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COMMITTEE PRINT

AN INVESTIGATION BY CHILDREN OF
THE INAPPROPRIATE INCARCERATION
OF CHILDREN

REPORT

OF THE

SUBCOMMITTEE ON THE CONSTITUTION

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

NINETY-SIXTH CONGRESS

SECOND SESSION



OCTOBER 1980

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FOREWORD

The Juvenile Justice and Delinquency Prevention Act of 1974 was grounded on our findings that the Nation's juvenile justice systems were collectively often more harmful, in terms of expensive overhead and the likelihood that involvement actually led a child to more frequent and increasingly serious violations, than helpful.

In the Act we emphasized prevention and the importance of youth participation. The bipartisan majority which supported the Act was optimistic that more national policies and programs could be developed which would minimize Government intervention into the lives of children and their families and expand responsible roles for our nonvoting citizens, while protecting our voting citizens.

This report reveals an endeavor which incorporated these several concerns. Several dozen youngsters, aged 10 to 17, conducted a penetrating, unprecedented, public investigation of the costly, inappropriate incarceration of their peers, many of whom were dependent, neglected, abused or status offenders, but certainly not even charged with crimes. Their inquiry represents the type of responsible contribution that our young citizens are capable of making.

Advocacy by children and youth on behalf of children and youth is a new frontier, which lest we forget, molds and supports the development of our most cherished natural resource—our children.

The individual and collective efforts which yielded this hearing record, the findings and the film which resulted are exemplary.

The work completed by these young people has helped to revitalize the perceptions which made the 1974 Juvenile Justice and Delinquency Prevention Act possible and will help insure, through constant rekindling, that its objectives will be achieved and maintained in the present and future.

Without such vigilance and critical assessment, yesterday's conscientious acts may fall prey to today's conveniences.

BIRCH BAYH,
Chairman,
Subcommittee on the Constitution.

JULY 4, 1980.

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PREFACE

In the early spring of 1978, nine reporters from Children's Express magazine conducted hearings in Washington, D.C., on the subject of America's incarcerated children. During 3 days of hearings, the examiners, who ranged in age from 10 to 13, called 25 expert witnesses including doctors, public officials, psychiatrists, child advocates, researchers, and formerly incarcerated children. The witnesses came from many parts of the country to testify about the extensive use of solitary confinement, drugs, and violence in controlling the behavior of institutionalized children.

The purposes of the hearings were to inform the public and to stimulate legislative change, particularly in the States. The hearings were widely covered. Public television covered them live and all three networks reported on them. They were also widely covered on radio and in newspapers throughout the country.

The hearings produced extraordinarily shocking testimony. Most institutionalized children have never been charged with crimes or offenses, yet they are subject to involuntary detention and often treated like adult felons. Psychiatrists testified about the irreparable damage done to children by abuses like solitary confinement; doctors described the dangers of inappropriate use of drugs; and formerly incarcerated children described treatment that most of us associate only with brutal, totalitarian States.

The hearings were the result of six months of planning and represented a collaboration among Children's Express and three sponsoring organizations—the Children's Embassy of the Day Care and Child Development Council of America, the National Coalition for Children's Justice and the Children's Cultural Foundation. Funding came from the Office of Juvenile Justice and Delinquency Prevention through the National Office of Social Responsibility and from a grant by the New Land Foundation of New York City.

The young hearing examiners were backed up by a team of 10 teenage (14 to 17) associate and assistant editors of Children's Express. Six of the teenagers handled all of the videotape preparations and then taped the entire 3 days of hearings with broadcast-quality equipment. (The edited tape has been seen throughout the United States and is now being used in college classrooms.) The other four teenage editors ran training sessions for the hearing examiners for 6 weeks in advance of the hearings and handled logistics during the hearings.

In preparation for the hearings, the examiners read a substantial body of material including "Weeping in the Playtime of Others" by Kenneth Wooden, "Children in Adult Jails" (a report by the Children's Defense Fund), excerpts from testimony before Senator Birch Bayh's subcommittee of the Judiciary (1970, 1974, 1977), etc. They

met each week—sometimes two or three times—for issue analysis, role-plays and for interviews with experts on both substance and procedure.

All of the hearing examiners had worked on Children's Express magazine and had participated in shaping the direction of the magazine toward advocacy articles. In fact, the hearings emerged from an article that was being prepared on the incarceration of children and from an interview with Kenneth Wooden of the National Coalition for Children's Justice. The magazine had previously run articles on children in mental institutions and children in group homes.

During the 3 days of testimony, Robin Moulds, the chief hearing examiner, and the other examiners conducted an extensive and informed examination of all of the witnesses. Their careful preparation made possible a real illumination of the subject matter—especially in the questioning of the formerly incarcerated children.

After each day's testimony, Children's Express editors led round-table discussions among children who attended the hearings. In this way, a remarkable dialogue was developed among children who were being exposed to the information for the first time.

Children's Express long ago established the role children have to play in advocacy. The hearings in Washington represent a new frontier and show the seriousness and magnitude of the responsibilities children are ready and able to undertake on their own behalf and in support of other children.

ROBERT CLAMPITT,
Publisher,
Children's Express Magazine.

ACKNOWLEDGEMENTS

The hearings are being sponsored by the Day Care and Child Development Council of America, having been organized by Robert Clampitt, founder of Children's Express, and Ken Wooden of the National Coalition for Children's Justice. The hearings are cosponsored by the Children's Cultural Foundation of New York with a grant from the National Office for Social Responsibility, funded by the U.S. Office of Juvenile Justice and Delinquency Prevention and the New Land Foundation of New York.

