recreational facilities and group living arrangements for a group of 20 or less, unless certain other conditions are met, would be a fantastic expense and the per diem costs to cover an operation of this type would be prohibitive. The restriction of 40 beds or under, if the facility is community-based, is still an arbitrary restriction, and the members of OACCA believe that this decision should be left to the licensing agent or to the state in which the facility is located.

The proposal contained in the Guidelines that one type of small, community-based facility could answer all the service needs of the children and youth in a given state is erroneous. What is needed, in reality, is what Ohio has, which is a variety of residential child caring agencies offering a variety of treatment modalities so that the greatest number of children with varying needs may be served.

The Guidelines provision that "a facility used exclusively for the lawful custody of status offenders or non-offenders" may be of

any size, carries only short-term relief, as while this provision allows certain facilities to operate outside the restrictions of the Guidelines for the year 1979, the intent of the Office of Juvenile Justice and Delinquency Prevention is to disallow that provision in 1980. Many of the county public agency facilities fall under this provision in Ohio. These facilities provide care and services for children who are temporary or permanent wards of the county, and who have no suitable home, or perhaps no home at all.

Most of the large,urban counties in Ohio, where the population of a children's facility would be over 40, have cottage-style facilities with fairly appropriate programs. The threat of rescinding the provision which currently allows over 40 beds, if only status offenders and non-offenders are served, would bring incalculable harm to existing county programs and to the children who are wards of the county and for whom there are no other living arrangements available. Again, within reasonable limits, the number of beds in a facility has no magic effect on the quality of its program for children.

The definition of "near" would also be a problem to some facilities. Treatment for the severely disturbed child is not available in every community. For the benefit of the child, placement may have to be made outside the home area. In these cases, arrangements are made for parental involvement and for home visits, whenever possible. (The county public children's agencies would have no problem with this definition, as they accept children only from their own county.)

It is important that federal legislation and Guidelines recognize the differences that exist from state to state in this country. It is difficult, if not impossible, to draft language that can cover all these differences. For this reason some federal programs choose to accomodate the differences among the states by allowing each state to present its own plan for implementation to the federal level for approval.

In the work done by the Council on State Governments in preparing the report, "Juvenile Facilities: Functional Criteria", it is suggested that standards could be developed in a state for "other facilities". The LEAA Guidelines must be broad enough to incorporate the differences between child caring treatment-related resources and juvenile correctional resources from state to state. If this is not done, such resources will find it impossible to provide services. The result will be fewer resources

OACCA
Position Statement

available at a time when greater numbers of children needing special services are coming to the attention of schools, courts, and county welfare agencies.

Recent Ohio legislation has mandated the preparation of goal-oriented plans for children in placement, including an annual review process. Pilot projects to divert the status offender from the juvenile justice system into the community services system have also been underway. It would be a disaster if the existing residential group care system, which has also been enlarging its continuum of care by expanding its group home and day treatment services, were no longer permitted to offer their specialized services to any child in need of them.

The Ohio Association of Child Caring Agencies, Inc., supports the intent of the Juvenile Justice Act to separate youthful offenders from adults in correctional facilities and to prohibit placement of status offenders and non-offenders in juvenile detention and correctional facilities. We do not believe the Guidelines of August 16, 1978, reflect this intent. They go far beyond that intent, and in so doing, make certain resources unavailable to juvenile offenders. We do not believe this was the intention of the Act.

To summarize, our Association believes the Guidelines, as published, to be unrealistic and unacceptable for implementation in Ohio. We respectfully request that they be changed so that group care facilities for children, authorized by child welfare and mental health sections of the Ohio Revised Code, be permitted to serve children and youth in Ohio without being subject to Guidelines intended for the juvenile correction system.

OACCA urges that Oversight Hearings be held so that Congress can carefully examine the Guidelines and how they relate to the original intent of the Act. Representatives from child caring agencies and other concerned parties stand ready to serve as consultants to the OJJDP in efforts to revise the Guidelines so that the original intent of the Act can be carried out in the most effective way possible. Until this is accomplished, we urge that the implementation of the Guidelines be deferred.

Virginia R. Colson
Executive Director

The Ohio Association of Child Caring Agencies, Inc.
1033 High Street
P.O. Box 68
Worthington, Ohio 43085

January 18, 1979

MAR 5 1979

NEW YORK STATE COUNCIL OF VOLUNTARY CHILD CARE AGENCIES
A forum for ideas — a framework for planning — a vehicle for action

104 East 35 Street
New York N Y 10016
(212) 683-6000

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Assistant Executive Director
New York Metropolitan Region
Eulala Steele King

Assistant Executive Director
Upstate Regions
Kenneth C Skinner, Jr
176 Washington Avenue
Albany, N.Y 12210
(518) 463-2348

March 1, 1979

Mr. Gordon A. Raley
Staff Director
Subcommittee on Human Resources
Room 320 Cannon House Office Building
Washington, D. C. 20515

Dear ~~Mr. Raley~~ Gordon:

It was a pleasure meeting and speaking with you in Washington last week.

Regarding your letter of February 8, 1979, we will be happy to supply you with a written statement if you wish. Additionally, you have our permission to publish our correspondence as an appendix to the record.

We understand new guidelines defining "detention and correctional facility" will be issued for comment shortly because of pressure from the field regarding the inappropriateness of the present guidelines. We hope the new guidelines will satisfy our concerns.

Best regards.

Sincerely,

Joseph B. Gavrin
Executive Director

JBG:bfs

(See attached February 26, 1979 letter to John Rector)

NEW YORK STATE COUNCIL OF VOLUNTARY CHILD CARE AGENCIES
A forum for ideas — a framework for planning — a vehicle for action

February 26, 1979

104 East 35 Street
New York, N.Y. 10016
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Mr. John Rector, Associate Administrator
Department of Justice
Law Enforcement Assistance Administration
633 Indiana Avenue, N.W.
Washington, D.C. 20530

Dear ~~Mr. Rector~~ John:

It was good to meet and talk with you last week, in person, finally, after so much correspondence!

I now have had an opportunity to review and study in detail the "still in clearance" draft of the new guidelines intended to implement Section 223 (a)(12)(A) and (B) of the Juvenile Justice and Delinquency Prevention Act.

I agree with you that the proposed new guideline 52n(2)(a), defining a juvenile detention or correctional facility and limiting, for the purpose of monitoring, that definition to (i) and (ii) of the present guideline, dropping the present (iii) and (iv), reflects the full intent of Congress. Dropping (iii) and (iv) ends the concern we and others had about the untoward consequences for social and allied services to children which (iii) and (iv) would have had because of the size limitations and the ban on commingling, in a treatment/service program, status offenders and delinquents.

I have some question, however, concerning 52n(2)(b). If I remember our conversation correctly, your intention was to follow the statute itself as much as possible in providing standards for monitoring out of home placement for juveniles. Although much of the language is identical, your rearrangement yields a mandate which as I read it, is not in the Act itself. Specifically, although Congress intended that whenever possible and appropriate juveniles be placed in small facilities near their home, nowhere does the Act state they must be placed in small facilities near their home (as opposed to larger facilities, or facilities not "near" their community). Your draft of (b)(iii) interprets the Act to say that, for purposes of monitoring compliance with the deinstitutionalization mandate, juveniles must be placed in community-based facilities defined as the Act defines "community-based." This exceeds Congressional intent which is first and foremost to place juveniles appropriately.

...../

Mr. John Rector

Since it is the intent of the new guidelines strictly to follow the intent of Congress and since you have used much of the statutory language already, I recommend that under Subsection (b) all the language of the Statute be used instead of the present draft of (b) (iii). I recommend therefore the following wording for 52n(2)(b):

For purposes of monitoring 223(a)(12)(b) of the Juvenile Justice and Delinquency Prevention Act regarding out of home placement for juveniles described in 223 (a)(12)(A), such juveniles, if placed in facilities, must be placed in facilities, which in the judgment of the referring authority,

(i) are the least restrictive alternatives appropriate to the needs of the child and the community,

(ii) are in reasonable proximity to the family and home community of such juveniles and

(iii) provide the services described in Section (103)(1) of the Juvenile Justice and Delinquency Prevention Act.

This language, I believe, is in line with Congressional intent and creates no mandates which are not already part of the law. I trust you will agree about this and will change the draft accordingly before it is formally released in the Federal Register for comment.

Thanks again for sharing your time and thoughts with us last week. It was very helpful to hear and meet you in person. With the guidelines behind us we can get back to the tasks of providing services to families and children as well as trying to insure that the OJJDP appropriation is at least the sum appropriated last year.

With best regards.

Sincerely,

Joseph B. Gavrin
Executive Director

JBG/hks

[redacted]

March 8, 1979
Thursday

MAR 12 1979

Congressman
Ike F. Andrews
228 Cannon Office Bldg.
Washington, D. C. 20515

Dear Congressman Andrews:

We strongly encourage you to accept LEAA
the revised guidelines, 52 N(2) A
and reject the previous guidelines.
Our interest is close to home —
Kernersville, Assumption,
Adelphia, whose Executive Director
Rev. Charles H. Banning Jr. is
truly one dedicated Christian.

Yours truly —

Eugene & Jean M. Bibb
213 N. Long
Kernersville N.C. 27284

mcrtc

Minnesota Council of Residential Treatment Centers
141 S. Griggs-Midway Building
1821 University Ave., St. Paul, MN 55104
Phone (612) 645-0267

March 13, 1979

The Honorable Ike S. Andrews
Congress of the United States
Room 228, Cannon House Office Bldg.
Washington, D.C. 20515

Dear Congressman Andrews:

Thank you for havingGordon Raley send me a reply to my last letter and for the copy of a letter you addressed to the Honorable Patricia M. Wald. The points you addressed in your letter to Ms. Wald are those that are of basic concern of the treatment centers who are members of the Minnesota Council of Residential Treatment Centers.

I have enclosed with this letter two written documents for your review as written testimony for inclusion in the record for the Subcommittee's oversight hearings scheduled for March 20th. The document entitled Position Statement is what was sent to various organizations, Senators, Congressmen, etc. and the untitled document summarizes a presentation given by representatives of our Council to a Juvenile Justice Subcommittee of the State of Minnesota.

It is our hope that the oversight hearings will seek to insure a change in the LEAA Guidelines that more appropriately address what we believe was the original intent of Congress. Your efforts to seek the changes that are needed will be appreciated.

Sincerely,

Verlyn R. Wenndt

Verlyn R. Wenndt, President
Minnesota Council of
Residential Treatment Centers

VRW/lcw

Encs.

March 12, 1979

The Minnesota Council of Residential Treatment Centers was organized in 1970. Its current membership consists of sixteen residential treatment centers throughout the State of Minnesota serving children and youth, with a bed capacity of approximately 800. As a comparison, the State of Minnesota has 200 beds for emotionally disturbed children and youth, compared with 800 beds in Council agencies. We believe, therefore, the Council represents a large segment of professionals in this field and that we are well qualified to comment on the LEAA guidelines.

We believe that the original intent of Congress was aimed at separating the adult hardened criminal from the juvenile as well as avoiding the placement of status offenders and non-offenders in juvenile detention or correctional facilities. We believe that the LEAA guidelines have gone far beyond the intent.

First of all, we question whether the intent of the law or the guidelines was to cover or have jurisdiction over the private sector. The members of the Minnesota Council of Residential Treatment Centers are not now, nor ever have been, a part of the Juvenile Justice System. One evidence of this fact is that judges cannot order children into placement in our centers. Section 223 (a) of the Act indicates clearly, we feel, that the intent is not to include non-secure facilities.

Secondly, the model of the treatment centers which we represent is one of mental health, education and volunteerism. Our intake policies are set up and geared in that direction. We are currently selective in our intake process and are expected to be so in terms of our licensing requirements so as to separate those youngsters which could not be treated together or which would be dangerous to one another. We believe that these guidelines will definitely affect both the voluntary and mental health aspects of our program.

We are concerned that the guidelines, instead of speaking to important

elements of good child care such as program content, staffing ratios, individualized treatment planning, physical structure of buildings, etc., concern themselves with the artificiality of numbers.

We believe the definition of community based as contained within these guidelines is very restrictive for a rural state like Minnesota and is harmful to citizens of this State and their children. Some of our facilities would not fall under the guidelines definition of community based and, therefore, children in some areas of Minnesota would be deprived of services. All of the programs which are members of the Council have a family centered approach and family oriented programs. In all instances, on-going family therapy is conducted either by staff from the facility or through a contractual agreement with the agency making the placement.

We believe that the guidelines are discriminatory against children who are mentally ill or emotionally disturbed, in that the guidelines do not speak to or cover those facilities which deal with the chemically dependent, mentally retarded, physically handicapped, boarding schools, community public schools, hospitals, etc. At the same time we recognize that the Juvenile Justice System places children in these facilities who are in need of the services those facilities offer and yet who may have committed an act considered to be a juvenile delinquency.

Another concern with the guidelines is the assumption that twenty or fewer beds is better. Our experience has shown that operating facilities of that nature is not cost effective, and that a large agency can successfully separate into smaller units to provide excellent care for children. As an example, the St. Cloud Children's Home, one of the Council's agencies, has six separate units and a maximum population of twelve children per unit. The total facility has a bed capacity of 72, and therefore would be labeled as "bad" by the guidelines definition. Minnesota has worked hard to avoid the warehousing of children, and one focus

of that effort has been to separate into smaller units of service.

We are also concerned about the possible manipulation of labeling in order to assure that children receive the kind of care and treatment which they need. We believe that we are in the business of serving children who are in need of treatment at the time they are in need of treatment. We further believe that the Juvenile Justice System has an opportunity to use our treatment resources for the children who need that service as much as they would use a hospital facility for retarded, etc., for the juvenile who is in need of that service, yet in no way would that hospital facility be a part of the Juvenile Justice System. Prior to our receiving a youngster, the Juvenile Justice System has the opportunity to fully screen the youngster, develop a diagnosis and treatment plan to determine if it is appropriate for him/her to be sent to a residential treatment center, and if so, which center is most appropriate.

All of our centers are currently licensed by the Department of Public Welfare under the provisions of Rule 5 as centers for emotionally disturbed children. We need to follow the provisions of this Rule in programming for the care and treatment of children in our centers.

On the basis of these concerns, as well as those outlined in the enclosed official Position Statement of the Minnesota Council of Residential Treatment Centers, we urge that the guidelines be changed to more correctly reflect the intent of the Juvenile Justice and Delinquency Prevention Act.

MINNESOTA COUNCIL OF RESIDENTIAL TREATMENT CENTERS, INC.

Position Statement

The Minnesota Council of Residential Treatment Centers is an organization whose membership is composed of the directors and representatives of residential treatment centers from throughout the state. Members of the Council annually provide residential treatment service to approximately 800 emotionally disturbed children in the state of Minnesota. Their combined budgets amount to in excess of $15 million annually. The Minnesota Council of Residential Treatment Centers is recognized as the primary professional voice of child caring institutions in the State. The Council promotes early detection and referral of children with emotional problems, seeks to expand public understanding of the needs of emotionally disturbed children, works with all levels of government to develop more effective methods of treatment, encourages close working relationships with educational systems to develop resources to meet the special educational needs of disturbed children, promotes professional training for staff members in residential treatment centers, and advocates appropriate professional standards and licensing for residential treatment centers.

This position statement represents the concerns of this group related to the LEAA guidelines published by the Department of Justice in the August 16, 1978 issue of the Federal Register, and the ways they consider these guidelines to be detrimental to the positive care for children in residential treatment in the state of Minnesota.

The guidelines as issued are related to numbers of children in an institution, but do not relate in any way to staffing ratios, program content and individualized planning, which we believe is the basis of quality service for treatment in Minnesota centers.

If the present guidelines are enforced, they would eliminate services to either juvenile delinquents or status offenders and non-offenders, depending on how institutions or residential treatment centers define their populations. It would also promote labeling of children with potentially a more severe label in order for them to receive services. The other possibility would be to manipulate the label placed on a child in order to provide the service they need.

The Minnesota Council also finds no evidence to substantiate inferences of difference between "status offenders," "non-offenders," and "delinquents" in terms of: disruptive behaviors, frequency of running away, degree of maladjustment, or length of treatment. Nor does the Council find any difference between children of the above legally labeled status regarding the learning of socially appropriate and acceptable behavior or the development of mentally healthy frames of reference and positive self-esteem.

We feel these guidelines represent an effort on the federal level to impose restrictions based on numbers and labeling, rather than on the quality of

treatment or care for children. We would rather see an effort on the federal level to establish guidelines of minimum care for children in the United States. There is no research to show there is any legitimacy in measuring by numbers.

Representatives from the Minnesota Council have recently spent two years working with a committee of public and private sector people promulgating a rule which sets up minimum quality care and treatment for children in Minnesota. In this effort, focus was placed on a child's individual service needs, rather than on the labeling that a child may have at the time he/she enters treatment.

We feel that the enforcement and interpretation of these guidelines is discriminatory in that the juvenile offender who is mentally ill or emotionally disturbed is put into the same category as a correctional offender, whereas the juvenile offender who is mentally retarded, chemically dependent, physically handicapped, or placed in a private boarding school is not included under the guidelines. To us, this reflects a lack of consistency in the development of the guidelines by not taking into consideration the fact that children in institutions for the mentally retarded or children in hospital psychiatric wards are experiencing similar kinds of problems as emotionally disturbed children do in treatment centers. It is not logical to assume that because a child is in a treatment center or has committed a crime that he/she will stand any more of a chance of getting lost in the system or being hurt by institutionalization than those who are mentally retarded, physically handicapped, chemically dependent, or placed in a private boarding school.

The definition of "community based" is very restrictive. Minnesota institutions have long been aware of the need to treat the family at the same time the child is in placement. Residential treatment centers do that through their own programs as well as through contract arrangements with other agencies who provide that service. The family services can, in that manner, be available in the child's home community. It is important to realize that Minnesota is a rural state, which necessitates significant differences in the development and delivery of services. The definition of "community based" as contained in the guidelines because of the location of the residential treatment centers in the state would eliminate services to many rural Minnesota children. For example, if these guidelines are to be followed, it would result in a loss of service for 60-70 children in northern Minnesota alone. The problems with some of the definitions, i.e., community-based, become accentuated in a rural state such as Minnesota.

