S. HRG. 102-1085

REAUTHORIZATION OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON JUVENILE JUSTICE

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

ONE HUNDRED SECOND CONGRESS

SECOND SESSION

ON

S. 2792

A BILL TO AUTHORIZE FUNDS FOR AND STRENGTHEN PROGRAMS OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

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THURSDAY, JULY 2, 1992

U.S. SENATE,
SUBCOMMITTEE ON JUVENILE JUSTICE,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., in room SD-226, Dirksen Senate Office Building, Hon. Herbert Kohl (chairman of the subcommittee) presiding.

Also present: Senators Heflin and Brown.

OPENING STATEMENT OF HON. HERBERT KOHL, A U.S. SENATOR FROM THE STATE OF WISCONSIN

Senator KOHL. We are pleased to call this hearing to order this morning.

Over the past year, this subcommittee has held six hearings designed to give us a better understanding of the way the juvenile justice system works. Based on those hearings, and based on visits to and conversations with the people who work in the system, we have developed S. 2792. This bill reauthorizes and hopefully strengthens the programs and activities created by the Juvenile Justice and Delinquency Prevention Act.

The bill is based on a very simple assumption. Since there are multiple causes of delinquency, any realistic effort to deal with delinquents must be multidimensional and multidisciplinary. In our judgment, the system is moving in that direction, but it is moving too slowly, primarily because there are too many kids in trouble and too few funds and too few resources to help them.

Just to give a few examples, we know that it makes no sense to put juvenile offenders in jails with adult offenders. Research shows that mixing these groups makes it more likely that the juvenile offender will become an adult offender. So, in 1980, we required States to house juveniles in separate facilities, and yet 12 years later, one-third of our States do not have separate facilities.

We know that we ought to treat nonviolent juveniles differently than violent ones, but we have failed both populations. Nonviolent juveniles are too often taken out of their communities and warehoused with violent kids, and violent juveniles are too often left on the street.

This legislation attempts to address these and other problems in two ways. First, we authorize more funds so that we can expand programs that work and learn more about ideas that might help.

And, second, we recognize that the States are responsible for designing and implementing juvenile justice programs. We also recognize that the States face many problems and have only a little money. In that kind of situation, resources are directed to the most pressing problems.

The net result is that adult criminals get more attention than juveniles, and within the juvenile population gangs and gang members get more attention than nonviolent kids who are just acting out their problems and who, with a little help, can probably be salvaged.

To try to bring back some balance to State programs, we created State challenge grants. These challenge grants give s a financial incentive to emphasize a range of juvenile justice activities by awarding more Federal funds to States that do more to deal with juvenile problems.

So far, we have been generally pleased with the reaction to this legislation. Most of the organizations and individuals involved in the field have been generous in their remarks. The Department of Justice has been a little less enthusiastic, but our staffs have worked hard to narrow our differences. We will hear a few things today about the differences that remain. Some concerns deal with the organization of the office of OJJDP and its relationship to OJP and the Attorney General. We are sympathetic to the right of a Cabinet officer to organize his or her own operation, but we also want to be sure that the office retains its independence.

Other concerns deal with Justice's interest in making sure that we hold juveniles accountable for their actions. We share that interest, but we want to make sure that we are held accountable for providing them with supportive services as well.

We believe that we can continue to work on these problems together, and in that context we welcome everybody here today.

I now yield to the distinguished Senator from Colorado for any comments he may have. Senator Brown.

OPENING STATEMENT OF HON. HANK BROWN, A U.S. SENATOR FROM THE STATE OF COLORADO

Senator Brown. Mr. Chairman, let me thank you, first of all, for holding this hearing. We had had an indication that the Justice Department had specific concerns that they hoped to have the committee consider, and asked for an opportunity to present that, and you have been most kind to accommodate that request and that schedule, as you have been most, I think, aggressive in pursuing improvement of the statute and the potential for further development of these programs in the reauthorization. So I personally appreciate the kindness you have shown in holding the hearing and following up on that request.

I look forward to the hearing this morning. It strikes me that we all share a common purpose in hoping to develop more meaningful, effective programs in this area. I believe, in the long run, one of the best things we will be able to do is not simply deal with the organization of the Justice Department or new programs, but begin to shed some real light on what programs work and which ones don't.