Reception provided by Abt Associates, coordinated by Sandy Murphy.

Special acknowledgment to Fran Eizenstat, Day Care Council coordinator, for the hearings, and Trisha Long and Misty Barth, Children's Express coordinators.

The Children's Express reporters who served as hearing examiners were:

Robin Moulds, 13, chairperson;
Quin Bakaty, 11;
Susannah Blinkoff, 13;
Christopher Clay, 13;
Charles Hollings, 12;
Franklin Kinard, 12;
Mara Lozier, 10;
Deborah Oestreicher, 13; and
Jessica Trentlyon, 12.

Participating Children's Express assistant and associate editors were:

Training and research

Bryan Clampitt, 15;
Thelma Foster, 17;
Roger Gould, 15; and
Jared Hoffman, 15.

Video production

Greg Aull, 17;
Diane Boerner, 17;
Despina DeMesquita, 17;
Ivan Rodriguez, 17;
Michael Schreibman, 16; and
Jerry Seigerman, 17.

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 "Dollar-Tracer Places Blame for Children 'in Hellholes,'" from the Denver
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 "Incarcerated and Abused Children," from the UPI daybook, March 28,
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 "Harsh Treatment Called Way of Life in Juvenile Homes," from the
 Detroit News, March 29, 1978.
 "Witnesses Describe Abuse, Beatings in Reformatories," from the Sun,
 Baltimore, Md., March 29, 1978, by Lynne Olson.
 "In Solitary: The Lost Childhood of Joanne W.," from the Washington
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 "Kids' Panel Studies Juvenile Detention," from the Post-Tribune, Gary,
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 "Children Cross-Examine Children About Incarceration," from the New
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 "Children's Express: A Public Forum for the Young Folks," from the
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 "Juvenile Journalists Listen to Children's Problems," from the Detroit
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 "Reactor Steering OJJDP to Advocacy Rule," from Criminal Justice
 Newsletter, April 24, 1978.
 "Children in Custody: Our continuing National scandal," from Prison
 Law Monitor, Volume 2, No. 1, June 1979, by John M. Reitor.
 "Children as Public Advocates," from the Children's Bureau, HEW
 June-July 1978.
 Interview with Senator Birch Bayh, Democrat from Indiana, chairman,
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 U.S. Senate committees and subcommittees relevant to children and
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 The Children's Express, "Children Today," July-August 1979.
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 House, May 17, 1979.
 "The Constitution: For Adults Only?" Children's Express hearings on
 the inappropriate incarceration of children, Washington, D.C., March,
 1978, Children's Express magazine, 1978.
 "Samantha, The World's Youngest Anthropologist," by Samantha
 Gillison, age 11, Children's Express magazine, special edition, 1978.
 News, Washington, D.C., May 17, 1979, Children's Express White House
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 "Breaks Him Up," the Indianapolis Star, May 18, 1979, Vice President
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AN INVESTIGATION BY CHILDREN OF THE INAPPRO-
 PRIATE INCARCERATION OF CHILDREN

WASHINGTON, D.C., March 28, 1978.

OPENING STATEMENT OF THELMA FOSTER, ASSISTANT EDITOR OF
 CHILDREN'S EXPRESS

Ms. FOSTER. Good morning. My name is Thelma Foster and I'm an
 assistant editor for Children's Express [CE]. The hearings are being
 cosponsored by the Children's Cultural Foundation of New York, with
 a grant from the National Office for Social Responsibility, funded by
 the U.S. Office of Juvenile Justice and Delinquency Prevention, and
 the New Land Foundation of New York.

The purpose of the hearings is to expose to the public the conditions
 that prevail in institutions for children. The main focus will be soli-
 tary confinement, drug abuse, and physical violence within these in-
 stitutions. We feel these hearings will be a spark, not only to make the
 public aware of the danger and waste going on in institutions, but also
 to make the public active on a local and State level to change these
 conditions. We hope this will be a beginning—it cannot be the end.

My feelings about the conditions in these institutions are feelings
 of amazement and horror. It is hard for me to believe that a person
 is born and dies without ever knowing happiness. I feel that everyone
 who goes into an institution, whether that person is released or not, is
 still in his or her own prison.

The hearings will be conducted by reporters from CE, all 13 and
 under. There will be nine hearing examiners and they will alternate.
 Five will sit at all times. All of the hearing examiners have partici-
 pated in an extensive investigation of the conditions in children's in-
 stitutions and have been briefed by assistant editors. I would now like
 to introduce Robin Moulds, the chief hearing examiner. Robin—

Ms. MOULDS. Over the past few months, Children's Express has been
 doing investigative research on children in penal and mental institu-
 tions of the United States. We have found very shocking evidence of
 the degrading and inhuman abuses practiced in these institutions, such
 as solitary confinement for extended periods of time, drug abuse, and
 physical brutality. The Constitution establishes rights for all people
 and this is certainly a violation of children's rights. The main pur-
 pose of these hearings is to inform the public of American institutions
 cruel treatment of a section of our society, and to make legislative
 change to stop this.

The panel for these hearings consists of nine Children's Express
 reporters, aged 13 and under. I'd like to introduce Mara Lozier, 10;
 Christopher Clay, 13; Franklin Kinard, 12; Susannah Blinkoff, 13;