Residential treatment centers in Minnesota (currently the largest being seventy-two beds) have worked to decentralize units of service within their centers to achieve the ideal of a small, individualized treatment unit in a manner that is cost efficient and therefore more affordable to more children in the state. This law would destroy the capability of the agencies to maintain this system, thereby increasing the cost of the treatment system. In the light of ever dwindling human service dollars, this would result in fewer units of service in the state in the face of a juvenile population with expanding needs. The intent of the law as enacted has already been achieved under the Minnesota system.

If these guidelines are implemented, they would severely limit the

alternatives the community has in our state. Presently there exist many alternatives, based on a child's needs. Based on our intake practices, if one treatment center cannot take a child because of the balance of that agency's population, the child can be referred to another facility. The guidelines, however, would reduce the options for treatment choices because some treatment centers would be forced to close or would have to choose to specialize according to labels placed on children, and it would cause all centers to reduce their population base.

In the past, federal legislation and guidelines have provided an allowance for individualization from state to state, with each state being able to present for approval to the federal level its own plan delineating how it will implement guidelines, i.e., Title XX. The LEAA guidelines need to be broad enough to incorporate the differences in treatment resources and correctional resources from state to state.

In Minnesota we are aware of the Supreme Court ruling relative to the right of a child to receive mental health services. We believe that the guidelines as written would deprive some children of that right to mental health services. It does not seem fair that children, under these guidelines, would not have the same right to mental health services as adults.

It is possible that the data used to establish the guidelines is based upon the premise that larger treatment centers are not as effective as smaller agencies. We believe this assumption likely comes from public institutions which have not been able to control their own intake.

The intake criteria for Council centers is based on the emotional disposition and mental health pattern of a child, rather than his/her legal status (whether as an offender, dependent and neglected, etc.). As an illustration, mentally retarded persons who commit felonies are treated rather than punished.

The intake process of Council centers screens out children who are dangerous. The State of Minnesota is presently attempting to set up a secure facility to deal with these youngsters, as the private treatment centers have screened them out. This intake process includes a psychological work-up, information concerning school behavior and academic apptitude, as well as medical information and a social history of the child and child's family. Our program services, then, reflect that information received from the intake process in the development of a diagnosis and carrying out of a treatment process.

Historically speaking, residential treatment in Minnesota has developed along the lines of individual mental health treatment and programming versus correctional confinement and warehousing. In that development, the private residential treatment centers have already achieved the intent of the law. This has been achieved through their intake practices which select and group only those youngsters into a center who can be beneficial to each other in the context of treatment, regardless of label. Problems have arisen in Minnesota in public institutions where they have not had the opportunity for professional judgment to govern intake practices. The new guidelines would destroy what

has been built by the private sector, and in effect leave the state in a position where it would return to the inequities of former years as well as encouraging manipulative labeling.

The Council agrees with and supports the intent of the law, which we believe is to remove children from jails and other correctional institutions which house the adult criminal offender, and to provide appropriate facilities for the status offender and non-offender outside of the traditional correctional system. We do not believe that this intent is reflected within the guidelines as published in the Federal Register. We do not believe that the intent of the law was to make treatment resources unavailable to the juvenile offender.

In Minnesota all of the agencies that are a part of the Minnesota Council are licensed under the Department of Public Welfare as child caring institutions to serve the emotionally disturbed child, and in no way are they considered to be juvenile detention or correctional facilities. This reason alone should exempt our facilities from inclusion under the guidelines. The guidelines appear to be aimed at institutions, rather than to be concerned with services to children. The apparent abuses that have existed for a number of years in some states without quality programs should not be a reason for disrupting quality programs in states that are far advanced. In Minnesota, for example, the state legislature has already taken steps to deinstitutionalize clients, as well as steps to make sure that correctional homes are licensed.

It is for these reasons that we believe that these guidelines are completely unacceptable, unrealistic, and not in the best interest of children who are placed in residential treatment centers in Minnesota. We do not believe it was the intent of the law - nor would it be legal or appropriate - to enforce guidelines intended for the correctional system upon the mental health services system or any system other than the correctional system.

The enforcement of these guidelines upon residential treatment centers would cause the treatment of children in Minnesota to be set back fifty years. It would deprive the people of this state of services which they have endorsed and supported for many years. We do not see this type of punitive and regressive action as the intent of the law, but do see it as the effect of the guidelines.

Minnesota Council of Residential Treatment Centers
1418 Griggs-Midway Building
1821 University Avenue
St. Paul, Minnesota 55104

October, 1978

MAR 21 1979 KEMMERER VILLAGE
A United Presbyterian Home for Children, Synod of Lincoln Trails
PHONE 217-226-4451
R.R. 1, BOX 12C ASSUMPTION, ILLINOIS 62510

REV CHARLES H. BANNING, JR
Executive Director

GARY R. ULRICH
Asst Executive Director

JOHN A. HERZOG
Specialized Services Director

1979 -- "The Year of The Child"

March 14, 1979

The Honorable Ike F. Andrews
Cannon House Office Building
Washington, D. C. 20515

Dear Sir:

Attached is a copy of a RESOLUTION, adopted by the Kemmerer Village Board of Directors, at their regular meeting on March 12, 1979.

Yours very truly,

Charles H. Banning, Jr.

Rev. Charles H. Banning, Jr.
Executive Director

KEMMERER VILLAGE BOARD OF DIRECTORS:

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Miss Margaret Dick
Rev Francis Dykstra
Mr Charles Hammond
Mr Harold Hawke, Jr.
Rev Charles Hendricks
Mr A Lewis Hull

Mr Henry Ingraham
Mr Fred Ludwig
Henrietta McCord
Rev Robert McDill
Rev Malcolm Nygren
Rev Conway Ramseyer

Dr Harve Rawson
Mrs Charles Stanley
Mr Robert Tate
Mr Rolland Tipsword
Mr Marion Waddington
Mr Wm H Nicholson, Emeritus

ACCREDITED

KEMMERER VILLAGE

A United Presbyterian Home for Children, Synod of Lincoln Trails

PHONE 217 226-4451

R.R. 1, BOX 12C ASSUMPTION, ILLINOIS 62510

REV CHARLES H. BANNING JR
Executive Director

GARY R. ULRICH
Asst Executive Director

JOHN A. HERZOG
Specialized Services Director

1979 -- "The Year of The Child"

RESOLUTION

adopted by the Kemmerer Village Board of Directors at Assumption, Illinois March 12, 1979 -

1) WHEREAS - We affirm our support and commitment to improve the quality of services to children and youth to the intent of the Congressional mandate of the Juvenile Justice and Delinquency Prevention Act of 1974.

2) WHEREAS - The guidelines issued by The Law Enforcement Assistance Administration on August 16, 1978, for administering The Juvenile Justice and Delinquency Prevention Act of 1974 will endanger the continued existence of Kemmerer Village by:

   a) forcing private agencies known as residential child care facilities to be listed and operated as correctional facilities -

   b) forcing all private child care facilities such as Kemmerer Village located in non urban sections of the United States such as Central Illinois to no longer serve children because of the confining geographical definition of "community based" as spelled out in the Guidelines: and

   c) establishing an inference that all children in private residential care are delinquent:

WHEREAS - John M. Rector, Administrator, Office of Juvenile Justice and Delinquency Prevention, recently gave written notice of the Proposed LEAA Guideline Revision which modifies the definition of a Juvenile detention or correctional facility -

BE IT THEREFORE RESOLVED

- that we fully support the intent and modified definition of the revised LEAA Guidelines (52N(2)(A)
- that we commend Congressman Ike F. Andrews and his House Committee on Education and Labor for reviewing the revised LEAA Guidelines and we strongly encourage Congressman Andrews and his subcommittee to seek their implementation as written and modified in Section (52N(2)(A)
- further that a copy of this resolution be forwarded to the Office of Juvenile Justice and Delinquency Prevention, Congressman Ike F. Andrews, and to the President of the United States.

SUITE 305 • 444 NORTH CAPITOL STREET N.W. • WASHINGTON, D.C. 20001 (202) 347-4900

National Conference of State Criminal Justice Planning Administrators

FOR IMMEDIATE RELEASE
March 14, 1979

NATIONAL CONFERENCE OF STATE CRIMINAL JUSTICE PLANNING ADMINISTRATORS RELEASES STUDY OF JUVENILE JUSTICE FORMULA GRANT FUND FLOW

A comprehensive survey on the status of the movement of monies awarded to states and territories under the Juvenile Justice and Delinquency Prevention Act in Fiscal Years 1975-1978 shows that there is no basis on which to conclude that these monies are moving at an unacceptably slow rate or that large amounts of these funds remain uncommitted to specific juvenile justice projects.

The survey data, cooperatively developed by the National Conference of State Criminal Justice Planning Administrators and the Law Enforcement Assistance Administration, were subjected to an in-depth analysis by the National Conference in a report entitled "The Status of Juvenile Justice Formula Grant Fund Flow: Fiscal Years 1975 Through 1978", released March 14, 1979.

The mistaken belief that formula grant fund flow is slow has been the Administration's major justification for recommending a 52.4 percent reduction in the formula fund allocation to the states in Fiscal Year 1980 from the level of funding directed to the federal juvenile justice formula program in Fiscal Year 1979.

(more)

JUVENILE JUSTICE FORMULA GRANT FUND FLOW
Add 1

The National Conference has concluded, however, that formula funds appear to be moving on a par with rates at which LEAA has stated Crime Control Act monies move in the states and territories. Therefore, there appears to be no basis on which to assess that these monies are being expended too slowly.

Furthermore, the National Conference has assessed that the Administration has ignored figures relating to the amount of monies that states and territories have committed to specific juvenile justice programs and projects. The Administration has assumed that there are sufficiently large amounts of monies remaining available in states and territories to accommodate the amount of monies by which the Administration proposes to reduce the program in Fiscal Year 1980. There is no basis on which to conclude, the National Conference continues, that in fact sufficient uncommitted dollars remain from previous years' allocations to absorb effectively that cut.

Richard C. Wertz, National Conference Chairman said, in releasing the fund flow report, "It appears the Administration's arguments in support of its decision to cut the juvenile justice formula allocation must be reconsidered. Efforts must be made to determine in what amount the juvenile justice program can be reduced without endangering the continued existence of what I believe has become a major force in efforts to improve the administration of juvenile justice nationally."

CONTACT: Gwen A. Holden
(202) 347-4900

The Status of Juvenile Justice Formula Grant Fund Flow Fiscal Years 1975 Through 1978

By: Gwen A. Holden, Director of Program Coordination
National Conference of State Criminal Justice Planning Administrators

March 14, 1979

The National Conference concludes:

There is no existing basis on which to conclude that juvenile justice formula grant funds are being expended in the states and territories at a less than acceptable rate nor is there any existing data to support an assumption that states will not require in Fiscal Year 1980 a formula fund allocation equal to that appropriated in Fiscal Year 1979 to continue their program in Fiscal Year 1980 at the Fiscal Year 1979 level.

* * * *

The Administration is recommending that the Juvenile Justice and Delinquency Prevention Act receive $50 million less in Fiscal Year 1980 than it did in Fiscal Year 1979; that it be funded in Fiscal Year 1980, at $50 million rather than at $100 million as appropriated in Fiscal Year 1979.

The formula grant share of the overall appropriation would be reduced, in the President's recommended budget, from $63,750,000 in Fiscal Year 1979 to $30,375,000 in Fiscal Year 1980 - a 52.4 percent reduction in the state-administered formula grant program.

The Administration says that a 50 percent reduction in the Fiscal Year 1980 appropriation to the juvenile justice program - 52.4 percent as regards the formula grant share of that appropriation - is justified because states are not spending their formula funds fast enough and therefore should have sufficient funds left over from previous years to carry them through Fiscal Year 1980 with the reduced formula allocation recommended in the President's recommended budget.

The Administration's conclusion that formula funds are moving slowly in the states and that significant amounts of these dollars remain unexpended appears to be based on a comparison of figures on formula grant fund flow with an LEAA projection that an acceptable rate of expenditure of such funds in each of the three years of the life of these monies would be:

7-10 percent in the first year;
40-50 percent in the second year; and
the remainder in the third year.

Having concluded that a substantial volume of formula funds remained unexpended, the Administration appears to have assumed that these unexpended funds also remained uncommitted; that is to say, it is assumed by the Administration that these unexpended funds remain with the State Planning Agencies and that they have not been obligated or subgranted to a specific juvenile delinquency program or project.

The Fund Flow Survey

In November, 1978 the National Conference decided to undertake a study of the status of formula grant fund flow in Fiscal Years 1975-1978. The National Conference contacted the Law Enforcement Assistance Administration, Office of the Comptroller, which because of its concern that there be developed and made available a reliable set of figures relating to fund flow in the states, offered to participate with the National Conference in the development of the fund flow data. The National Conference and the LEAA, Office of the Comptroller, then proceeded to carry out a carefully and fully documented analysis of the status of formula grant funds in each state and territory as of the financial reporting quarter ending September 30, 1978. The purpose of this joint initiative was, summarily, to develop reliable and accurate figures on formula grant fund flow in Fiscal Years 1975-1978.

The following analysis and conclusions on the subject of formula grant fund flow are based on the data developed cooperatively by the National Conference and the LEAA , Office of the Comptroller, but are the conclusions of the National Conference alone.

National Conference Analysis of Formula Grant Fund Flow

Figures relating to the movement of Fiscal Years 1975-1978 formula grant allocations to individual states and territories as of the close of the financial reporting quarter ending September 30, 1978 are set forth in the Appendix to this report. An aggregation of those individual findings follows:

FORMULA GRANT FUND FLOW[1]
(As of September 30, 1978)

	Awarded To States	Subgranted[2]		Expended	
		Total	% of Awards	Total	% of Awards
FISCAL YEAR 1975	$ 9,136,648	$ 8,739,856	95.7	$ 8,284,708	90.7
FISCAL YEAR 1976	24,129,580	22,813,102	94.5	17,667,914	73.2
FISCAL YEAR 1977	43,077,406	36,826,643	85.5	19,343,262	44.9
FISCAL YEAR 1978	68,128,750	29,731,343	43.6	4,960,345	7.3

1 Based on a study conducted by the National Conference of State Criminal Justice Planning Administrators and the LEAA Office of the Comptroller.

2 Includes planning and administration funds.

NCSCJPA - February 16, 1979

As previously stated, the Administration's conclusion that formula grant funds were moving slowly in the states was based on a comparison of certain figures with an LEAA projection that acceptable rates of expenditures in each of the three years of the life of formula monies would be:

7-10 percent in the first year;
40-50 percent in the second year; and
the remainder in the third year.

Therefore, as of the financial reporting quarter ending September 30, 1978:

Fiscal Year 1975 funds:

- Had concluded the final year of the life of those funds.[1]
- Should be 100 percent expended.[2]

Fiscal Year 1976 funds:

- Had concluded the final year of the life of those funds.
- Should be approaching 100 percent expended.[3]

Fiscal Year 1977 funds:

- Had completed the second year of the life of those funds.
- Should be 40-50 percent expended.

Fiscal Year 1978 funds:

- Had completed the first year of the life of those funds.
- Should be 7-10 percent expended.

A review of the summary of the aggregate findings of the survey shows that as of the financial reporting quarter ending September 30, 1978:

Fiscal Year 1975:

- 90.7 percent of these funds have been expended.

[1] Fiscal Year 1975 awards were extended one year beyond their initial expiration date of June 30, 1977 to June 30, 1978.

[2] States are given 90 days from the expiration date of a given fiscal year award to deobligate funds. A final accounting for Fiscal Year 1975 funds would appear in the September 30, 1978 quarterly financial report to LEAA which was due November 15, 1978.

[3] Fiscal Year 1976 funds expired September 30, 1978. States are given 90 days from the expiration date of a given fiscal year's award to deobligate funds. A final accounting for Fiscal Year 1976 funds would appear in the December 31, 1978 quarterly financial report to LEAA which was due February 15, 1979.

Fiscal Year 1976:

- 73.2 percent of these funds have been expended.[1]

Fiscal Year 1977:

- 44.9 percent of these funds were expended.

Fiscal Year 1978:

- 7.3 percent of these funds were expended.

An analysis of the summary of the aggregated findings of the survey against the LEAA projections shows that as of the financial reporting quarter ending September 30, 1978:

Fiscal Year 1975:

- 9 percent of this fiscal year's allocation remained unexpended at the conclusion of the life of those funds.

Fiscal Year 1976:

- A percentage of this fiscal year's allocation will likely remain unexpended when the final accounting of those funds is complete. However, that final accounting was not due to LEAA until February 15, 1979 and is therefore not reflected in this survey.

Fiscal Year 1977:

- The actual expenditure rate for this fiscal year's allocation falls within LEAA's projected acceptable range.

Fiscal Year 1978:

- The actual expenditure rate for this fiscal year's allocation falls within LEAA's projected acceptable range.

It should be noted with respect to the Fiscal Year 1975 allocation that although a year's extension was granted, the fiscal year allocation itself, was not awarded until August, 1975, two months into Fiscal Year 1976. The life of the Fiscal Year 1975 money was, then, in fact three years, not four.

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1 This survey was based on financial reports for the quarter ending September 30, 1978 which were due to LEAA November 15, 1978. The final accounting for Fiscal Year 1976 funds appeared in the December 31, 1978 quarterly financial report to LEAA which was due February 15, 1979 and therefore was not included in the survey.

Although it appears that neither the Fiscal Year 1975 or Fiscal Year 1976 formula allocations to the states and territories will have been 100 percent expended when the final accounting is complete, analysis of fund flow figures for these fiscal years should be tempered with consideration of the myriad of questions and uncertainties that led states to delay subgrant activity. States and territories were, for example, unclear regarding LEAA's expectations relative to the deinstitutionalization and separation requirements and uncertain that further appropriations to the Juvenile Justice and Delinquency Prevention Act would be requested by the President and authorized by Congress at a level sufficient to provide adequate continuation funding to programs and projects.

In general, the National Conference concludes from the study of formula grant fund flow, that there is no basis on which to conclude that formula funds are not moving at an acceptable rate within the states and territories.

The fund flow survey also investigated at what rate states and territories are committing their formula grant awards; that is to say, the rate at which they are subgranting funds to state and local juvenile justice projects and committing funds to state and substate planning and administration activities as authorized under the Juvenile Justice and Delinquency Prevention Act.

The survey showed that as of the financial reporting quarter closing September 30, 1978:

Fiscal Year 1975

- 95.7 percent of these funds had been committed.

Fiscal Year 1976:

- 94.5 percent of these funds had been committed.

Fiscal Year 1977:

- 85.5 percent of these funds had been committed.

Fiscal Year 1978:

- 43.6 percent of these funds had been committed.