It is my personal belief that the practice of many States in not dealing with juvenile crime, but rather choosing to treat it with a blind eye in some respects, has, rather than helped those juveniles, hurt them. I look forward to a time when the results of some of our studies will give us clear indication whether or not the current practices have been helpful or whether or not they have indeed made things worse.

Senator KOHL. Thank you very much, Senator Brown.

Senator Heflin.

OPENING STATEMENT OF HON. HOWELL T. HEFLIN, A U.S. SENATOR FROM THE STATE OF ALABAMA

Senator HEFLIN. Mr. Chairman, I commend you and the ranking member, Senator Brown, for conducting this important juvenile justice hearing. I commend you, too, for the leadership that you have taken in the field of juvenile justice. There is no more important area before this body than the future of our nation's youth.

I want to also take the opportunity to welcome my fellow Alabamian, Representative Bud Cramer, here today. Bud has long been active in the juvenile area not only as a Congressman, but during his time as the district attorney in Madison County, AL. He brings vast experience to it. He has introduced the national children's advocacy program, and I understand that Senator Nickles has also introduced a Senate counterpart relative to this. This legislation would augment the coordination of child protective services, ultimately easing the trauma that children suffer because of abuse.

I think this is a good hearing and is something we should move forward in. It is a subject that deserves a great deal of attention, more so than the media has been giving and more so than we have given in Congress. So I commend you for this activity, and I wish I could be able to stay, but I will try to come back and listen to some of the testimony that is presented today, but I do have conflicts.

Senator KOHL. Thank you very much, Senator Heflin.

Our first panel this morning consists of two leaders on juvenile justice issues in Congress. Senator Nickles, our Senator from Oklahoma, is one of the most articulate members of the Senate and is a frequent witness before this committee. With Congressman Cramer, he has recently introduced legislation addressing the serious problem of child abuse. Bud Cramer is an outstanding freshman House member and a former DA from Huntsville, AL, who has taken a keen interest in preventing child abuse.

We are delighted to have both of you with us here this morning to talk about your bill, and I understand that you have agreed to discuss it jointly.

PANEL CONSISTING OF THE HONORABLE DON NICKLES, A U.S. SENATOR FROM THE STATE OF OKLAHOMA; AND THE HONORABLE ROBERT CRAMER, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ALABAMA

STATEMENT OF SENATOR NICKLES

Senator NICKLES. Mr. Chairman, thank you very much, and I wish to thank you for your hospitality and also for your leadership

on handling very difficult, but also very important issues dealing with juvenile justice. I can tell you as a Senator I have had the experience—not the pleasure, but the experience of visiting all of Oklahoma's juvenile justice centers, and I have always been troubled.

I am impressed that you and Senator Brown are showing such leadership by your hard work on introducing legislation trying to see that these juveniles are not put in situations where they are basically involved in incubators of crime, where they learn more and more about crime and less and less about rehabilitation. So I compliment you for your legislation.

Today, Congressman Cramer and I are before you expressing our hope and desire that you will complement the work that you have with additional impetus by adding our legislation, the National Children's Advocacy Program Act of 1992. This focuses not so much toward the criminal, but to assist the victim of the crime, the victim of the crime in this case being children, the victims of child abuse.

I really and truly wish that I wasn't here today; I wish that we didn't have a need to be here today. I wish that the statistics that we know weren't true, but they are true and they are sad. It is a sad fact that over 2.5 million children are abused sexually or physically every year. That is a frightening statistic.

I have been told that one out of four young girls, or girls under the age of 18 will be abused sexually or physically. One out of five boys by the time they reach 18 will be abused sexually or physically. Those are frightening statistics. Those individuals won't only be scarred for that experience, they will be scarred for life, and we need to help ease that pain. We need to help ease that trauma. We need to help to make sure that the justice system doesn't retraumatize that youngster time and time again through a court experience, through reexamination, and that is what our legislation is about. This legislation is pro-child. This legislation is trying to protect the innocent who has been victimized.

So, Mr. Chairman, I wish to again thank you for your efforts because I can complement the comment that was made by our friend and colleague, Senator Heflin. Our children are so important, and particularly our innocent children, and we need to help them. Frankly, the current justice system many times—not intentionally, but many times has had a very negative impact on our children.