Analysis of a comparison of the figures on the rate of commitment with those on rate of expenditure of formula grant funds shows that as of the financial reporting quarter closing September 30, 1978:

Fiscal Year 1975:

- While 90.7 percent of those funds were expended, 95.7 percent had been committed to specific projects and activities. It can be assumed that (a) 4.3 percent

of the formula funds accounted for in the survey remained uncommitted and (b) that of the 95.7 percent of the formula award that was committed by the states and territories to specific projects, 5 percent remained unexpended on expiration of the Fiscal Year 1975 funds. Therefore, a total of 9.3 percent of the Fiscal Year 1975 formula allocation to the states was not expended.

Fiscal Year 1976:

- While 73.2 percent of these funds had been expended in the period covered by the survey, 94.5 percent had been committed to specific projects and activities. It can be assumed that 5.5 percent of the formula funds accounted for in the survey remained uncommitted on expiration of the life of the Fiscal Year 1976 funds. However, because states and territories are given 90 days from the expiration date of a given fiscal year's award to expend funds and would not, in the instance of Fiscal Year 1976 funds, have been required to give a final accounting of those funds until February 15, 1979, no conclusions can be drawn from the survey data on what percentage of the Fiscal Year 1976 formula award will remain unexpended except to project that a minimum of 5.5 percent, the amount of funds which remained uncommitted on expiration of the life of the Fiscal Year 1976 formula fund allocation, will remain unexpended.

Fiscal Year 1977:

- While 44.9 percent of these funds have been expended, 85.5 percent have been committed by the states and territories to specific projects and activities.

Fiscal Year 1978:

- While 7.3 percent of these funds have been expended, 43.6 percent have been committed by the states and territories to specific projects and activities.

No basis for assessing whether the commitment rate of juvenile justice formula funds is acceptable exists. The issue relating to commitment of funds is, rather, an apparent assumption by the Administration that the difference between funds awarded and funds expended is unattached dollars that remain in the hands of the State Planning Agencies and are, therefore, available for award to projects and activities. Such an assumption ignores the fact that before all but the small amount of dollars retained by the State Planning Agency for planning and administration purposes can be expended, formula funds must be subgranted to individual programs and projects. Once these dollars are subgranted they can no longer be considered to be uncommitted. A grant from a

State Planning Agency to a state, local or private unit is, de facto, a contract between the grantor agency and the subgrantee. Unless the terms of that contract are violated or other reason for termination is agreed, the subgrantee is authorized to obligate and expend the granted funds for the purposes for which they were approved through the life of the grant. Therefore, it is erroneous to assume that the difference between award and expenditures is uncommitted available dollars, and a mistake to ignore, in attempting to draw conclusions on the status of formula grant fund flow, figures relating to the volume of dollars states and territories have committed to juvenile justice projects and activities.

Additional Considerations in Analyzing the Status of Juvenile Justice Formula Grant Fund Flow

The survey of the status of formula grant fund flow in the states and territories provides a thorough and accurate picture of the movement of the monies through the financial reporting quarter ending September 30, 1978. The limitation of the survey is that it stops in time a process that is in constant motion. Formula grant funds are being obligated and expended daily. On any given day a major share of the total volume of dollars awarded to the states and territories under the juvenile justice program is in motion within the formula fund "pipeline". For example, on September 30, 1979 it would be reasonable to assume that roughly 49 percent of all the dollars allocated to the formula grant program from Fiscal Year 1975 through Fiscal Year 1979 would be in the "pipeline" - out in the states in motion and unexpended. Without an understanding of the fund flow process that is an alarming figure - it appears to say that almost 50 percent of five fiscal years' funds are out there floating without mission. However, an analysis of the status of those funds within the "pipeline" shows that although they remain unexpended, a significant percentage of those funds have been obligated by the State Planning Agencies to specific juvenile justice programs and projects and cannot, therefore, reasonably be considered to be uncommitted. That analysis follows.

The total formula funds awarded by LEAA to the states and territories in each of those five fiscal years were:

Fiscal Year 1975 -	$ 9,187,000
Fiscal Year 1976 -	24,192,000
Fiscal Year 1977 -	43,127,000
Fiscal Year 1978 -	71,772,000
Fiscal Year 1979 -	63,750,000
TOTAL	$212,028,000

On September 30, 1979, the life of three of those fiscal years' funds - Fiscal Years 1975, 1976 and 1977 will have expired; these funds will technically no longer be in the "pipeline".

What remains in the "pipeline" are the formula allocations for Fiscal Years 1978 and 1979, which were the two largest allocations directed to the formula program in its five-year history.

Fiscal year 1978 formula allocation will have completed the second year of its three-year life cycle on September 30, 1979; Fiscal Year 1979 formula allocation will have completed its first year.

Based on LEAA's projection on what constitutes an acceptable rate of expenditure, states and territories should have expended at least 7 percent of their Fiscal Year 1979 allocation or $4,462,500 and at least 40 percent of their Fiscal Year 1978 allocation or $28,708,800. That would leave $59,287,500 in Fiscal Year 1979 funds unexpended and $43,063,200 in Fiscal Year 1978 funds unexpended for a total of $102,350,700 which approaches 49 percent of the total amount of funds allocated to the formula grant program in Fiscal Years 1975-1979.

It can be concluded that even if states are spending at an acceptable rate, on September 30, 1979, 49 percent of the total allocation to the formula grant program in Fiscal Years 1975-1978 will remain in the "pipeline" and unexpended. And it can be concluded that the unexpended balance is not, when assessed against LEAA projections relative to acceptable expenditure rates, unacceptable.

However, it should be noted that while the minimum figures of the LEAA projected acceptable rates were used in determining the above, states are actually expending above the minimum. And indications are that rather than remaining static, or declining, the rate of expenditure of formula funds is actually accelerating based on earlier studies of formula grant fund flow conducted by the National Conference in February and June, 1977.

The above picture of the "pipeline" on September 30, 1979 does not, however, reflect the extent to which states have committed portions of those unexpended dollars. For example, the survey showed that although states and territories had expended 7.3 percent of their total Fiscal Year 1978 allocation, they had committed 43.6 percent of that allocation to juvenile justice projects and activities; and against the Fiscal Year 1977 allocation, they had expended 44.9 percent but committed 85.5 percent. If it could be assumed that the same rates of commitment of funds would hold true against the Fiscal Year 1978 formula allocation in its second year and the Fiscal Year 1979 formula allocation in its first year, then only 45 percent or $46,361,940 of the 49 percent or $102,350,700 in unexpended funds remaining in the formula fund "pipeline" would be uncommitted dollars.

The Administration has also suggested that even if formula funds are being expended at an acceptable rate, there should be sufficient funds - uncommitted funds - remaining in the "pipeline" on September 30, 1979 to allow states to continue their formula program in Fiscal Year 1980 at the Fiscal Year 1979 level even if the Fiscal Year 1980 allocation to the formula program is reduced from $63,750,000 in Fiscal Year 1979 to $30,375,000 in Fiscal Year 1980.

If it could be assumed that $46,361,940 in uncommitted funds would remain in the formula program on September 30, 1979 to which would be added $30,375,000 in new monies appropriated by Congress for Fiscal Year 1980 if the Administration's recommendation is accepted, then obviously the total, $76,736,940, would exceed the $63,750,000 allocation to the formula program in Fiscal Year 1979.

However, figures relating to dollars committed can change rapidly and in substantial volume. For example, the State of New Jersey reported as of September 30, 1978 that $796,352 of its $1,571,000 Fiscal Year 1977 allocation had been committed to specific juvenile justice projects and activities. However, on December 8, 1978 New Jersey reported that since its September 30 report it had committed an additional $712,174,000 or a total of $1,508,499 of its $1,571,000 Fiscal Year 1977 award.

It is difficult, therefore, to project with any accuracy what amount of uncommitted dollars will remain in the formula fund "pipeline" on September 30, 1979, more difficult than attempting to project expenditures. It is therefore impossible to project that there will be enough uncommitted formula dollars remaining in that "pipeline" to make up the cut to the Fiscal Year 1980 formula allocation the Administration has proposed and allow states and territories to maintain their formula program at the Fiscal Year 1979 level or perhaps more critically to meet their continuation funding commitments from previous years.

The National Conference concludes that there is no reliable data to support an assumption that states will not require in Fiscal Year 1980 a formula fund allocation equal to that appropriated in Fiscal Year 1979 to continue their program in Fiscal Year 1980 at the Fiscal Year 1979 level.

Summary

The National Conference has analyzed the results of a survey of the status of the juvenile justice formula grant fund flow, conducted in cooperation with the LEAA, Office of the Comptroller for the financial reporting quarter ending September 30, 1978, and has concluded that:

(1) There is no existing basis on which to conclude that juvenile justice formula grant funds are being expended by the states and territories at a less than acceptable rate; and

(2) There is no reliable data to support an assumption that the states and territories will not require a formula fund allocation equal to that in Fiscal Year 1979 to continue their program in Fiscal Year 1980 at the Fiscal Year 1979 level or to meet continuation funding commitments from previous years.

APPENDIX

2/16/79

Survey of the Flow of Formula Grant Funds Awarded Pursuant to Section 221 of the Juvenile Justice and Delinquency Prevention Act of 1974 (through September 30, 1978)

Note: All data supported by written reports submitted by SPAs to LEAA or NCSCJPA; discrepancies resolved by LEAA and NCSCJPA in cooperation with the SPAs.

FISCAL YEAR 1975

Jurisdiction	Formula Award	Subgrants		Expenditures		
		Total	% of Award	Total	% of Formula Award	% of Sub-Granted Funds
Alabama	Non-Participant					
Alaska	200,000	198,804	99.4	198,804	99.4	100.0
Arizona	200,000	199,772	99.9	176,219	88.1	88.2
Arkansas	200,000	194,130	97.1	194,130	97.1	100.0
California	680,000	674,640	99.2	658,183	96.8	97.6
Colorado	Non-Participant					
Connecticut	200,000	199,624	99.8	185,132	92.6	92.7
Delaware	200,000	200,000	100.0	197,886	98.9	98.9
Florida	216,000	215,638	99.8	208,923	96.7	96.9
Georgia	200,000	190,700	95.4	184,321	92.2	96.7
Hawaii	Non-Participant					
Idaho	200,000	199,107	99.6	199,107	99.6	100.0
Illinois	389,000	378,645	97.3	360,477	92.7	95.2
Indiana	200,000	176,340	88.2	166,018	83.0	94.1
Iowa	200,000	152,357	76.2	152,357	76.2	100.0
Kansas	Non-Participant					
Kentucky	Non-Participant					
Louisiana	200,000	199,678	99.8	184,161	92.1	92.2
Maine	200,000	200,000	100.0	200,000	100.0	100.0
Maryland	200,000	193,025	96.5	136,248	68.1	70.6
Massachusetts	200,000	200,000	100.0	200,000	100.0	100.0
Michigan	333,000	326,907	98.2	326,899	98.2	100.0
Minnesota	200,000	200,000	100.0	155,366	77.7	77.7
Mississippi	200,000	197,243	98.6	197,243	98.6	100.0
Missouri	200,000	183,985	92.0	183,985	92.0	100.0
Montana	200,000	159,929	80.0	159,929	80.0	100.0
Nebraska	Non-Participant					
Nevada[2]	13,211	13,211	100.0	13,211	100.0	100.0
New Hampshire	200,000	188,402	94.2	188,402	94.2	100.0
New Jersey	245,000	244,999	100.0	237,025	96.7	96.7
New Mexico	200,000	175,517	87.8	175,247	87.6	99.8
New York	599,000	598,970	100.0	468,681	78.2	78.2
North Carolina	Non-Participant					
North Dakota[2]	20,750	20,750	100.0	20,750	100.0	100.0
Ohio	383,000	370,326	96.7	355,298	92.8	95.9
Oklahoma	Non-Participant					
Oregon	200,000	106,780	53.4	106,780	53.4	100.0
Pennsylvania	395,000	378,883	95.9	333,778	84.5	88.1
Rhode Island	Non-Participant					
South Carolina	200,000	199,988	100.0	199,988	100.0	100.0
South Dakota[2]	55,669	55,669	100.0	52,346	94.0	94.0
Tennessee[2]	97,018	92,069	94.9	92,069	94.9	100.0
Texas	410,000	372,512	90.9	372,512	90.9	100.0
Utah	Non-Participant					
Vermont	200,000	200,000	100.0	200,000	100.0	100.0
Virginia	Non-Participant					
Washington	200,000	198,029	99.0	198,029	99.0	100.0
West Virginia	Non-Participant					
Wisconsin	200,000	195,758	97.9	195,758	97.9	100.0
Wyoming	Non-Participant					
District of Columbia	200,000	187,469	93.7	164,269	82.1	87.6
American Samoa	Non-Participant					
Guam	50,000	50,000	100.0	49,959	99.9	99.9
Mariana Islands	Not Applicable					
Puerto Rico	200,000	200,000	100.0	195,218	97.6	97.6
Trust Territory[1]	Did Not Report					
Virgin Islands	50,000	50,000	100.0	50,000	100.0	100.0
AGGREGATES	9,136,648	8,739,356	95.7	8,284,708	90.7	94.8

[illegible] Reports submitted; Formula Award for Trust Territory = $50,000
[illegible] Adjusted Due to Fiscal Year

2/16/79

Survey of the Flow of Formula Grant Funds Awarded Pursuant to Section 221
Of the Juvenile Justice and Delinquency Prevention Act of 1974
(through September 30,1978)

Note: All data supported by written reports submitted by SPAs to LEAA or NCSCJPA; discrepancies resolved by LEAA and NCSCJPA in cooperation with the SPAs.

FISCAL YEAR 1976

Jurisdiction	Formula Award	Subgrants		Expenditures		
		Total	% of Award	Total	% of Formula Award	% of Sub-Granted Funds
Alabama	Non-Participant					
Alaska	250,000	249,683	99.9	248,955	99.6	99.7
Arizona	250,000	250,000	100.0	239,500	95.8	95.8
Arkansas	250,000	244,759	97.9	239,587	95.8	97.9
California	2,450,000	2,448,249	99.9	2,153,739	87.9	88.0
Colorado	286,000	240,795	84.2	216,217	75.6	89.8
Connecticut	378,000	377,930	100.0	252,903	66.9	66.9
Delaware	250,000	250,000	100.0	242,997	97.2	97.2
Florida	779,000	773,143	99.3	727,831	93.4	94.1
Georgia	607,000	554,051	91.3	322,300	53.1	58.2
Hawaii	Non-Participant					
Idaho	250,000	249,551	99.8	233,591	93.4	93.6
Illinois	1,402,000	1,349,346	96.2	1,144,998	81.7	84.9
Indiana	679,000	651,649	96.0	319,500	47.1	49.0
Iowa	360,000	252,491	70.1	240,982	66.9	95.4
Kansas	Non-Participant					
Kentucky	Non-Participant					
Louisiana	512,000	500,028	97.7	401,579	78.4	80.3
Maine	250,000	250,000	100.0	246,114	98.5	98.5
Maryland	510,000	493,501	96.8	414,222	81.2	83.9
Massachusetts	693,000	693,000	100.0	684,134	98.7	98.7
Michigan	1,200,000	1,199,261	99.9	1,138,620	94.9	94.9
Minnesota	510,000	438,082	85.9	313,184	61.4	71.5
Mississippi	Non-Participant					
Missouri	573,000	570,786	91.6	388,823	67.9	68.1
Montana	250,000	193,326	77.3	141,564	56.6	73.2
Nebraska	Non-Participant					
Nevada	Non-Participant					
New Hampshire	250,000	220,790	88.3	220,790	88.3	100.0
New Jersey	881,000	880,904	100.0	670,964	76.2	76.2
New Mexico	250,000	249,595	100.0	221,856	88.7	88.9
New York	2,157,000	2,035,472	94.4	1,325,363	61.4	65.1
North Carolina	Non-Participant					
North Dakota[2]	7,080	7,080	100.0	7,080	100.0	100.0
Ohio	1,380,000	984,240	71.3	480,684	34.8	48.8
Oklahoma	Non-Participant					
Oregon	258,000	258,000	100.0	205,164	79.5	79.5
Pennsylvania	1,420,000	1,260,610	88.8	837,257	59.0	66.4
Rhode Island	250,000	232,472	93.0	220,684	88.3	94.9
South Carolina	353,000	353,000	100.0	298,528	84.6	84.6
South Dakota[2]	37,500	37,500	100.0	37,500	100.0	100.0
Tennessee	Non-Participant					
Texas	1,476,000	1,440,362	97.6	763,843	51.8	53.0
Utah	Non-Participant					
Vermont	250,000	250,000	100.0	247,408	99.0	99.0
Virginia	587,000	587,000	100.0	481,425	82.0	82.0
Washington	429,000	429,000	100.0	386,066	90.0	90.0
West Virginia	Non-Participant					
Wisconsin	534,000	534,000	100.0	432,993	74.1	74.1
Wyoming	Non-Participant					
District of Columbia	250,000	250,000	100.0	100,466	40.2	40.2
American Samoa	62,000	62,000	100.0	56,766	91.6	91.6
Guam	62,000	62,000	99.9	49,392	80.6	80.6
Mariana Islands	Not Applicable					
Puerto Rico	435,000	337,957	77.7	282,401	64.9	83.6
Trust Territory[1]	Did Not Report					
Virgin Islands	62,000	50,639	98.4	22,344	37.3	44.1
TOTALS	21,129,580	22,813,102	91.5	17,107,914	73.2	4

[1] No Reports Submitted; Formula Award for Trust Territory = $62,000
[2] Formula Award Adjusted Due to Funds Returned

2/16/79

Survey of the Flow of Formula Grant Funds Awarded Pursuant to Section 221 of the Juvenile Justice and Delinquency Prevention Act of 1974 (through September 30, 1978)

Note: All data supported by written reports submitted by SPAs to LEAA or NCSCJPA; discrepancies resolved by LEAA and NCSCJPA in cooperation with the SPAs.