So there are some experts, there are some panels. We happen to be fortunate to have one in Alabama, we happen to be fortunate to have one in Oklahoma, where we have had experts put together an excellent program in trying to minimize the damage and the trauma to innocent victims.

The purpose of this legislation is to establish a national center where we can train additional States and cities in how to handle and help and assist these innocent victims, and that is what our legislation is about. That is what our legislation is, to try and get to where we fan out all across the country successful methods of minimizing the damage and the trauma to innocent victims.

This program, Mr. Chairman, I believe is an excellent complement to the legislation that you and Senator Brown are working on, that Senator Biden and others in this committee have done

such an excellent job in promoting in the 1990 amendments. I compliment you for that. I was happy to work with you on that, and I wish to further assist you in any way I can both in the Appropriations Committee and on the floor of the Senate to make this a success.

I might mention, Mr. Chairman, that this legislation that Congressman Cramer and I are before you on today is cosponsored now in the Senate by Senators Kassebaum, Gorton, Shelby, Grassley, Specter, Inouye, Durenberger, Burns, D'Amato, and DeConcini. It is a bipartisan bill; there is not a partisan tone in this in any way, shape, or form. This is a bill to help innocent children, and I really and truly hope that it will be included as part of your legislation and that we will be able to adopt it this year.

I thank you very much for your assistance, and I would also like to comment—Senator Heflin was complimentary of Congressman Cramer, but seldom do we see a freshman member of the House come on with such leadership capability. Particularly, his knowledge and his experience as a district attorney have given him, I think, particular insight on how to handle some of these very difficult and trying cases. I have had the pleasure of being with him and working with him on this legislation, and he is truly a leader in this field and I am delighted to have him as the principal House sponsor for this very important legislation.

[The prepared statement of Senator Nickles follows:]

STATEMENT BY SENATOR DON NICKLES
TO THE SENATE SUBCOMMITEE ON JUVENILE JUSTICE
ON THE "NATIONAL CHILDREN'S ADVOCACY PROGRAM ACT"
July 2, 1992

Mr. Chairman and members of the Subcommittee, Congressman Cramer and I have come here today to ask that you incorporate provisions contained in S. 2509 the "NATIONAL CHILDREN'S ADVOCACY PROGRAM ACT OF 1992" in the final mark-up of legislation reauthorizing our nation's juvenile justice programs. This piece of legislation will bring a ray of hope to the lives of children who live in the shadow of abuse and neglect.

I would like to compliment Chairman Biden and the entire Judiciary Committee for the past work you have done in addressing child abuse and neglect in our nation. Most notably, I want to commend you for the "Victims of Child Abuse Act of 1990" that was passed into law as part of that year's crime bill. I assure you that our legislation is a logical next step in the fight to make the judicial system more pro-victim. This measure in no way undermines current law. Enactment of the "National Children's Advocacy Program Act of 1992" will compliment what is current law by creating a catalyst for the implementation of multi-disciplinary child abuse programs in every area of our nation. This is a proactive measure aimed at helping abused children and their non-offending family members deal with the pitfalls of an unfeeling judicial system.

It disturbs me, as it should disturb every member of this committee, that legislation of this nature is necessary. It disturbs me that in the United States, child abuse and neglect have been designated as a national emergency, that there are over 2.5 million reports of child maltreatment each year, and that the number of confirmed cases of child abuse in my state of Oklahoma more than doubled in the eighties. Congress must come to realize that this plague haunts every facet of American life and it must be stopped.

Until we eliminate the prevalence of child abuse in America, it is imperative that governments, law enforcement agencies, health care providers, and concerned citizens all over the nation use every means necessary to aid and comfort the innocent victims of these most heinous of crimes. The "National Children's Advocacy Program Act of 1992" will create a federal program to facilitate the development of community-based,

child-focused centers aimed at alleviating much of the trauma the criminal justice system has brought to the victims of child abuse.

Currently, these innocent victims face an uncompassionate maze of interviews and bureaucracy. Implementing programs that will reduce the revictimization of these children as they go through the judicial system is a necessity. National Children's Advocacy Centers will improve the efficiency and humanity of society's response to young victims of sexual and physical abuse. By creating a compassionate setting for these victims and cutting down the repetition of interviews, the children who are faced with the ordeals of being a victim of child abuse will not face the trauma that is abundant in the current system.

There is a substantial amount of evidence that indicates a strong relationship between child maltreatment and juvenile delinquency. By addressing the inequities in society's response to the nation's abused children, we believe that we will take a grand step toward addressing the problem of juvenile delinquency in our nation.

The "National Children's Advocacy Program Act of 1992" has bi-partisan support in both chambers of Congress. S. 2509 currently is co-sponsored by Senators Kassebaum, Gorton, Shelby, Grassley, Specter, Inouye, Durenberger, Burns, D'Amato, and Deconcini. I am confident as this Congress progresses toward a conclusion that our legislation will garner more support on both sides of the aisle.

I think the subcommittee would agree that there is a need for a program in the Justice Department aimed at alleviating the current system's deficiencies when dealing with the innocent victims of child abuse. The Office of Juvenile Justice and Delinquency Programs reauthorization is the perfect vehicle for the creation of this program.

In closing, I would like to thank the subcommittee for giving Congressman Cramer and myself this forum to express our beliefs about the "National Children's Advocacy Program Act". While it is true that children are only 25 percent of our population, they are 100 percent of our future. This legislation will help to ensure their future is one that is bright and full of hope.

Senator KOHL. Thank you very much, Senator Nickles.
Congressman Cramer?

STATEMENT OF CONGRESSMAN CRAMER

Mr. CRAMER. Thank you, Mr. Chairman, and I too want to add my chorus of thank yous sincerely to this committee, to your leadership. These hearings have provided the child abuse field and the juvenile justice field with a lot of important information and issues. I, as a former prosecutor, pay attention to those kinds of opportunities that come out of this base here inside the Beltway.

I am a new Member of Congress, and I would like to speak to you very quickly and give you a little benefit of the background that I come from, having been a DA. I broke my teeth in the juvenile justice system as an assistant district attorney there working in juvenile court prosecuting those juvenile offenders. Later when I would be elected district attorney, I would get the opportunity to manage an office that was trying to cope with all kinds of juvenile justice issues that it couldn't cope with. It couldn't even define those issues.

In 1983, we started working with a different set of victims, those children who were victimized by their own parents or family members or friends of the family, the child sexual abuse victims. We saw that our system was not reacting to those children very properly; that we were, in fact, revictimizing those children.

We decided that we were the system, that we could redesign ourselves, and we set about to do it, and we did that on a community level. We did that by coming out of our isolated worlds and working with other individuals in the community. What we did is we built a new child abuse program that was located in the community. We took it out of the bureaucratic setting in our offices and took it into the community in a child-focused setting, making it more compatible to families that would hopefully come in there.

In 1983, we took two cases of child abuse into the criminal justice system there in my county. Once we opened to the door to our child-focused, multidisciplinary program in 1985, we took approximately 50 that first year into the criminal justice system. By 1987, we took 100 cases into the criminal justice system. Now, that is not the best barometer of whether a program is working or not. Through the doors of our child-focused center in 1985, we saw 200 children. By 1987, we saw 400 children.

Now, as the elected district attorney, I had charge of the grand jury, and regularly we took the grand jury to our juvenile detention facility and we would visit with the juvenile delinquents there and we would talk to them about their backgrounds and how they got there, to the extent that you can talk to a young person about those kinds of things.

We found out that within the juvenile court system, within the juvenile system, that we were warehousing children on their way to becoming adult criminals. Many of those young people were the victims of family violence, including child physical abuse, child sexual abuse, and we weren't reaching out to those young people in an innovative way. We didn't have the resources to reach those

young people. So we expanded our program to provide those kinds of resources.

Much to our surprise, we found out that other communities around this country were coping with the same problems and that we provided some sort of message to them, so we established a training program there. We now have a network of about 80 multidisciplinary, facility-based programs around the country.

What we think this piece, the National Children's Advocacy Program Act, will allow us to do—and I think it fits nicely within this legislation—is that it will allow this already existing network that is basically supported by the communities there—these are 80 to 90 facility programs that have the best multidisciplinary teams that can work with child abuse victims, and those multidisciplinary teams are comprised of the law enforcement community, including the prosecutors, the child protective services community, the mental health community, the medical community. And in many cases, judges will participate in those programs. So it is a broadly defined multidisciplinary program.