FISCAL YEAR 1977

Jurisdiction	Formula Award	Subgrants		Expenditures		
		Total	% of Award	Total	% of Formula Award	% of Sub-Granted Funds
Alabama	813,000	619,239	76.2	531,137	65.3	85.8
Alaska	200,000	199,689	100.0	194,152	97.0	97.0
Arizona	425,000	423,005	99.5	190,495	44.8	45.0
Arkansas	432,000	402,275	93.1	239,683	55.5	59.6
California	4,373,000	4,239,378	96.9	3,271,412	74.8	77.2
Colorado	510,000	467,047	91.6	178,546	35.0	38.2
Connecticut	673,000	673,000	100.0	159,481	23.7	23.7
Delaware	200,000	200,000	100.0	180,824	90.4	90.4
Florida	1,390,000	1,043,921	75.1	522,625	37.6	50.1
Georgia	1,083,000	1,058,047	97.7	276,253	25.5	26.1
Hawaii	200,000	164,355	82.2	51,029	25.5	31.1
Idaho	200,000	188,550	94.3	152,970	76.5	81.1
Illinois	2,501,000	2,231,363	89.2	1,105,089	44.2	49.5
Indiana	1,213,000	1,116,648	92.1	635,230	52.4	56.9
Iowa	643,000	602,228	93.7	194,379	30.2	32.3
Kansas	Non-Participant					
Kentucky	734,000	733,953	100.0	316,973	43.2	43.2
Louisiana	915,000	759,221	83.0	495,730	54.2	65.3
Maine	227,000	227,000	100.0	215,650	95.0	95.0
Maryland	910,000	803,848	88.3	204,165	22.4	25.4
Massachusetts	1,236,000	1,236,000	100.0	1,052,459	85.2	85.2
Michigan	2,142,000	2,075,944	96.9	897,877	41.9	43.3
Minnesota	910,000	751,024	82.5	492,602	54.1	65.6
Mississippi	Non-Participant					
Missouri	1,024,000	853,772	83.4	573,382	56.0	67.2
Montana	200,000	174,274	87.1	63,400	31.7	36.4
Nebraska	Non-Participant					
Nevada	Non-Participant					
New Hampshire	200,000	161,236	80.6	121,810	60.9	75.5
New Jersey	1,571,000	796,325	50.7	277,817	17.7	34.9
New Mexico	268,000	268,000	100.0	10,948	4.0	4.0
New York	3,850,000	3,333,696	86.6	2,189,215	56.9	65.7
North Carolina	Non-Participant					
North Dakota	Non-Participant					
Ohio	2,463,000	681,652	27.7	218,270	8.9	32.0
Oklahoma	Non-Participant					
Oregon	460,000	460,000	100.0	91,462	19.9	19.9
Pennsylvania	2,536,000	2,304,913	90.9	460,270	18.2	20.0
Rhode Island	200,000	17,777	8.9	2,966	1.5	16.7
South Carolina	629,000	511,197	81.3	299,227	47.6	58.5
South Dakota[2]	56,406	49,467	87.7	41,692	73.9	84.3
Tennessee	874,000	874,000	100.0	198,813	22.7	22.7
Texas	2,635,000	2,570,753	97.6	1,615,284	61.3	62.8
Utah	Non-Participant					
Vermont	200,000	199,995	100.0	195,830	97.9	98.0
Virginia	1,047,000	949,185	90.7	271,091	25.9	28.6
Washington	764,000	760,132	99.5	627,571	82.1	82.6
West Virginia	Non-Participant					
Wisconsin	1,044,000	829,760	79.5	204,542	19.6	24.7
Wyoming	Non-Participant					
District of Columbia	200,000	200,000	100.0	17,756	8.9	8.9
American Samoa	50,000	50,000	100.0	40,691	81.4	81.4
Guam	50,000	-0-	-0-	-0-	-0-	-0-
Mariana Islands	Not Applicable					
Puerto Rico	776,000	544,774	70.2	253,981	32.7	46.6
Trust Territory[1]	Did Not Report					
Virgin Islands	50,000	50,000	100.0	8,483	17.0	17.0
AGGREGATES	43,077,406	36,856,643	85.6	19,343,262	44.9	52.5

1 No Reports Submitted; Formula Award For Trust Territory = $50,000
2 Formula Award Adjusted Due To Funds Returned

2/16/79

Survey of the Flow of Formula Grant Funds Awarded Pursuant to Section 221 of the Juvenile Justice and Delinquency Prevention Act of 1974 (through September 30, 1978)

Note: All data supported by written reports submitted by SPAs to LEAA or NCSCJPA; discrepancies resolved by LEAA and NCSCJPA in cooperation with the SPAs.

FISCAL YEAR 1978

Jurisdiction	Formula Award	Subgrants		Expenditures		
		Total	% of Award	Total	% of Formula Award	% of Sub-Granted Funds
Alabama	1,280,000	508,193	39.7	288,074	22.5	56.7
Alaska[3]	225,000	218,963	97.3	100,437	44.6	45.9
Arizona	807,000	480,683	59.6	82,964	10.3	17.3
Arkansas[3]	623,000	509,013	81.7	89,348	14.3	17.6
California	6,910,000	3,539,287	51.2	709,606	10.3	20.1
Colorado	872,000	112,199	12.9	45,225	5.2	40.3
Connecticut	1,006,000	783,873	77.9	30,572	3.0	3.9
Delaware	253,000	160,109	63.3	65,721	26.0	41.1
Florida[3]	2,184,000	1,006,414	46.1	199,753	9.2	19.9
Georgia	1,776,000	608,714	34.3	6,852	0.4	1.1
Hawaii[3]	264,000	40,000	15.2	10,000	3.8	25.0
Idaho[3]	260,000	219,432	84.4	27,682	10.6	12.6
Illinois[3]	3,262,000	1,005,798	30.8	319,510	9.8	31.8
Indiana	1,862,000	1,001,834	53.8	101,355	5.4	10.1
Iowa[3]	834,000	-0-	-0-	-0-	-0-	-0-
Kansas	735,000	178,783	24.0	1,390	0.2	0.8
Kentucky	1,176,000	701,362	59.6	109,891	9.3	15.7
Louisiana[3]	1,230,000	567,789	46.2	222,451	18.1	39.2
Maine	366,000	296,812	81.1	96,288	26.3	32.4
Maryland	1,401,000	507,484	36.2	120,821	8.6	23.8
Massachusetts	1,885,000	1,400,000	74.2	487,302	25.9	34.8
Michigan	3,278,000	2,774,502	84.6	264,319	8.1	9.5
Minnesota	1,374,000	428,329	31.2	88,371	6.4	20.6
Mississippi	901,000	-0-	-0-	-0-	-0-	-0-
Missouri	1,568,000	93,723	6.0	26,611	1.7	28.4
Montana	229,000	75,885	33.1	7,920	3.5	10.4
Nebraska	Non-Participant					
Nevada	Non-Participant					
New Hampshire[3]	241,000	145,303	60.3	51,195	21.2	35.2
New Jersey	2,411,000	733,197	30.4	121,984	5.1	16.6
New Mexico[3]	383,000	216,615	56.6	-0-	-0-	-0-
New York[3]	4,988,000	3,092,592	62.0	351,649	7.1	11.4
North Carolina	1,867,000	-0-	-0-	-0-	-0-	-0-
North Dakota	Non-Participant					
Ohio	3,706,000	1,581,129	42.5	-0-	-0-	-0-
Oklahoma	Non-Participant					
Oregon	742,000	22,425	3.0	13,736	1.9	61.3
Pennsylvania	3,772,000	154,323	4.1	-0-	-0-	-0-
Rhode Island	298,000	36,851	12.4	7,788	2.6	21.1
South Carolina[3]	882,000	351,583	39.9	127,106	14.4	36.2
South Dakota	Non-Participant					
Tennessee	1,409,000	699,604	49.7	-0-	-0-	-0-
Texas[3]	3,749,000	2,541,532	67.8	386,470	10.3	15.2
Utah[3]	421,000	-0-	-0-	-0-	-0-	-0-
Vermont	248,000	217,735	87.8	25,243	10.2	11.6
Virginia	1,675,000	1,062,850	63.5	134,517	8.0	12.7
Washington	1,180,000	579,484	49.1	153,072	13.0	26.4
West Virginia[3]	512,000	76,800	15.0	-0-	-0-	-0-
Wisconsin[3]	1,376,000	-0-	-0-	-0-	-0-	-0-
Wyoming	Non-Participant					
District of Columbia	256,000	210,500	82.2	-0-	-0-	-0-
American Samoa[3]	56,250	56,250	100.0	1,206	2.1	2.1
Guam[3]	56,250	-0-	-0-	-0-	-0-	-0-
Mariana Islands	Non-Participant					
Puerto Rico	1,283,000	677,139	52.8	83,917	6.5	12.4
Trust Territory[1]	Did Not Report					
Virgin Islands[3]	56,250	56,250	100.0	-0-	-0-	-0-
AGGREGATES	68,128,750	29,731,343	43.6	4,960,345	7.3	16.7

1 No Report Submitted; Formula Award For Trust Territory = $60,250

2 Some States Did Not Include Supplements To Formula Award Because They Were Not Received By September 30, 1978; Not Included Are $3,583,000 In Supplemental Funds

MAR 23 1979

Box 260, Gulf Shores, Ala.
March 17, 1979

Congressman Ike Andrews
228 Cannon House Office Bldg.
Washington, D.C. 20515

Dear Sir:

This letter concerns legislative guidelines being proposed by the Federal Law Enforcement Assistance Administration that would define a Children's Home as a correctional institution.

I am particularly concerned about the Kemmerer Village, Assumption, Illinois. I challenge anyone to find an institution that has helped more children to be able to live in a family type atmosphere, and it is not a correctional institution.

Since my home was formerly in this vicinity I have watched the development and progress of Kemmerer Village for many years.

Yours truly,
Mrs. Forest L. DeWeese.

MAR 26 1979

Methodist Home
THE HEART OF UNITED METHODISM
1111 HERRING AVENUE WACO, TEXAS 76708
TELEPHONE AC/817 753-0181

March 19, 1979

The Honorable Ike Andrews
Room 320
Cannon Office Building
Washington, D. C. 20515

Dear Congressman Andrews:

I appreciate your writing me about the oversight hearings on the Office of Juvenile Justice and Delinquency Prevention Guidelines and the upcoming hearing. You sent me a copy of your letter to Patricia Wald, Assistant Attorney General and asked for my comments.

There are two specific items that I would like to comment on in the letter. The first has to do with the "ideal" of having facilities caring for status offenders resembling family units as much as possible. This is a generalization and is therefore subject to the weaknesses of all such statements inasmuch as they do not fit particular cases very well. It may be true that some status offenders would be better off in a "homelike atmosphere." It may be equally true this is the last thing some of them need or would respond to best.

The second item has to do with the necessity of a range of services for status offenders each of whom is an individual with unique needs. Some status offenders need to be in secure facilities because their pattern for handling stress is running away from it. You cannot do anything with these children if they are not present and they will not stay voluntarily in any program no matter how "rich" and interesting it is, especially when staff begin to make inroads into "the heart of the problem" which is always anxiety producing. Therefore, to completely, categorically deny access at any time under any circumstances for any status offender to such facilities is to put unrealistic expectations on agencies and staff willing and able to help them.

Of course, I realize that the use of secure facilities is one of the things that insitutional people are most often assailed for but it must be recognized there is a need for some children to be cared for in such facilities if they are to be "treated" successfully. There are also means currently available to safeguard against the punitive use of such facilities. Of course, this all implies heavy reliance on child welfare and mental health experts, all of whom are also in disfavor with the "crusaders" and the advocates of the "least restrictive environment."

I trust that these observations will be helpful to you in your deliberations. If I can be of further assistance, please let me know.

Sincerely,

Jack Kyle Daniels

Jack Kyle Daniels

JKD:pw

THESE ARE YOUR CHILDREN

MEMBER CWLA AGENCY

JACK KYLE DANIELS
Administrator

BRYCE HATCH, ACSW
Assistant Administrator
For Child Care

STATE OF WASHINGTON
Dixy Lee Ray
Governor

OFFICE OF FINANCIAL MANAGEMENT
House Office Building, Olympia, Washington 98504 206/753-5450
Orin C. Smith, Director

MAR 26 1979

March 20, 1979

The Honorable Ike Andrews, Representative
2446 Rayburn House Office Building
Washington, D.C. 20515

Dear Representative Andrews:

On behalf of the Washington State Juvenile Justice Advisory Committee, I would like to express strong support for the draft proposal to revise OJJDP guidelines determining compliance with the Juvenile Justice and Delinquency Prevention Act.

In particular, the Juvenile Justice Advisory Committee unanimously endorses elimination of guidelines relating to commingling of juvenile offenders and other youth in private, non-secure facilities, and elimination of guidelines relating to the size of private, non-secure facilities. The Committee also strongly supports limiting future participation in the Act to states which have achieved removal of status offenders and non-offenders from secure detention and correctional facilities.

The Juvenile Justice Advisory Committee expressed some of its concerns over the OJJDP interpretation of the Act in an April, 1978, letter to Senator Culver of the Senate Sub-committee to Investigate Juvenile Delinquency. The Advisory Committee maintains that OJJDP exceeded its legislative mandate when it ventured into the child welfare area through guidelines relating to private, non-secure facilities.

The Washington State Juvenile Justice Advisory Committee opposes the mass warehousing of youth and has gone on record to support the use of the least restrictive available alternative for all youth who cannot reside with their families. In pursuit of these goals, the Advisory Committee has played an important role in the implementation of Washington State's legislation to remove status offenders and non-offenders from secure juvenile detention and correctional facilities. Washington State's revised juvenile code was implemented in July, 1978, and has resulted in a 93% reduction in secure detention of status offenders and non-offenders, and a 100% reduction in their incarceration in state juvenile correctional facilities. The considerable financial assistance available from OJJDP was crucial to these efforts.

However, the Office of Juvenile Justice and Delinquency Prevention guidelines on commingling and the size of private facilities place an unnecessary obstacle in the way of continued compliance for Washington and other states. The guidelines on size would affect five well-run facilities, which are providing valuable services to Washington youth. Washington State's revised juvenile code, administrative code, licensing standards, and the involvement of citizen's groups such as the Juvenile Justice Advisory Committee all insure that private facilities in the state are subject to sufficient scrutiny and quality control. Therefore, OJJDP's attempts to define private, non-secure facilities for compliance purposes constitute an unwarranted interference with state and local strategies to meet the need of youth.

The Washington State Juvenile Justice Advisory Commitee appreciates your attention to the revision of OJJDP guidelines, and requests your continued efforts in this regard.

Sincerely,

Rowland Vincent

Rowland Vincent, Chairman
Juvenile Justice Advisory Committee

MAR 29 1979

Association for Children of New Jersey
744 Broad Street • Suite 1220
Newark, New Jersey 07102
(201) 643-3876

March 26, 1979

Honorable Ike Andrews
Chairman, Subcommittee on Economic
Opportunity
Committee on Education and Labor
U.S. House of Representatives
Room 320, Cannon House Office Bldg.
Washington, DC 20515

Dear Mr. Andrews:

I am writing on behalf of the Association for Children of New Jersey, a statewide non-profit organization dedicated to improving programs and policies for children, to express our concern about certain definitions contained in the guidelines governing the Juvenile Justice and Delinquency Prevention Act (JJDPA).

The Association is an independent advocacy organization which does not provide direct services, but works to make constructive change in the system. One of our major areas of interest in recent years has been the residential placement system in New Jersey. In 1975, we published a major report on public and private residential care facilities and we are currently preparing an extensive study of children in shelter and detention facilities, which should be published in early Summer.

In our efforts, we have consistently supported the concept that children should be placed in the least restrictive setting consonant with their needs and have urged the development and expansion of community-based services to the greatest extent possible. For instance, the Association played an instrumental role in bringing about the policy change that resulted in New Jersey returning youngsters from out of state residences. Our concern for ensuring that youngsters, regardless of adjudicated status, receive the most suitable placement in the least restrictive setting leads us to present our views about the current definitions of juvenile detention and correctional facilities contained in Guideline M4100.1F, Change 3, Paragraph 52N(2). According to these definitions, 14 non-secure residential facilities would be classified as correctional facilities

under the guidelines because of such factors as their size, the fact that they mix status offenders and delinquents and are not deemed to be community based. As a result, they would not be permitted to mix adjudicated delinquents and status offenders. It is our belief that these institutions do not in fact constitute correctional facilities under the meaning of the Act because they are not locked facilities and that they provide an important resource for different types of youngsters. Although we support the move toward increased use of community-based facilities, we do not believe that institutional size, location or the labels affixed to youngsters should be the dominant criteria determining the definition of what constitutes a correctional facility.

We seriously question the assumption that mixing delinquent and non-delinquent youngsters in unlocked facilities is necessarily negative. It is our belief based on our research and experience that services should be provided based on the youngsters' needs, not the court adjudication. We see no evidence that mixing status offenders and adjudicated delinquents creates problems as long as care is taken to separate youngsters who have committed serious and repetitive delinquent acts from less serious offenders as well as status offenders. In New Jersey such youngsters would be placed in locked correctional facilities. Secondly, we do not think these populations of youngsters are as distinct as the guidelines imply. Data from our research study shows that 50% of a sample of status offenders in shelter facilities in 1977 were also placed in detention facilities as alleged o adjudicated delinquents.

We also have reservations about the assumptions in the guidelines concerning institutional size. There are relatively large institutions with mixed populations which have divided their programs into small, specialized units which have the capability of providing highly individualized care.

Although the Association recognized that the residential system in New Jersey is far from ideal and there is a clear need to increase the number and diversity of facilities, we do not agree that the definitions contained in sections 51N(2)(C) of the guidelines would result in major improvements in New Jersey. In order to comply with the guidelines it would be necessary to build a larger number of new, smaller facilities which would essentially duplicate existing services. Such an approach would be extremely costly and would not begin to address the more serious problems of the system, such as the need to develop new and innovative programs for youngsters who are not currently being served and establishing and expanding supportive services for families to prevent placement altogether.

We strongly urge your Committee to reassess this section of the guidelines in the light of our concerns, as well as those expressed by many other organizations across the country and the original intent of the OJJDPA. We believe that relatively small changes would enable the state to implement the aims of the Act in a more expeditious and effective manner yet adequately protect the interests of the thousands of youngsters as risk of placement.

Because we strongly support the overall aims of the OJJDPA, we recommend that the full appropriation for the Office of the JJDP be authorized. These monies could make a critical difference to youngsters across the country and should not be witheld because of technical problems with the guidelines.