This legislation will allow us to build on that network, will allow us to establish regional resource centers around the country so that we can do more for those multidisciplinary teams that want to perfect and get beyond the turf issues that they see, want to build better resources for young people. Eventually, this will be the best prevention network, I think, that we can have out there. Right now, you might put the label of intervention on it, intervention and treatment, but it is really a prevention program as well.

So I am pleased, to say the least, to be able to speak enthusiastically, particularly with this audience behind me that includes some of the best and brightest individuals and organizations that have been proactive in this field for a long, long time.

Our program was born from funding as a demonstration project of NCCAN, the National Center on Child Abuse and Neglect, and we worked very hard to get that first $100,000, but the program is presently supported by the private sector of our community.

I was recently able to be in Tulsa, in one of Senator Nickles' communities there, where they cut the ribbon on a facility that was patterned—it took them a few years to pattern it and then they perfected a pattern after our program there in Huntsville, Alabama. It is a remarkable facility located there on the grounds of the University of Oklahoma Medical School there at Tulsa, and that is going to be a wonderful national resource center that can be a part of the network of programs that can help other communities do a better job of interacting with children and families.

We see a lot of throwaways, we see a lot of runaway children that wind up in the juvenile justice system that really shouldn't be there. They are there because the community resources aren't available to do something else with them, and these are the kinds of programs that can intervene with those kinds of victims and those potential perpetrators, as well.

So, thank you once again. Senator Brown, thank you very much as well. Senator Biden has been a good friend over the years and we have been able to network information with him as well about these programs and what they mean.

This would allow a network of grassroots programs to do better work. This is not an inside-the-Beltway promotion, and I think it is very important and could be a very compatible piece of your legislation.

Thank you.

[The prepared statement of Mr. Cramer follows:]

Statement of the Honorable Bud Cramer Before the Senate Subcommittee on Juvenile Justice on the Reauthorization of the Juvenile Justice and Delinquency Prevention Act.
July 2, 1992

Mr. Chairman, I would like to thank you and Senators Biden and Brown for holding today's hearing and providing Senator Nickles and me the opportunity to discuss the merits of the National Children's Advocacy Program Act of 1992 (H.R. 4729/S. 2509).

As a former District Attorney who has prosecuted numerous child physical and sexual abuse cases, who has looked in the eyes of abused little girls and boys, I know first-hand the difficulties that arise when a community attempts to comprehensively approach this issue.

H.R. 4729 is designed to help communities minimize the inevitable problems that will occur when concerned citizens consider establishing a program designed to fit their unique needs.

This bill will enhance the Victims of Child Abuse Act of 1990. This Committee, and Chairman Biden in particular, worked diligently on that measure to make sure that the multidisciplinary approach to child abuse became part of our national anti-crime program. Our proposal will expand and strengthen this anti-crime, pro-community legislation.

Last year in November Chairman Biden and I began discussing my proposal and how it

would expand and strengthen the 1990 Crime Bill. I am glad to see that the measure is receiving favorable attention by the entire Committee.

I will be brief with my opening statement Mr. Chairman but let me explain to the Committee why this legislation is important and why it should be attached to the reauthorization of the Juvenile Justice and Delinquency Act.

The National Children's Advocacy Program Act of 1992 presents a conceptual framework in which a community can develop a program that fits its unique needs. This is not **"inside the beltway"** legislation. It was designed with input

from people in the field who deal with abused children every day. It will help communities combat a violent and terrible crime.

If one reviews the history of child abuse cases, you will realize that without enhanced coordination and without refocusing attention on the abused child by assisting communities to develop child-focused, community-oriented, facility-based programs designed to improve the resources available to children, the difficulty to fully prosecute offenders and protect other children increases many-fold.

Additionally, enactment of this bill will

help yield the future benefit of preventing adolescent criminal behavior. Multidisciplinary child abuse programs can help break the chain of abusive behavior. Study after study show that there is a relationship between child abuse and juvenile delinquency.