Very truly yours,

Sally Y. Orr
Chairman
Public Policy

NEW YORK STATE COUNCIL OF VOLUNTARY CHILD CARE AGENCIES
A forum for ideas — a framework for planning — a vehicle for action

MAR 28 1979

March 26, 1979

104 East 35 Street
New York, N.Y. 10016
(212) 683-6000

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Kenneth C. Skinner, Jr.
176 Washington Avenue
Albany, N.Y. 12210
(518) 463-2348

Representative Ike Andrews
2446 Rayburn House Office Building
Washington, D. C. 20515

Dear Representative Andrews:

The New York State Council of Voluntary Child Care Agencies is a membership organization representing the voluntary child welfare sector in New York State. Our member agencies care for appoximately 25,000 children, 50% of all children in foster care in New York State. An increasing number of these children, approximately 3,000 at this time, are court related youth.

There is presently much discussion concerning the President's Federal Fiscal Year 1980 proposed budget for the Law Enforcement Assistance Administration. Particularly hard hit is the Office of Juvenile Justice and Delinquency Prevention where funding is proposed to be cut 50%. Although there have since been indications that perhaps the cut will not be so severe, NYSCOVCCA is fundamentally opposed to any cut in the Office of Juvenile Justice and Delinquency appropriation and authorization.

The administration of the Juvenile Justice and Delinquency Prevention Act both in the beginning and more recently, has by no means been perfect: grant decisions and expenditure of available funds were not always made in timely fashion and there has been dispute about the impact and wisdom of some policy guidelines. However, we believe the total national "picture" concerning juvenile justice must be taken into account in considering expenditures for this program. It is our belief that this "picture" has been substantially changed as a result of the Juvenile Justice and Delinquency Prevention Act and the work of the Juvenile Justice and Delinquency Prevention Office.

Prior to the passage of the Act, its statement of national policy and its concommitant financial incentives, placement of juveniles in correctional facilities, often with adult offenders, was not only commonly practiced but commonly accepted. Although

.../

deinstitutionalization of status offenders, the separation of juveniles and adults and the reduction of secure detention wherever possible have not been fully achieved in every state, there can be no doubt that the Act and the Office of Juvenile Justice and Delinquency Prevention have made this issue the subject of national debate and concern resulting in marked "consciousness raising." While practice has not completely changed, thinking on the matter has been substantially altered.

The same can be said for the Act's emphasis on community-based facilities: both for juvenile delinquents and status offenders, wherever possible. Both diversion and prevention have become goals exemplified in numerous projects. While diversion, prevention, remediation and other methods, short of the courts and incarceration or separation from home and community have not been, and, in the nature of things cannot always be successful in dealing with juveniles, knowledge about when and how to use such methods now is widely available. There have been numerous successful projects to the benefit of the juveniles concerned as well as the community and the taxpayers. In large measure this is because of the thrust given by the Juvenile Justice and Delinquency Prevention Act and the efforts of the Office of Juvenile Justice and Delinquency Prevention.

With deinstitutionalization, separation, prevention, diversion, and community based projects now matters of national attention and practice, the Office of Juvenile Justice and Delinquency Prevention is considering turning its attention to the problem of the serious juvenile offender. With adequate funding, we can expect that Office to help finance innovative programs designed to develop insight into successful practices with this population as well. NYSCOVCCA hopes and expects to see the same ripple effect nationally from this endeavor as has occurred from the others: changes in thinking on the issue and sure, albeit slow, movement in the direction of the better idea.

To cut funding at this time is certain to slow down if not stop this movement and put a severe obstacle in the face of further progress and endanger the gains already achieved. New York State, a state relatively progressive in juvenile justice matters, is presently allocated $5 million through the Juvenile Justice and Delinquency Prevention Act. A 50% cut in Office of Juvenile Justice and Delinquency Prevention funding will result in an allocation of less than $2 million to the State. With no local money to make up the difference, New York cannot

proceed with the implementation of programs dealing with the next emphasis of the Office of Juvenile Justice and Delinquency Prevention: the serious offender. In fact, the State will have to cut back its present programming.

I know this not just as a concerned professional but as a member of the State's Juvenile Justice Advisory Board quite intimately familiar with the details of many projects. Voluntary, community based projects would suffer the most as they have the least access to alternate funding sources.

In sum, the Juvenile Justice and Delinquency Prevention Act and its concommitant funding have resulted in substantial practical changes in the way court related juveniles are dealt with nationwide. Thinking on substantial issues has so changed that we legitimately can expect continued momentum. However, states and localities are in no financial position to do this on their own: they need the continued incentive and support of the Federal government.

We therefore urge that there be no cut in Juvenile Justice and Delinquency Prevention Act funds. The goals of the Act are as important as ever and are on the road to achievement. For achievement, ideally there should be an increase in funding to cope with the effects of inflation, but, at the least, funding should be continued at the Fiscal Year 1979 level.

Sincerely,

Joseph B. Gavrin
Executive Director

JBG:bfs

APR 5 1979

GERALD E. DAVIDSON, M.D.
Medical Director

JOSEPH RICCI
Executive Director

CHERYL RICCI
Asst. Executive Director

ELAN ONE
Administrative Offices
Box 33
Poland Spring, Maine
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(207) 998-4666

ELAN TWO
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Waterford, Maine
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OLGA DAMON, R.N.
Box 33
Poland Spring, Maine
04274
(207) 998-4266

March 26, 1979

Mr. Ike Andrews, Chairman
Congress of The United States
House of Representatives
Committee on Education and Labor
Subcommittee on Economic Opportunity
Room 320, Cannon House Office Building
Washington, D.C. 20515

Dear Mr. Andrews:

The Connecticut Department of Children & Youth Services sent me a copy of your January letter to the Assistant Attorney General about the Juvenile Justice Delinquency Prevention Act. Connecticut has approximately 80 juveniles here at Elan, representing the most difficult segment of their population in care. The investigating committee of the Connecticut Legislature called Elan "the finest and most exceptional facility currently utilized by the state". The Connecticut people share my interest and alarm about this act and we both would like to do something about it.

It was clear from your letter that you are concerned and compassionate. That manifest sense of caring and concern prompts me to write you.

I hope I will not shock you when I state the law is a very bad one. It is a perfect example of good unexceptionable intentions resulting in a law based upon sentimental considerations, which take an obviously bad situation and make it catastrophic. In addition, the administration is in charge of persons without experience in the actual care of children; who are heavy handed, and who are engaged in a kind of administrative overkill. I'm also afraid that since they perceive their own motivations as altruistic; they then become angry and punitive toward persons who question their premises and their judgement. I wonder if this attitude of outraged virtue may account for the singular rigidity (of a most passionate nature) which characterizes the Office of the Juvenile Justice and Delinquency Prevention.

Clinically there is no difference between the status offender and the adjudicated offender. Indeed longitudinal studies at the University of Iowa Medical School reveal that the prognosis, in terms of future behavior, is worse for those children who are status offenders than "adjudicated delinquents"!!. Another example is that we know school truancy, a status offense, is the best prognosticator for delinquent

activity we have. In my experience and the experience of others working in the field, all of the kids are into the same things. The kind of things that adolescents do these days in American Society would make your hair stand on end, as indeed it does mine. Dr. Frank Rafferty, Director of the Institute for Juvenile Research at the University of Illinois Medical School has made careful control studies which demonstrate the point.

All in all, this comes down to the fact that an adjudicated delinquent is a kid who got caught either by accident, or his own incompetence, and whose family cannot afford a lawyer. It also depends upon the stratum of society from which the youngster comes. Were my son to go joy riding in my car or in my next door neighbor's, it would have comparatively little significance and be considered unauthorized use. If he were to go joy riding in the car of the Curmudgeon who lives three doors down, you can bet the case would wind up in Federal Court. The fact that the man three doors down inadvertantly eggs on all the kids in the neighborhood and does not know it, is really the most relevant piece of that jigsaw puzzle. Similiarly, an inner city youngster (particularly of the wrong breed) could be dragged, not only into Federal District Court but all the way to the Supreme Court by the angry, injustice-accumulating, very sick man who lives three doors away.

I am aware that these examples are simple minded but I cannot briefly describe to you the chaos and the harm caused by this foolish law and related to me by colleagues.

This law divides patients into legal categories (and not very good ones, at that). It, therefore, mandates different treatment to different classes of people based upon those categories rather than upon their needs. To participate in this kind of activity, i.e., treat people differently for non-medical reasons, is unethical for a physician and anyone else in the human services field who is bound by the same ethical imperatives.

Already, where this insanity has been put into effect, the result has been different funding patterns for different kinds of children, dependent upon their real needs but rather on artificial, legal categorizations. All too often, for a child to receive the necessary treatment he must commit a criminal act. I can supply, literally hundreds of examples from different parts of the country. This is a clear Catch 22 situation. It goes on and on. Here at Elan we find ourselves compelled to segregate children, not according to their needs, or according to where they would develop themselves best, but according to arbitrary legal categories. Previously, police could arrange for the detention of minor girls who they knew were actively engaged in street

prostitution, by charging them with curfew violations, or other so-called, "status offenses". They could get some control over the behavior (and in states where the facilities were available get some help for these children). Now they must charge them for the maximum crime and obtain a conviction before they control the destructive behavior. It is hard to conceptualize what will happen when prostitution is no longer a criminal act but also becomes a status offense.

The same sort of nonsense, Catch 22, insanity, or whatever one wishes to call it, also operates with the issue of age. Human psychology, human biology and the natural history of human development do not suddenly become different on the 18th birthday. The Director of Criminal Justice for the State of California is being pressured to take 18-20 year olds out of a very successful program and send them to San Quentin! Here at Elan where we successfully use peer pressure and older adolescents as models for younger ones, we too, are having crazy problems. After all, there are 20 year olds who are more like 12 year olds and we have a number of 14 year olds who look and act 24.

The problem is that this legislation is based upon sentimental premises which have no objective validity. In behavioral science one can state questions and manipulate data in such a way as to justify preconceived notions, and nice laws result. All of this was based upon the "principle" of the bad apple contaminating a good barrel of apples. On the surface this seems reasonable and logical. However, it really is the kind of logic which notes that the man who drinks a quart of bourbon and a quart of soda water on Monday gets drunk; on Tuesday a quart each of rye and soda water also makes him drunk, on Wednesday a quart of rum, a quart of soda water does the same thing. Therefore soda water causes intoxication.

At the risk of being overly philosophical, all people have the capacity for evil, varying, but usually more than we like to think. One of the major determinants of whether or not people misbehave is the environmental one. An individual in an environment dominated by evil people, e.g. Nazi Germany or Cambodia, Viet Nam, Uganda, Argentina will commit atrocities. Where the leadership is different, this country, Canada, Sweden, Israel, Costa Rica; there is another standard.

What I am trying to say is that the effect of an institution does not depend on whether it is called institution (now a dirty word) or how old the "inmates" are, or how many they are. Does this lead to autonomous, disciplined human relationships? I can add a plethora of other words; self-respect, responsibility, social support, self starting, empathy, etc, etc. None of these have much to do with adjudication, age 18 or less than 20 or 40 people.

I should like to comment on other sentimental, but foolish ideas in this unfortunate law from which I hope we make a full and prompt retreat, before we get a Viet Nam. "Smallness and/or families are best." All of these youngsters get into trouble in families. This experience has scarred them in such a way that family or small group living becomes impossible. Witness the child with twenty-two foster placements in four years. That child is the rule, not the exception, I have several referred to me every week. The child is not bad; the foster parents are not evil monsters, the social workers who do the placement are not idiots. These children couldn't make it in the Garden of Eden anymore than Adam and Eve did.

Small institutions cannot logistically provide the needed support. But much, much, much worse they cannot provide it psychologically. They cannot be therapeutic because of the nature of the juveniles. My children could, yours could; but these cannot make it there. I can lay out the scientific reasons for you, but not here. Louisa May Alcott's fiction should not be the source of law.

Deinstitutionalization is not only a fraud, it is a crime. In mental health this naive romantic idea has caused more misery to helpless people than we can imagine. People in need of asylum thrown into flop houses, criminally infested sectors of society, isolating seedy rooming houses, etc., etc. And they do not have anyone to lobby for them when the bureaucrats tell you all about their fine "programs".

An institution is not a specific number of people, twenty or forty or a thousand. It is bad when it makes people dependent, robs them of autonomy, brutalizes them, fosters corruption and a criminal ethos. But families do exactly the same thing and the family is where the kids learned it first. And I'm not proposing "family therapy", the latest boondoggle, either.

I will be in Washington Monday to speak at a full panel on Elan (of which I am very proud). I hope that you might have time available for me to call on you; I'll phone early in the week.

Sincerely yours,

Gerald E. Davidson, M.D.
Medical Director

GED:sk

P.S. Experience should teach us to be most on our guard to protect liberty when the government purposes are beneficent. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning, but without understanding.

Louis Brandeis

ASSOCIATION FOR CHILDREN WITH LEARNING DISABILITIES
4156 LIBRARY ROAD • PITTSBURGH, PA. 15234 • 412/341-1515

March 27, 1979

APR 3 1979

Ike Andrews, Chairman
Subcommittee on Human Resources
2178 Rayburn House Office Building
Washington, D. C. 20515

Dear Mr. Andrews:

This letter is to express strong opposition to H.R. 2108, particularly that section which repeals Titles I and II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. Many youth-serving organizations have worked years for a separate office and a special legislative mandate for juveniles in trouble.

Current language in Title II of the Juvenile Justice Act is one of the few federal laws which provides specific monies for the problem of learning disabilities as it relates to juvenile delinquency. With current studies indicating a high ratio of delinquents with learning disabilities, we can ill afford to abolish the OJJDP and treatment programs for these young people.

We strongly urge support of a separate office for juvenile justice, headed by a presidential appointee; and separate legislation. We urge your opposition to H.R. 2108.

Your immediate attention to this critical matter will be most appreciated.

Sincerely,

Alice Scogin

Alice Scogin, Houston, Texas
Chairman, ACLD Governmental Affairs Committee

Al Katzman, Detroit, Michigan
Chairman, ACLD Adolescent Affairs Committee

Dorothy Crawford, Phoenix, Arizona
Chairman, ACLD Advocacy Committee

cc: Betty Bader, President
ACLD National Office

APR 6 1979

106 Sundown Trail
Williamsville, N.Y. 14221
2 April 1979

Dear Representative Andrews,

H.R. 2108 seeks to do away with a separate office and a special legislative mandate for juveniles in trouble. I strongly oppose this action. Titles I and II of the Juvenile Justice and Delinquency Prevention Act of 1974 must not be repealed.

Current studies show such a high ratio of delinquents with learning disabilities — 50 to 75%. Years of work by those interested in helping learning disabled youth will go down the drain, along with the young lives which might have been saved by the monies provided in Title II of the Juvenile Justice Act. These treatment programs must not be abolished.

Please oppose H.R. 2108 and support a separate office for juvenile justice, headed by a presidential appointee, and support separate legislation.

This vital matter needs your immediate attention.

Sincerely,
Joan M. Watkins

APR 10 1979

April 2, 1979

Hon. Andrews, Chm.
Subcom on Human Resources:

Dear Chairman Andrews.

I am very opposed to H.R. 2108 which would abolish the Office of Juvenile Justice & Delinquency Prevention which served said alternate ways to handle the growing problem of juvenile delinquency.

I have worked with learning disabled adolescents and young adults for 15 years and know that they often mistakenly are treated as "criminals" for aberrant behavior. Actually, they have perceptual problems which must be treated by special education & better diagnosis — rather than incarceration.

The special programs for the learning disabled are my special concern — Please don't let appropriation cuts abolish the first concrete prevention they have ever had —

Laurie Anderson
65, The Alameda
Berkeley 94707

Overland Park

April 2, 1979

APR 6 1979

Representative Ike Andrews
Chairman
Subcommittee on Human Resources
House of Representatives
Washington, D.C. 20515

Subject: H.R. 2108

Dear Representative Andrews:

This letter is in strong opposition to H.R. 2108, particularly that section which repeals Titles I and II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. It is appalling to me as an elected official to see a cut recommended in the area of juveniles, especially in view of the fact that in excess of 50 percent of the total crimes committed in the United States are committed by juveniles.

Current language in Title II of the Juvenile Justice Act is one of the few Federal laws which provides specific monies for the problem of learning disabilities as it relates to juvenile delinquency. With current studies indicating a high ratio of delinquents with learning disabilities, we cannot afford to abolish the OJJDP and treatment programs for these young people. I strongly urge support of a separate office for juvenile justice, headed by a presidential appointee; and separate legislation.

I can speak with authority as to the relationship of learning disabilities and juvenile delinquency, having recently instituted the first community-based program of its kind in the United States revolving around the learning disabled youth.

I urge your opposition to H.R. 2108.

Sincerely,

Ben M. Sykes
Mayor

BMS:am

City of Overland Park City Hall • 8500 Santa Fe Drive • Overland Park, Kansas 66212 • Phone 913-381-5252

CAROL C. BINDER
15 INNES ROAD
SCARSDALE, NEW YORK 10583

4/3/79

Re: H. R. 2108

Dear Chairman Andrews,

I strongly oppose H. R. 208, particularly that section which repeals Title I & II of the Juvenile Justice & Delinquency Prevention Act of 1974.

Please oppose H. R 2108.

Sincerely,

Carol Binder

APR 10 1979

meeting the emotional needs of youth since 1896
CRITTENTON CENTER
1098 Em Avenue Kansas City Missouri 64134 (816) 765-6600

April 3, 1979

Chairman Ike F. Andrews
House Sub-Committee on Human Relations
228 Cannon House Office Building
Washington, D. C. 20515

Dear Congressman Andrews:

I want to tell you how much I appreciate the opportunity you afforded me to testify before your Committee on behalf of the Child Welfare League of America and ORPSSCA.

As the testimony reflected, these are extremely critical and important issues to thousands of children and hundreds of children's facilities all over the country. After having given this whole matter further consideration, I sincerely believe the Guidelines have been over-zealously formulated by naive and unrealistic administrative personnel. I firmly believe that these Guidelines do not accurately reflect the intent of the Juvenile Justice Act.

If these Guidelines were implemented to their full extent they would have a catastrophically negative effect upon Crittenton and other Child Care Facilities all over the country. This was not the intent of Congress. To the contrary, I believe the intent was to make available, to the delinquent, status offender, and non-offender children, facilities such as Crittenton and other Child Care Agencies.

These Guidelines also make virtually no provisions or allowances for the treatment of many delinquents, status offender, and non-offender children with serious or severe emotional or behavioral type problems. They seem to naively assume that all status offender/non-offender children, if given a good place to live, will function like a normal youth. This, sadly, is just simply not the case. Some of the most severely disturbed children we see and receive for treatment are status offender/non-offender type children that have committed no delinquent act or crime.

The concept of many small community based, non-secure, group home resources is a limited good idea that is realistic only for a specific type of status, non-offender and delinquent child. I believe that if you will talk with Juvenile Judges, case workers, other field level mental health professionals from all over the country, these folks will tell you that it is a declining percentage of children that enter the Juvenile Justice system that can be successfully cared for in these treatment modalities.

I am not in favor of the old traditional lock-up, remote, correctional and detention facilities. I believe the Act's intent was to eliminate, as much as possible, the use of these kinds of facilities. However, I am equally convinced that the intent of the Act was not to eliminate the many hundreds of public and private Child Care and Residential Treatment Facilities from these most needy children.

I am sorry for the length of this letter, but the issues have continued to disturb me immensely as I have thought about them. As I mentioned in my testimony, I know that the field level, grass roots mental health professional, citizen, board member, community child care advocate is not at all aware of the potential negative impact these Guidelines will have. I, therefore, have asked our Board President to set up an on-site survey and detailed exploration of the issues with Congressman Tom Coleman, our area Residential Treatment Center Directors, and our Board President. Congressman Coleman, as you know, is a representative from our Kansas City Metropolitan area. Since he serves on your Sub-Committee, we felt perhaps he would be in a position to explore some of our concerns further and return, to you and the other members of the Committee, the complete thoughts and ideas that need to be explored. If, after Congressman Coleman has had a chance to tour and review the information, either he or you feel it would be beneficial for you or members of your Committee to tour and visit a community level treatment facility that will be severely impacted by these Guidelines we would welcome the opportunity.

Congressman Richard Bowling is our representative in Washington as well as the representative for five other major Residential Treatment Centers in the Jackson County, Kansas City, Missouri area. Congressman Bowling has been a long time supporter of our collective effort to improve and expand care to needy and appropriate youth in our area. The area Residential Treatment Directors and members of our respective Board of Directors will be arranging a meeting with Congressman Bowling and his staff to further discuss these matters and express our serious concerns and reservations about this most important issue.

I might also mention, in closing, that all six of these Residential Agencies have no financial involvement whatsoever with the J.J.D.P.A. monies. I have thought more about your question as to why we would not want to be classified as a correctional or detention facility since we received no money. The most appropriate answer I can give you is that these Guidelines are wrong and the inappropriate classification of Child Care and Treatment Facilities such as Crittenton is equally wrong and not the intent of the Juvenile Justice Act.

I do plan to take your advice and stay in touch with you and your Committee until this issue is resolved. Thank you for your time and interest.

Sincerely,

CRITTENTON CENTER

Gary D. Baker
Executive Director

APR 9 1979

Speech and Language Remediation Center, inc.
Certified Speech Pathologists (C.C.C.)
Language-Learning Disability Specialists

Linda H. Dickerson, M.A., C.C.C.
Betty Y. McDonald, M.A., C.C.C.
Co-Directors

Sandra J. Binder, M.A., C.C.C.
Debra L. Hanovich, M.S., C.C.C.
Terry G. Reichek, M.A., C.C.C.
Marsha M. Timby, M.S., C.C.C.

April 5, 1979

Ike Andrews, Chairman
Subcommittee on Human Resources
House of Representatives
Washington, D.C. 20515

Dear Mr. Andrews,

This letter is to express strong opposition to H.R.2108, particularly that section which repeals Titles I and II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. Many youth-serving organizations have worked years for a separate office and a special legislative mandate for juveniles in trouble.

Current language in Title II of the Juvenile Justice Act is one of the few federal laws which provides specific monies for the problem of learning disabilities as it relates to juvenile delinquency. With currect studies indicating a high ratio of delinquents with learning disabilities, we can ill afford to abolish the OJJDP and treatment programs for these young people.

We strongly urge support of a separate office for juvenile justice, headed by a presidential appointee; and separate legislation. We urge your opposition to H.R. 2108.

Your immediate attention to this critical matter will be most appreciated.

Sincerely,

Betty Y. McDonald

Betty Y. McDonald, M.A.
Speech Pathologist, C.C.C.

BYM:lrm

APR 13 1979

CALIFORNIA ASSOCIATION FOR NEUROLOGICALLY HANDICAPPED CHILDREN
POST OFFICE BOX 4668 • LOS ANGELES, CALIFORNIA 90051

234 Greenmeadow Way
Palo Alto, Ca. 94306
April 7, 1979

The Honorable Ike Andrews, Chairman
Subcommittee on Human Resources
House of Representatives
Washington, D.C. 20515

Dear Mr. Andrews:

It has come to my attention that H.R. 2108 has been introduced to abolish the Office of Juvenile Justice and Delinquency Prevention. I can understand why Congress would be critical of this office, but it is necessary to throw out the baby with the basket?

Current studies by the Association for Children with Learning Disabilities have indicated a high ratio of delinquents with learning disabilities. The Juvenile Justice Act provides specific monies for the problem of learning disabilities as it relates to juvenile delinquency. Can the country afford to terminate this effort?

I am enclosing a brochure on two books that would provide you with factual information on this subject. The GAO report on Learning Disabilities that was issued on March 4, 1977 would also supply you with relevant data.

Your attention to this critical matter will be appreciated.

Yours very truly,

Nancy P. Ramos

Nancy P. Ramos

Past President CANHC

ACLD

A NON PROFIT ORGANIZATION

ARKANSAS ASSOCIATION
FOR
CHILDREN WITH LEARNING DISABILITIES, INC.
BOX [illegible] 7316
LITTLE ROCK, ARKANSAS [illegible] 72217

April 8, 1979

Ike Andrews, Chairman
Subcommittee on Human Resources
House of Representatives
Washington, D. C. 20515

Dear Mr. Andrews:

We are very much against H.R. 2108, especially the section which repeals Title II of the Juvenile Justice and Delinquency Prevention Act of 1974. Part of this Act provides specific money for the problem of juvenile delinquency as it relates to learning disabilities.

Research over the last few years has shown that up to 85% of youthful offenders are actually children with learning disabilities. We feel that this is a sad waste of potential, and very costly for taxpayers, in terms of correctional institutions and welfare support for those unable to get jobs.

We support a separate office for juvenile justice. We urge you to oppose H.R. 2108.

Thank you for your courtesy in this important matter.

Sincerely,

Dolly Garrison

Dolly Garrison, President

APR 19 1979

the Vanguard School
A Non-Profit Educational Corporation

P.O. BOX 730
PAOLI, PA 19301

ADMINISTRATIVE OFFICES 647-3993
LOWER SCHOOL NI-4-3500
MIDDLE SCHOOL NI-7-4110
HIGH SCHOOL MI-9-3800
AREA CODE 215

April 12, 1979

Congressman Ike Andrews
Chairman, Subcommittee on Human Resources
House of Representatives
Washington, D. C. 20515

Dear Congressman:

This letter is to express strong opposition to H.R. 2108, especially that section which repeals Titles I and II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. Many organizations that serve youth have worked years for a separate office and a special legislative mandate for juveniles in trouble.

Current language in Title II of the Juvenile Justice Act is one of the few federal laws that provides specific monic for the problem of learning disabilities as it relates to juvenile delinquency. With current studies indicating a high ratio of delinquents with learning disabilities who can ill afford to abolish the OJJDP and treatment programs for these young people, we at Vanguard School, and the parents of our students, strongly urge support of a separate office for juvenile justice headed by a Presidential appointee and separate legislation covering the work of this office. We urge your opposition to H.R. 2108.

Your immediate attention to this critical matter will be most appreciated.

Sincerely yours,

Milton Bratten, Ph.D.
Clinical Director

MB/wl

APR 18 1979

Our Lady of the Highlands

April 12, 1979

Congressman Ike Andrews, Chairman
Subcommittee on Human Resources
228 Cannon House Office Bldg.
Washington, D.C. 20515

Dear Congressman Andrews:

Thank you for your letter and sincere interest in Child-Care and Not-for-Profit Child Care Institutions. Your letter to Ms. Wald certainly speaks for itself and gives evidence of your concern and interest on behalf of residential child care agencies.

Your position is clear on the guidelines. The proposed guidelines now coming from Mr. Rector's office would probably solve some of the problems initially raised but there seems to be some discrepencies coming from Mr. Rector as regarding the real intent of the guidelines. Mr. Rector seems to have rearranged the language which yields a mandate in the Act itself, specifically although Congress intended that whenever possible and appropriate juveniles be placed in small facilities near their home, nowhere does the Act state they must be placed in facilities near their home. From reading the draft of the guideline changes, specifically (B III) interprets the Act to say that for purposes of monitoring compliance with deinstitutionalization mandate juveniles must be placed in community-based facilities defined as the Act defines "community-based". This appears to exceed Congressional intent, which is first and foremost to place juveniles appropriately. When one looks at the total needs of the child a placement near the child's home sometimes defeats the purpose of placement.

Your work on these Guidelines is commendable and I truly appreciate your honesty and sincerity. I do not see these changes as a retreat on the part of Congress from the mandates of the Act. I am concerned, though, with Mr Rector's stated interpretation of the words "secure and non-secure" since he has indicated that a non-secure facility cannot even rely upon on verbal admonishment to children to leave a cottage or house since that is locking them psychogically. How do we help children to grow if there are not some negatives in their growth and development stages. I am sure that you had them and I know that I had them and I thank God for them.

God bless you.

Sincerely,

Sr. M. Denise

938 Highland Avenue/Fort Thomas, Kentucky 41075

APR 13 1979

MACLD, Grand Rapids Chapter
1800 Lamberton, N.E.
Grand Rapids, Michigan
49505

Hon. Ike Andrews
House of Representatives
Washington, D.C. 20515

Dear Sir:

I am writing you as Chairman of the Subcommittee on Human Resources, to express the concern of the members of the Grand Rapids Chapter, the Michigan Association for Children with Learning Disabilities, in regard to HR 2108 and the proposed budget cut for the Office of Juvenile Justice and Delinquency Prevention. Many organizations, such as ours, have worked for years for a special office and legislation for young people in trouble. If this too progresses pass, it will indeed

be a step back toward the dark ages and the remedies that obviously didn't work.

There is a high correlation emerging in studies between children with learning disabilities and juvenile delinquency. These children do not design a plan to become failures; they go off to school like others expecting to learn. With normal to above normal intelligence they should but they also have a learning problem. With special help, they can become successful, independent citizens. Isn't this group (at least 10% of all children) one of our greatest reclaimable human resources?

We urge your opposition to HR 2108, especially the section repealing titles II & IV of the Juvenile Justice and Delinquency Prevention Act (1974) and to the proposed budget cut for OJJDP.

Sincerely,

Joyce Eberwein (Mrs.) MSW, President MACLD-GR

Marion-Polk-Yamhill Council on Alcoholism

YOUTH ALCOHOL PROJECT
659 Cottage Street N.E.
Salem, Oregon 97301
(503) 399-1713

APR 30 1979

Sybil Bullock
Executive Director

D. Laverne Pierce
Youth Project Director

April 19, 1979

Congressman Ike Andrews
Subcommittee on Human Resources
Room 2178, Rayburn House Office Bldg.
Washington, D.C. 20515

Dear Congressman Andrews:

I have been involved in the implementation of the Juvenile Justice and Delinquency Prevention Act in the state of Oregon since 1975. I have been Chair of the Juvenile Justice Advisory Committee since 1976 and, in 1978, I was appointed to the National Juvenile Justice Advisory Committee.

Oregon, like many other states, continues to place children in jails with adults. We continue to have a high commitment rate to institutions and to out-of-home placements. We need resources -- money and programs. We need time, time to change old ways and attitudes, time to build a new system.

The citizens, policy makers, and providers of services to youth in Oregon have made a commitment to fulfilling the congressional policies and priorities set out in the Juvenile Justice and Delinquency Prevention Act.

H.R. 2108, the Criminal Justice Assistance Act, calls an end to this most important reform movement in the juvenile justice system.

Those who have questioned the commitment of Congress and distrusted the federal government to follow through on its continued support of juvenile justice reform will be correct. This attitude has hampered our work since the beginning.

Andrews April 19, 1979

H.R. 2108 re-organizes juvenile justice reform to extinction.

Congressman Andrews, I urge you to preserve the Congressional commitment to the Juvenile Justice and Delinquency Prevention Act.

We have just begun to initiate critical systems changes and programs.

Sincerely,

D. Laverne Pierce

D. Laverne Pierce
Project Director

DLP:cp

Tulsa County

TOM SUMMERS
Tulsa County Superintendent of Schools

APR 30 1979

500 SO. DENVER–TULSA COUNTY COURTHOUSE–ROOM 228 • TULSA, OKLAHOMA 74103 • PHONE 584-0471–EXT. 216

G. DALE JANDA, Ed.D.
Director–State/Federal Programs

JEANETTE BRADLEY
Office Manager

DAN L. TAYLOR
Asst. Supt./Student Affairs

April 25, 1979

The Honorable Ike Andrews, Chairman
Subcommittee on Human Resources
House of Representatives
Washington, D.C. 20515

Dear Congressman Andrews:

I am writing to express my concern regarding parts of H.R. 2108 which repeal Titles I and II of the amended Juvenile Justice and Delinquency Act of 1974. An increasing body of data reflects a positive relationship between learning disabilities and juvenile delinquency. It would be highly unfortunate, if not inappropriate, to reduce monies specified for addressing this particular relationship.

This office administers the Tulsa County Alternative High School Program for suspended and dropout students. Our observation is that many of these youth with behavioral problems also have significant learning problems. Treatment programs and resources for this population of youth need to be extended in both scope and funding. We strongly urge your opposition to H.R. 2108 with its restrictive legislation, and further request your whole-hearted support of special legislation and support of a separate office for the Office of Juvenile Justice and Juvenile Justice Programs.

We respectfully request your serious consideration of this very important issue.

Sincerely,

G. Dale Janda, Ed.D.
Director – State/Federal Programs

GDJ/kc

FORM 3706 (REV 8-78)

IOWA CRIME COMMISSION State Capitol • Des Moines, Iowa 50319 • Phone 515-281-3241

Robert D. Ray
Governor

MAY 14 1979

May 1, 1979

Congressman Ike Andrews
Chairman - Subcommittee on Human Resources
Congress of the United States
House of Representatives
Room 2178
Rayburn House Office Building
Washington, D.C. 20515

RE: H.R. 2108

Dear Congressman Andrews:

Kathleen Neylan, Chairperson of Iowa's Juvenile Justice Advisory Council, requested that I, as staff person to the Council, express opposition to H.R. 2108 which was introduced by Congressman John Conyers.

Substantial progress has been made toward deinstitutionalization of status and non-delinquent youth since Iowa entered into the Juvenile Justice and Delinquency Prevention Act. This progress includes passage of a completely revised juvenile code, legislation mandating removal of non-delinquents from the state's training schools and the growth of shelter care programs at the local level to serve as alternatives to detention. Further progress in this State would be severely hampered, if Congressman Conyers' bill is enacted by the United States Congress.

Sincerely,

Carmen Janssen

Carmen Janssen
Juvenile Justice Planner

CJ:mk

cc: Kathleen Neylan

Iowa
a place to grow

[From Youth Advocacy News, February 1979]

2-Year Battle Over Adult-Juvenile Separation in CYA Facilities Is Resolved, Rector, CYA Satisfied

The two-year dispute between the Office of Juvenile Justice and Delinquency Prevention in Washington, D.C. and California's juvenile justice system has come to an end with an agreement between the two sides dealing with separation of juvenile offenders from certain offenders over 18 years old in California's correctional system.

The settlement makes possible the free flow of more than $6 million, California's 1979 formula grant share of Juvenile Justice and Delinquency Prevention Act funds, and perhaps will lay to rest the anxieties of youth workers and advocates who, for the 2 years, have teetered on the brink of oblivion as a result of the dispute.

Roots of a 2-year dispute

The argument had its genesis in the two major reforms imposed upon states by the JJDP Act of 1974, and by subsequent amendments added in 1977.

The first, known as the "deinstitutionalization of status offenders" requirement, decrees that states must submit a plan which shall "provide within 3 years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, or such nonoffenders as dependent and neglected children, shall not be placed in juvenile detention or correctional facilities" (Sec. 223(a)(12)(A) of the JJDP ACT).

The second, so-called "separation requirement", specifies that a state's juvenile justice plan must further provide "that juveniles alleged to be or found to be delinquent," as well as status offenders, "shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges" (Sec. 223(a)(13) of the JJDP Act).

What this means, in literal terms, is that persons under 18 years of age shall not be confined in the same facilities as adults—18 or over—who have been either charged or convicted of crimes. It is this issue, and its interpretation, over which John Rector, director of OJJDP and the State of California parted company.

RECTOR: ENFORCER OF THE JUVENILE JUSTICE SYSTEM

Rector, native Californian, graduate of Hastings College of the Law, runaway program volunteer during the 1960's, was, along with his mentor, Sen. Birch Bayh (D.-Ind.), the chief architect of the JJDP Act of 1974. In his capacity as chief counsel to Bayh's Subcommittee to Investigate Juvenile Delinquency, Rector was in a position to formulate the Act along the lines of the real needs of young people and youth-serving programs.

He was particularly adamant that the deinstitutionalization and the separation provisions remain in the act throughout the four years of turmoil preceeding its passage in 1974, and equally adamant that these provisions be strengthened and reaffirmed in the 1977 amendments which gave the Act continued life.

In 1977, Rector was named by President Carter as the Administrator for OJJDP, and was subsequently confirmed by the Senate to be the office's director. He was in the unique position of being asked to administer and enforce an Act and a department he had created.

One of the jobs of the administrator is to formulate regulations which, with the approval of Congress, have the force of law in interpreting and defining what was meant by terms such as "deinstitutionalization" and "separation". Rector took them quite literally.

CYA: 2 YEARS IN QUANDARY

The California Youth Authority, while generally supportive, has been less than enthusiastic about certain sections of the JJDP Act, and Rector has clashed repeatedly over the years with CYA, with its former director Allen Breed (subsequently an LEAA fellow working with Rector, now director of the National Institute of Corrections, an equal of Rector's in the LEAA hierarchy), and with California's state planning agency for criminal justice funding, the Office of Criminal Justice Planning in Sacramento.

The Youth Authority prides itself on what it calls its Youthful Offender Porgram, which mixes CYA wards according to vocational interest, abilities, learning levels and other common factors in school and training components of its institutions. The Youth Authority, by law, may retain jurisdiction over certain wards up to age 25,

and thus a large percentage of the population of CYA institutions consists of young people aged 17-21. The average age, in fact, is somewhere around 19 years.

As a result, the Youth Authority saw any move to draw what it called an "arbitrary age line" between under-18 and over-18 wards as an unreasonable request and one which moved in opposition to the intent of the Youthful Offender Program.

"There is no question that we are in violation of the letter of the law." said CYA director Pearl West last December. "However, I don't believe that we violate the spirit of the law. We certainly do not have 13-year-old status offenders living with 20-year-old rapists. We feel that we have separated wards who should not be in proximity to others. In many cases, the only difference between a 17-year-old and an 18-year-old is a birthday."

Throughout the 2 years of this disagreement, OJJDP has made provisional approval of each of California's JJDP plans, specifying that, until the separation issue is cleared up, no JJDP funds shall be either granted for use by the California Youth Authority, nor shall any contracts be entered into with the CYA which would involve flow of JJDP funds to that agency.

The Youth Authority had previously received and acted as a conduit for substantial amounts of JJDP funds in California. The balance of these funds are distributed to private agencies and local units of government by OCJP and its regional offices. Rector, who had the option under the law of cutting off all JJDP funds to California, made this conditional arrangement in order not to penalize private-sector programs and the thousands of clients being served through private non-profit agencies—the programs and the youth workers he sees as his constituency.

On Fiscal New Year's Eve, September 30, 1978, OJJDP had still not approved California's 1979 JJDP plan, and it appeared both from remarks by Rector and by Doug Cunningham, executive director of OCJP, that the standoff might be permanent.

Amid rumors of Rector's imminent demise on the one hand, and discouraging words on the possibility of any accord being reached on the other, new rumblings began to strike hope into the hearts of California youth workers. In January, word came that Rector intended to settle with California once and for all within a very short time.

FROM IMPASSE TO COMPROMISE

On Friday, Feb. 2, Cunningham announced just before a hearing of the State Advisory Group on JJDP in San Francisco that "we have received our award" from OJJDP—meaning approval of the 1979 plan—"and we are now working with Rector's office on interpretation of a couple of the special conditions." These had to do with two issues in the "separation" category:

Rector has accepted an offer made by California more than one year ago—to separate, within Youth Authority facilities, all Juvenile Court wards (those sent to CYA by Juvenile Courts) under 18 years of age, from youthful criminal offenders (adult court commitments to CYA) over 18 years of age. While California proposed this compromise a year ago, CYA has received a substantial increase in commitments of all kinds since Proposition 13, and is therefore reluctant to enter into any new program which will cost money. [This compromise avoids the necessity of separating all CYA wards according to their birthdays, and would allow mixing of wards from the same court of jurisdiction.)

Separation of juveniles from adults in local jails (county jails—not juvenile halls) where juveniles are held for less than 24 hours. This applies to counties where juvenile hall may be too great a distance from most of the county to facilitate immediate transport of juveniles, thus requiring short-term confinement in local jails. An OCJP monitoring report last year noted that, in a survey of nearly half of the local jails where kids were held 24 hours or less, the only contact with adults was food service by trustee prisoners; there was no reported contact in living space, toilet facilities or anywhere other than the booking desk, where juveniles were within "arms reach supervision" of police.

Cunningham spent most of Feb. 2 on the phone to John Rector, and negotiations continued throughout the next week.

At press time, representatives of the Youth Authority and the Office of Criminal Justice Planning had not fully agreed with the OJJDP conditions, although conversations with CYA and OCJP staff produced optimistic predictions that details would be worked out soon.

Thus critically needed funds will again flow to delinquency-prevention and advocacy programs across the state, some of which have been without cash flow since October 1, the beginning of the fiscal year.

Moreover, it appears that CYA may now receive OJJDP funding and will be able, for example, to resume sponsorship of the 13 Youth Service Bureaus across the state which have run into increasing financial difficulty since CYA was eliminated as a pass-through sponsor of their programs more than a year ago.

Although final agreement was long in coming and hard-fought to the end, the solution seems to be sensible and workable, while maintaining the integrity of the JJDP Act and the intent of Congress. While John Rector is not a popular man in some states and in many corners of Washington, his tenacity and his commitment to enforcement of JJDPA reforms is unquestioned—and commendable

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If you Want a Second Chance, "Earn It"

A QUINCY, MASS., Judge's Restitution Program for Youthful Offenders Appears To Satisfy Both Liberal Reformers and Conservative Businessmen

(By Jon Ciner)

Raymond is 21 years old. After high school, he worked sporadically as a roofer in a business with his cousin. Last fall, he was driving a friend's Volkswagen while high on Quaaludes. When the police finally stopped the car after a seven-mile chase, five police cruisers were damaged, as well as the Volkswagen. The cost: $4,500.

"I should have done a lot more damage, as jammed as I was," Raymond says, "I was on three Quaaludes."

Raymond had a record; he had been arrested eight times as a juvenile. This time he received a year in the House of Correction, with 11 months suspended. But instead of going to jail, Raymond spent the active month of his sentence working as a janitor in the South Shore Day Care Center earning money so that he could pay back his victims. He was given a chance to take part in an innovative restitution program called "Earn It," which operates out of the East Norfolk District Court in the township of Quincy near Boston, Mass.

The money Raymond earned—about $350—went to pay for the damage to his friend's car. To make up the damage done to the cruisers, he had to work this summer at the District Court building doing general maintenance work.

"This is about the most decent program you'll ever find," Raymond now says. "It learns you a lesson. They're pretty decent here, but they don't want to hear any bullshit. I can pay whatever I can afford and I have a year to pay it all back. I'm getting my old job back this fall, and I don't want to get in any more trouble. I'm going to my girl's house to watch T.V. No more hanging out on corners drinking."

Restitution programs have become increasingly popular throughout the country, perhaps because they focus attention on the victims of crime, who have long been neglected by the criminal justice system. Earn It differs from most in that it matches up an offender with a job, usually with a private employer, and keeps a close watch on his performance.

"Poverty is no longer an excuse," says the originator of the program, Judge Albert L. Kramer. "Often, restitution punishes the parents, not the kids. The parents will just pick up the cost and the kid doesn't have to do anything. Others have also found that offenders would be ordered to make restitution and would rip off parties to pay their victims. And if they never paid, nothing happened to them anyway. Here, they have no excuse. If they don't make good on the job we give them, then we haul them back into court and give them a stiffer sentence."

Of course, in liberal Massachusetts, where only a handful of juvenile offenders are institutionalized, a stiffer sentence may simply mean probation or a suspended sentence. "But it may be the difference between having or not having a record," Kramer points out.

Placing offenders with no previous record in Earn It is a good way to allow them to prove themselves, Kramer feels, on the theory that those who do not perform satisfactorily on a job assignment are likely to commit a second offense. "With the kids that fail, it's a beautiful screening process without probation. The program is a good testing ground," he said.

As a rule, about two-thirds of the first offenders the District Court encounters do not repeat. 'For them," Kramer says, "a continuance without a finding [of delinquency] is enough. But almost 30 percent come back and commit that second offense. Now we have a better way of knowing whether we're dealing with a repeater."

The Earn It program grew out of a meeting between Judge Kramer and the South Shore Chamber of Commerce. At this "Night in Court," held at the East Norfolk

District Court on a December evening in 1975, 40 businessmen pledged jobs or hours of work to the program envisioned by the judge.

Kramer, presiding judge of the court, has long been an advocate of alternatives to incarceration for juvenile offenders. As Gov. Francis Sargent's chief policy advisor and liaison with the Massachusetts Division for Youth in the early seventies, he had been actively involved in the closing of the state's juvenile institutions.

But over the years, his perspective has changed a bit. Six or seven years ago, Kramer admits, he might have called the program "Second Chance." Now, to emphasize that it isn't "a goody-goody program for kids," he thinks "Earn It" a more appropriate name. "It was designed to stop kids from getting away with murder," he said. "The businessmen wanted to see the kids punished. And they wanted to help the victims."

With the business community lined up behind him, Kramer was able to obtain a three-year, $100,000 grant from the federal Law Enforcement Assistance Administration (LEAA). And with additional staff hired with federal Comprehensive Employment Training Act (CETA) funds, Earn It was launched in March, 1976. The program has since been bolstered by another $57,000 LEAA grant to expand the part of the program dealing with youths under 17.

Critics of the program are inclined to raise an obvious objection: If unemployment is high, are the defendants taking jobs away from law abiding youths?

"First of all," Judge Kramer says, "you have to remember that we're talking about minimum-wage, part-time jobs. And what we're really generating are hours of work, not really jobs."

The same question bothered Ronald Van Dam, owner of Bargain Center, a large department store in Quincy that employs up to 500 people. "I was really afraid that a kid would go out and break a window to get a job," Van Dam says in describing his initial negative reaction to the program. "I realized then that that was ridiculous. Nobody who is looking for a job would do that."

What eventually sold the program to Van Dam, who now makes 100 hours a month available to the program, was the fact that those who don't perform on the job are immediately sent back to the court. "I'd like to see it throughout the state," he said.

"Displacing anyone?" George Montilio of Montilio's bakery chain asks. "Where are they? You look in the paper, you see pages of job listings. We're always hiring and we always have space. We can give the court preference to help these kids out."

In 1977, its first full year of operation, the Earn It program handled a total of 1,069 cases—480 juveniles under 17 and 589 adults under 25—which, according to Andrew Klein, the court's chief probation officer, amounts to about 20 percent of the defendants that actually appear in the district court. Only five percent of last year's cases were removed from the program.

Before the program was implemented in 1975, the court collected $36,720 in fines and restitution, which was 40 percent of the total amount due. Last year it collected $81,713. "We now have over a 90 percent collection rate," Kramer says.

The majority of cases handled by the program are first and second offenders accused of property crimes such as vandalism, car theft and breaking and entering, though the scope of the program was recently expanded to include other offenders as well. Participation is voluntary and the offender may withdraw from the program at any time. In most cases, prosecution is deferred while the offender participates in the restitution program; if he completes the program successfully, the charges against him are dropped. A youth may exercise his right to a trial at any time, or, if he has been convicted, serve time in jail rather than continue in the restitution program. But, Kramer notes, most participants are more than anxious to make restitution.

Originally, Earn It was separate from probation, but now the two sometimes overlap. In fact, half of the present participants in the program are also on probation. "In some cases," Klein said, "we make it a condition of probation that they be in the program. It has come full circle. Earn It is [a form of] probation. It can also supplement probation, or it can be an alternative to probation."

Earn It is still limited to offenders under the age of 25. In drawing up the initial grant proposal, Kramer anticipated that employers would be more willing to hire youths. "Eighty percent of the cases the court handles are with defendants under 25 anyway."

Twenty-three percent of the defendants come from Boston. The rest live in the largely white, ethnic working and middle cass townships that make up the district: Quincy, Weymouth, Braintree, Holbrook, Cohasset, Randolph and Milton. It is an area that has experienced high unemployment in recent years, partly because of layoffs at the shipyards near Quincy.

To handle the 1,000 or so cases that come in each year, the program has a staff of nine: a program director, four counselors, a job developer, a grants manager, an administrative assistant and a typist. They are housed in a trailer that adjoins the basement parking lot of the district courthouse in Quincy.

Klein, who worked on the original Earn It grant and was the program's first director, is confident that the county will eventually absorb the program. The initial LEAA grant expires this month, and the staff is in the process of seeking additional funds. "One of the problems we have with the LEAA in making up the grants," says Joyce Hooley, the present director, "is that the court has no recidivism rates on the program."

Clients are referred to the program directly from the bench. They are mostly unemployed white males of lower middle class background or whose families are on public assistance. "We get very few women and most of them are shoplifters," said Director Hooley.

Job developer John Capozzoli matches the interests and skills of the defendant with the needs of the employer. "You don't want to send a habitual shoplifter to a department store," he said. "I generally look for jobs in supermarkets, auto body shops, restaurants, or as janitors, painters and general laborers." Capozzoli's job bank now boasts about 100 employers. The jobs usually pay close to minimum wage. The defendants are allowed to keep one-third of their earnings, with the rest going to make restitution according to a schedule determined by the court.

Capozzoli, a former personnel manager, also counsels the defendants on seeking a job and being interviewed. Even though he lines up the jobs for the youths, they must go to interviews, an experience that may help them get a regular job later on.

In addition to the private jobs, Earn It also determines which of its clients are eligible for public jobs administered by the Quincy CETA program. These youths are placed in various public institutions, such as libraries and hospitals, and are paid with federal funds.

An innovative Earn It project that uses CETA funding has been operating for the last two summers on Peddock Island in Quincy Bay. Thirty offenders, whom Chief Probation Officer Klein refers to as "the toughest, least employable juveniles and adults," were taken out to the island to work on refurbishing several outmoded structures, which were used during World War II to detain Italian prisoners of war. The Metropolitan District Commission, the local authority that owns the island, hopes to eventually open it up to the public. It will be a year-round project as soon as winter accommodations can be arranged on the island.

The program has also set up work crews paid with CETA money to mow lawns, wax floors and assist with general maintenance work at the Norfolk County Hospital in Braintree.

Using CETA salaries for restitution is becoming common practice in Massachusetts. Projects are now underway in Woburn, Lowell, Somerville and Cambridge. Since these projects do not call upon private employers to provide jobs, they are much more limited than Earn It, where 90 percent of the jobs are in the private sector.

Several private employers interviewed about Earn It all thought the program was successful. "The problems I've had," said one, "I could have had with anyone we hire for general help. Coming in late or whatever."

"We had about four of five kids, and they worked out just fine," says Gail Wood, executive secretary of personnel for the *Patriot Ledger*, a Quincy newspaper. "Two of them became full-time workers. We discovered that one of them had some background in graphics in high school and he is now in our job printing department."

Dave Montani of Antonelli Iron Works in Quincy hired four general helpers to work in an iron shop doing structural steel fabrication. "We interviewed them the same as anyone else," he says. "No one else knew their background. I don't even know what they did wrong. I didn't ask."

For many of the Earn It clients, being in the program means quite a change in life style. "Most of the kids have never worked before," Kramer says. "They don't know what it's like to hold down a job."

"I had to get an alarm clock for one boy," says Nan Withington, a counselor with Earn It. "His family was on welfare and he never had the need to own an alarm clock. And why should you if you never have to get up in the morning to go to work?"

The working life seems to agree with many Earn It clients. According to Capozzoli, as many as 27 percent actually stay on the job after they have paid back their victims, either in a full or part-time capacity.

[From the Boston Globe, Oct. 22, 1978]

CRIMINALS: DOING GOOD INSTEAD OF TIME

(By Nina McCain)

More and more judges are looking with favor at restitution programs which allow criminal offenders to work their way back while compensating the victims of their crimes

Mrs. Hanah Moore and her sister were only away from the house in Billerica about a half hour that January night, just long enough to pick up a loaf of bread, milk and cigarettes. But Jim, who lived down the street, saw them drive off and knew their house was empty.

Jim (not his real name) was 15. He already had begun to dabble in petty theft and he needed money. He hurried down the street in the early winter darkness, opened a back porch window and crawled in. The old house was chock full of knick-knacks and china figurines but nothing you could sell to a fence for $20.

Jim went upstairs and found a metal box on top of one of the bureaus. Inside was a brown envelope and inside that a thick sheaf of $10 and $20 bills. Jim didn't stop to count. He grabbed the envelope and scooted off into the night.

When Mrs. Moore (not her real name) and her sister got back, they spotted the break right away and started checking for missing items. The minute they saw the open box on the bedroom bureau, they knew: The $1200 they had taken out of the bank that morning to pay property taxes and insurance was gone.

"That money just happened to be here that night," Mrs. Moore said, "I was going to the town hall first thing in the morning .@.@. I never thought we'd see any of it again."

But Mrs. Moore and her sister did see their money again, at least $800 of it. And Jim, who had gotten on the legal elevator that goes past misdemeanors and felonies and stops at "five to ten" in Walpole, got a break.

Instead of getting a crash course in crime at the taxpayers' expense, Jim found his way into Earn-It, the kind of program that is beginning to change the way some offenders are handled in courts throughout the country.

Earn-It, which is sponsored by the Lowell Chamber of Commerce, is one of about a dozen restitution programs in the state that is giving young people like Jim a chance to stay out of jail and pay back what they have stolen or the damages they have caused.

Restitution is hardly a new idea, but it has had an upsurge in popularity recently as judges try to find alternatives to jail terms or the slap on the wrist of suspended sentences. Just last week, Massachusetts received a $3 million federal grant to put some 350 young offenders to work in community service jobs. They will be paid $3 an hour and one fourth of their wages will go to repay their victims.

Jim's employer, Richard Codling, is an enthusiastic supporter of the concept of restitution. Codling, the president of a small data processing firm called Envirodata, was one of the first businessmen to volunteer a job to the Earn-It program.

"To me it's the most beautiful way to help somebody who's screwed up without costing the state money." Codling said. "The businessman gets to try a new young person who needs help .@.@. The victim gets some money back. It's so simple, so beautiful. Everybody's a winner."

Jim didn't have much time to enjoy Mrs. Moore's money. The same night he stole it, a friend found him counting the money and took $400 from him. Most of the rest he blew on a spree in New Hampshire. Then the police, who suspected Jim in the Moore robbery, caught him breaking into another house on a nearby street. He still had some of the stolen cash in his pocket.

Jim confessed and on May 18, 1977, in Lowell District Court Judge Arthur Williams gave him a one-year suspended sentence and ordered him to pay back $800.

"He more or less said if he saw us in there again, he'd send us away," Jim remembers.

Jim got a series of what he calls "weird" odd jobs but none of them paid enough to add up to $800 in a year. He was getting desperate when he saw a story in the Lowell Sun about Earn-It. He went to see Robert Houde, who runs the program, and Houde sent him to Codling. Codling hired him for $85 a week and Jim paid $50 to the court for Mrs. Moore.

"He had a debt and we made a deal," Codling says. "I told him, 'If we like you, you'll be assured of a good job. After you've paid off your debt, you'll get a raise and, in six months, you'll get another raise.' He kept his part of the deal and I kept mine."

It took Jim about four months to pay off his debt. When the payments were completed, he went to see Mrs. Moore to make sure she had received the money. He says he had to work up the courage to knock on the door.

"It wasn't a long conversation," Jim said. "I told her I was sorry and she said OK. I didn't expect her to be too polite, but she was."

Mrs Moore says she doesn't bear any grudges against Jim.

"I never really hated him," she said. "It's just that I worked hard all my life, worked in the mills, for that money. It really gets you when somebody comes and takes it all.

"But, hey, live and let live. If he came by now, I'd say 'Hi.' I think he's going to make it. He just got in with a bad gang."

Jim, who is 17, figures that without Earn-It he would still be trying to pay back the $800. And, by now, he'd probably be in more trouble.

"The kids I hung around with, I know they kept on breaking into houses and stealing cars. But everything is different for me now. I've got my own car. I don't have to hang around."

Jim, an open-faced young man with sandy red hair, likes his job, which involves scanning miles of squiggly lines on graph paper and translating them into language the computer can understand.

"I never thought I'd be doing anything like this," Jim said. "I figured I'd be roofing or something. I didn't like school. I was good at it, but I didn't like it."

Jim says the idea of doing any more stealing is "the farthest thing from my mind. I'm doing all right for myself now. Plus I've got a lot of responsibilities here."

There was a bad moment a while ago when some money was stolen from the petty cash box.

"I thought if they accused me of it, I'd leave," Jim said. "But they didn't. Working here is so relaxed. Everybody trusts everybody."

Codling says he could tell after the first few weeks that Jim was going to make it.

"If you put extra effort into your work—and he did—you'd have to be pretty stupid to do anything that would jeopardize the job. I don't think Jim is going to be dishonest again."

Not all restitution cases turn out as happily as Jim's. Some of the young offenders can't find jobs and some don't show up once they are hired. Every once in awhile, to the great chagrin of program sponsors, one of the offenders stumbles again.

Houde, who steered Jim to his job, remembers another, less successful case. The young man got arrested the first night he was on his new job.

In spite of the problems and the occasional failures, restitution programs are increasingly popular.

A recent study found 11 programs in Massachusetts and several more are planned. They range from those in which the judge simply orders the defendant to pay and leaves him on his own to find a job, to the more elaborate programs that provide jobs either in private industry or public service, counseling and other services. Some programs have panels in which the victims, or their representatives, meet the defendant and participate in setting the amount and the terms of payment.

One of the first restitution programs—and still the largest—is the Quincy District Court's Earn-It (Lowell adopted the name). Last year, 670 adults and 323 juveniles repaid a total of $81,713 to the victims of crimes they had committed. This year, the repayment will be more than $100,000.

Andrew Klein, who was the first director of Quincy Earn-It and is now chief of probation for the court, says that Judge Albert Kramer started the program three years ago when it became clear to him that some alternative to nothing or jail was needed.

The judge went to the South Shore Chamber of Commerce and asked each business to donate 100 hours of paid work. About 40 signed up. More than 75 participate now.

"In most cases, first and second offenders were not even tried." Klein said. "The case was continued without a finding. That encouraged the behavior. If you did get caught, nothing happened.

"Earn-It gives kids a chance to earn their way back. If they fail, that tells you something. One kid kept the money he made and spent 10 days in jail. He earned his way into jail."

Restitution seems to work best when the defendant is a young first offender, although older persons and repeat offenders are not ruled out. In Quincy, if the judge and the probation officer don't think the defendant is ready to be trusted in a private business, he is sent to work at the MDC's Peddocks Island.

[From the Boston Evening Globe, Apr. 11, 1977]

This Court Not Waiting for Reforms

(By Mary Thornton)

A contract is drawn up between the defendant and the victim. The defendant is forced to come to some understanding of how he has affected the victim, and he is then referred to a job, to earn the money for medical expenses for the victim, court costs, and whatever other damage has been done.

Al Kramer has been a judge for less than three years, but that has been long enough for him to become convinced that something has to be done to improve the state's court system, whether the reform comes from the Legislature or from the judges.

Court reform has been a recurring subject in Massachusetts. Last year's study of the state courts by a group headed by Harvard Law School professor Archibald Cox was only the most recent in a long list of attempts at improving the Massachusetts justice system. That set of recommendations is being studied now by the Legislature's Judiciary Committee.

Albert L. Kramer, a 43-year-old former state legislator and aide to Gov. Francis W. Sargent, supports many of the reforms suggested by the Cox Committee, but, about 18 months ago, he began to try out his own reforms at the Quincy District Court, where he's presiding justice.

The changes have not been readily accepted by employees. "There was a lot of resentment against him at first—a liberal Jewish judge (from Chelsea originally, now a Brookline resident) in a conservative, Irish Catholic community—coming in and changing everything around," one employee said. "I guess there still is a lot of resentment, but at least they respect him now."

Jack is a 17-year-old Quincy resident who ended up in front of Kramer after a minor altercation with a policeman. He had been charged with assault and battery.

Instead of getting a regular sentence and fine, Jack, a first offender, was given the alternative of working to pay for damages: in this case the $95 replacement cost of the policeman's uniform.

He's making $95 a week digging graves at a nearby cemetery to pay off the debt, a job he got through the court, and he is thinking of keeping the job through the summer.

In another incident, a group of six young persons from Braintree decided after a party that it would be fun to break windows. They went raging through the neighborhood, smashing windows in a church, a school and a doctor's home.

Kramer asked them to spend two weeks working to buy new glass, two weeks installing it, and to repay the doctor. They agreed to remove litter thrown in his yard by students from the nearby school.

The program, which is also being tried in some other courts, is called EARN-IT, and was started in late 1975 to give young persons who have not been in serious trouble previously a chance to pay back the victim for whatever damages were done.

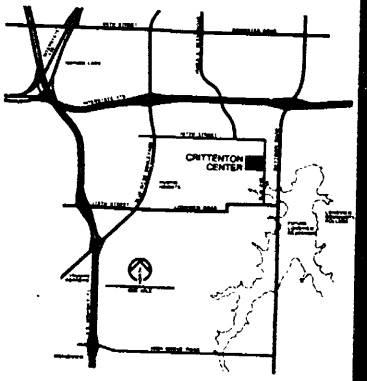
ADMISSIONS INFORMATION

A child or adolescent may be referred by the family, pastor, priest, rabbi, mental health professional, child welfare agency, school, hospital or Juvenile Court. Referral information should include, if available:

1. Description of current problem.
2. Complete social history.
3. Developmental and medical history, including immunization report.
4. Child's medical history, including a recent physical examination report.
5. Any psychiatric or psychological evaluations.
6. Educational reports and transcripts.

Please direct applications or inquiries to:
Director of Admissions
Crittenton Center
10918 Elm
Kansas City, Missouri 64134
(816) 765-6600

Please direct all questions of general business matters or contributions to:
Executive Director
Crittenton Center
10918 Elm
Kansas City, Missouri 64134
(816) 765-6600



ACCREDITATIONS:

Child Welfare League of America
Joint Commission on Accreditation of Hospitals for Psychiatric Facilities Serving Adolescents and Children

LICENSURES

Missouri Department of Health
Missouri Division of Family Services
Kansas State Department of Social Rehabilitation Services

AFFILIATIONS:

Heart of America United Way
Missouri Child Care Association
Kansas Association for Licensed Private Child-Care Agencies

CRITTENTON CENTER

A Program of Service to Troubled Youth

A Facility of Excellence Serving Youth Regardless of Race, Color or Creed

GROWTH TO MEET COMMUNITY NEEDS

Crittenton Center was established in 1896 to serve "erring and wayward women." From 1905 to 1971, Crittenton served as a home for unwed mothers. In 1971, the Crittenton Board of Directors responded to a critical need in the community by discontinuing its unwed mothers program and developed its program for adolescent girls with emotional problems. Soon the demand for our services became much greater than our capacity to provide care. Expansion was necessary.

A PERFECT LOCATION

A 28-acre site at 110th and Elm, includes a children's psychiatric hospital, a residential treatment center, the Harry F. Montgomery Memorial Special Education School, and Carrier House, an on-campus group home. Additional group homes are Rockhill House, Kansas City, Missouri, and Pilot House, Olathe, Kansas.

THE *NEW* CRITTENTON CENTER

A PROVEN RECORD OF EFFECTIVE TREATMENT

Restoring children or adolescents to their highest level of functioning is the goal of our treatment philosophy. How? With Love and Caring. And a comprehensive treatment program. This goal is accomplished through a program which includes individual, group, family therapy, special education, and medical care, as well as other ancillary therapies. Of the first 71 girls to complete the program, 53 girls or 75% are now functioning well in a home, school or work environment.

WHO CAN WE HELP

Crittenton Center meets the needs of children and adolescents with mild to severe emotional problems. Major emphasis is placed on the child or adolescent in care with involvement of the family in the treatment process. Crittenton serves children of average intelligence or above and does not serve criminally dangerous children or adolescents.

HOW CAN WE HELP

A FULL RANGE OF MODERN FACILITIES

Children's Hospital

The children's hospital provides a highly structured therapeutic environment for boys and girls 5 to 18 years of age, with acute and intensive psychiatric and behavioral problems. The hospital will provide all the medical, psychological, physical, educational and social treatment for the individual child. Psychological and educational evaluation and diagnosis are also available.

Residential Treatment Center

A secure live-in program, serving girls from 12 to 18 years of age, provides an opportunity for growth and re-direction. An essential element in the residential program includes a wide variety of social service support that meets individual needs of each resident. These services include individual, group and family therapy, psychiatric, psychological and diagnostic services; occupational-recreational therapy; consultation; education and work opportunities.

CARRIER HOUSE

Group Homes

The group homes assist residents in their efforts to integrate into the community. Girls 12 to 18 years of age may enter a group home from the main center or may be admitted directly from the community. Individual, group, family and peer support are the bases of the program. Residents attend school, work, or a combination of both. Available services from the main center include consultation and supportive services.

Community Day Treatment

The Community Day Treatment program, made possible by the Junior League of Kansas City, Missouri, is the portion of the special education school developed primarily to serve secondary level students from the Greater Kansas City area. These students are in need of alternative school programs and therapy but are still able to live in their own homes.

Harry F. Montgomery Memorial School

This Special Education program serves students from the children's hospital, residential treatment center, group homes and community day program. The educational program is accredited, and the teachers are certified in special education. The comprehensive curriculum includes: English, Social Studies, Mathematics, Science, Vocational Education, Home Economics and Art Education, in a self-contained, structured classroom setting. All academic work is individualized and accepted for credit toward graduation requirements.

[From The New York Times, Jan. 5, 1979]

Focusing on the Toughest Teen-Agers

In its zeal to encourage the release of petty delinquents, has the Federal Office of Juvenile Justice and Delinquency Prevention neglected the possibility of helping serious offenders? Are they being held in state correctional facilities with too little thought about alternatives providing greater individual attention to their prospects after release?

Congress created the office in the Department of Justice in 1974 out of concern that thousands of children, especially minor delinquents and nonoffenders like abused or neglected children, were being imprisoned unnecessarily. Since then, the agency has devoted most of its energies and $100-million-a-year budget to encouraging states and localities to find alternatives to prison in local communities. There have been visible results. Despite public pressure to get tough with teenage criminals, judges and corrections officials are managing to keep most minor offenders out of institutions and in foster homes and group homes.

But the agency's critics now charge that the success of federally inspired "deinstitutionalization" has come at the expense of serious offenders, mostly urban minority youngsters, now being jailed in increasing numbers. The critics have a point. True, rehabilitation efforts for the toughest criminals have not proved very successful. But a recent study of violent juvenile offenders in Columbus, Ohio, suggests that imprisonment may encourage, not deter, lawless behavior.

Society can hardly afford to ignore these young people. Until this year, the agency's preoccupation with petty offenders left little money to assess treatment techniques for hard-core delinquents, as a means of reducing the threat they pose once released. Promising community-based programs to serve them were going begging for funds. This seems to be changing. The job of persuading states to free minor delinquents and nonoffenders has largely been accomplished. Now, the Juvenile Justice office has committed a modest $6 million to test a Denver-based program for violent and habitual offenders. This should signal the beginning of closer Federal attention to the seemingly intractable problem of serious juvenile crime.

[From the Atlanta Journal and Constitution, Apr. 1, 1979]

Little Known Fact: Violent Crime Rate Down for Juveniles

(By Richard J. Cattani)

Chicago—Violent youth crime, which soared in the 1960s, has been declining in the 1970s.

However, the general public and many government officials have not caught up with the downturn, juvenile crime experts say.

As a result, pressures to toughen juvenile justice sanctions—such as New York's recent attempt to impose life sentences on 13-year-olds—may be out of step with actual youth crime trends.

The rate of violent youth crime in the United States began leveling off as early as 1970, says Franklin Zimring, director of the University of Chicago's Center for Criminal Justice.

Nonviolent crimes like theft and vandalism also have been declining, Zimring says, though data for nonviolent crimes is more sketchy than for violent crimes. Generally, the less serious the offense the greater the decline in arrests, he says.

Preliminary FBI data for 1978, released Tuesday, shows a 1 percent increase in overall crimes for last year, compared with a 3 percent decline in 1977. Violent crimes rose 5 percent. However, FBI uniform crime reports do not separate crime rates by age groups, spokesman say. Hence, youth-crime trends for 1978 will not be known until later this year.

But police records of violent youth crimes through 1977 show these moderating patterns:

Homicide by offenders 13 to 20 years old rose 84 percent during the 1960s, leveled off to a 4 percent increase from 1970 to 1975, and then declined by 8 percent from 1975 to 1977, the latest reported period.

Rape arrests rose 17 percent during the 1960s, leveled off to a 1 percent increase from 1970 to 1975, and then held stable.

Robbery arrests rose 74 percent during the 1960s, increased 24 percent from 1970 to 1975, and then declined by 17 percent after 1975.

Aggravated assault arrests climbed 62 percent in the 1960s, rose another 42 percent in the first half of the 1970s, but then edged back 3 percent from 1975 to 1977.

"The public has not caught up yet to the statistics," says James Shine, special counsel to the Justice Department's Office of Juvenile Justice and Delinquency Prevention. "Most people would say there has been no leveling off or decrease."

Violent crime remains cheifly a minority, big-city phenomenon, says Zimring. Nearly two-thirds of juvenile crimes like homicide and robbery involve minority youths.

The less serious violent crimes, robbery and aggravated assault, account for 90 percent of juvenile arrests. Rape and homicide, the more serious categories, account for the other 10 percent.

Zimring and other juvenile crime experts are hesitant to link youth-crime statistics too closely with changes in the number of youths. They remain uncertain of the underlying reasons for the marked shift in juvenile crime in the mid-1970s.

If a relationship exists between lower crime and population decline, the juvenile crime outlook for the next decade, based on expected declines in numbers of youths, should show an overall decrease.

However, because the number of young minority city-dwelling males will not drop considerably in the 1980s, the decline may not appear noticeably in large cities, Zimring says. In cities like Chicago, numbers of black and Hispanic juveniles likely will continue to increase, obscuring a possible decline in the overall youth crime rate.

Changes in police reporting are needed to give a clearer picture of youth crime trends, Zimring says. Broad categories like robbery and aggravated assault tell "relatively little about the degree of seriousness of the offense."

"Robberies range from unarmed, schoolyard extortions to armed, life-threatening, predatory confrontations," he says. "Similarly, aggravated assault, as defined by the police, varies from fist fights through shootings, carrying vastly different death risks and policy implications."

[From Youth Alternatives, April 1979]

Conyers Would Limit Funding Areas—LEAA Bill Hit for Slighting Delinquency Efforts

Rep. John Conyers (D-Mich.) held a hearing March 22 on his ill-conceived bill (H.R. 2108) to replace the Law Enforcement Assistance Administration with a Bureau of Criminal Justice Assistance and heard the Executive Director of the National Youth Work Alliance testify that community based youth service agencies "want no part of the bill since it fails to meet the high standards of progressive support for juvenile justice that Congress set when it passed the Juvenile Justice Act."

Conyers' legislation would scale down LEAA's present formula grant program to the states and limit the areas of spending to four priorities: neighborhood based community anticrime efforts, alternatives to traditional incarceration, delinquency prevention, and white-collar crime (see Y.A., March, 1979).

Treanor testified that H.R. 2108 does not continue to mandate the deinstitutionalization of status offenders and nonoffenders called for under the Juvenile Justice and Delinquency Prevention Act. "For years," he said, "states, including Michigan, have inappropriately incarcerated young people—particularly status offenders. Now, when we have finally enacted federal legislation requiring states participating in the act to place status offenders and nonoffenders in appropriate non-institutional settings, your bill would once again leave it to the states to place these young people as they wish."

Treanor attacked the bill for failing to provide funding for specific activities such as youth advocacy, youth service bureaus, outreach programs, education programs, and community based prevention programs. "Who will act as advocates for incarcerated youth if the federal government doesn't?" Treanor asked. "Certainly not the states. And certainly not county and local governments, which are too often proponents of having their troublesome young people removed to state training schools."

Under Conyers' legislation, discretion would be left to the states on how much to spend in each of the four priority areas. Conceivably, a state could elect to spend no money at all in one or more of the categories.

"Such a provision," Treanor noted, "would seriously jeopardize the prevention and diversion efforts begun under the Juvenile Justice Act . . . When forced to compete with the entrenched, well organized criminal justice system, young people are too

often the losers. Congress corrected this injustice with the Juvenile Justice Act. Your bill would permit that injustice to flourish."

Conyers' bill not only eliminates the Juvenile Justice Act's maintenance of effort provision (which requires that 19.3% of all LEAA action money be spent on delinquency efforts) but sets the maximum funding level at $50 million for the Office of Juvenile Justice he would set up within the new bureau.

"No matter how you juggle the figures," Treanor said, "H.R. 2108 cuts well over $200 million out of programs for youth and will cause the collapse of many of the community based youth service systems which thousands of youth workers have struggled diligently to build. I can understand why H.R. 2108 authorizes the government to accept voluntary and uncompensated services because with the level of support authorized under H.R. 2108 volunteers are about all that will be left in many youth service agencies."

Earlier in the hearing, held before Conyers' Subcommittee on Crime, Hunter Hurst, Director of the National Center for Juvenile Justice in Pittsburgh, Pennsylvania, referred to the bill's focus on neighborhood based anti-crime efforts and cautioned that "acting through neighborhood groups doesn't insure doing what's right. We have ample evidence to show community involvement is difficult." One problem, Hurst said, is that communities want to set their own priorities and children—"a disenfranchised constituency," Hurst noted—tend not to rate high on these lists. He cited the case of a local "Good Neighbor Committee" which opposed a group home for retarded children.

Hurst also said he was worried about the degree of public outrage over violent juvenile crime. He blamed much of this feeling on sensational and uninformed media reports on the subject and said there is clear documentation that "violent juvenile crime is not rampant." However, he added, he expects that Congress will still place undue emphasis on violent juvenile crime during the current session.

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