The weight of the evidence indicates a relationship between child maltreatment and delinquency. Studies continue to show that child abuse and neglect are related to delinquency. Thus, to the extent we are able to effectively address child abuse cases, we can positively impact the lives of abused children and prevent them from becoming delinquents or abusers themselves.

We cannot tackle the problems of child abuse and delinquency by working in a form of isolation -- allowing issues of turf and other distractions to stop us from eradicating a national emergency.

A comprehensive program that acknowledges that the justice system must be aware of the needs of a child victim, that work to eliminate turf issues and create an environment where agencies work together, and that work to enhance federal efforts by bringing together the key federal agencies involved in child abuse prevention efforts and the juvenile justice system is a better and more realistic approach. An investment in creative multidisciplinary programs that have a

proven track record is a wise investment. These programs are not pilot programs. They are programs comprised or experienced professionals from the legal community, the medical community, the mental health community, and the social workers/child protective services community who are working in the best interest of the child.

Mr. Chairman, thank you for the opportunity to testify today. I will be happy to answer any questions.

Senator KOHL. Well, we thank you both for coming here today. You have done important work in the field and your bill is a good bill, and we are looking forward to working with you and hopefully incorporating important parts of your bill into our juvenile justice reauthorization.

Senator NICKLES. Mr. Chairman, thank you very much.

Mr. CRAMER. Thank you, Mr. Chairman.

Senator KOHL. Our second panel this morning includes representatives from the Justice Department. We would like to call Jimmy Gurule and Gerald Regier up to the witness table. Mr. Gurule is the Assistant Attorney General for the Office of Justice Programs, and Mr. Regier is Acting Administrator of the Office of Juvenile Justice and Delinquency Prevention.

We are very pleased to have both of you with us this morning. It is always good to hear from the Justice Department. To leave enough time for questions, we would appreciate it if you would

keep your opening remarks to no more than 15 minutes, and if at all possible we would like you to be even briefer than that. Your written testimony will be made part of the record in its entirety.

Mr. Gurule?

STATEMENT OF JAMES GURULE, ASSISTANT ATTORNEY GENERAL, OFFICE OF JUSTICE PROGRAMS, U.S. DEPARTMENT OF JUSTICE, ACCOMPANIED BY GERALD REGIER, ACTING ADMINISTRATOR, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, U.S. DEPARTMENT OF JUSTICE

Mr. GURULE. Mr. Chairman, I am pleased to have this opportunity to present the administration's position regarding reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended. As you know, Mr. Chairman, the act created an Office of Juvenile Justice and Delinquency Prevention within the U.S. Department of Justice to provide Federal direction, coordination, leadership, and resources to address the problems of juvenile crime and delinquency, and to help improve the administration of State and local juvenile justice systems.

OJJDP has worked to fulfill this mission by examining problems and testing possible solutions, creating funding and implementing programs that demonstrate the most promise, facilitating the exchange of information among Federal, State, and local juvenile justice policymakers and practitioners, and supplying technical assistance, training, and other expertise to juvenile justice personnel, communities, and organizations.

Each year, OJJDP develops priority areas for the programs it supports through a program planning process. This program planning process is closely coordinated with the assistant attorney general and the bureau components within the Office of Justice Programs, of which, as you know, Mr. Chairman, OJJDP is a part.

In this way, the impact of OJJDP programs can be maximized by targeting funds to mutual areas of high priority. Through this comprehensive program integration and coordination process, OJJDP efforts are further maximized by complementing OJJDP initiatives with programs from OJP's other bureaus.

Recent OJJDP's priorities include programs aimed at juvenile gangs, including establishment of a national youth gang clearinghouse, a major 5-year effort to improve national statistics on juvenile offenders and victimization; crisis care for runaways and teen victims of sexual exploitation; intermediate sanctions, such as boot camp demonstrations for juvenile offenders; training for juvenile and family court judges and other juvenile justice practitioners; programs to improve literacy training for teachers in juvenile detention or correctional facilities; programs that provide treatment to drug- and alcohol-dependent juveniles; programs that provide educational opportunities and job training skills; programs aimed at assisting high-risk youths to stay in school, such as the Cities in Schools Program; alternative activities for high-risk youth through the Boys and Girls Clubs of America; and programs relating to missing and exploited children.

OJJDP also provides Federal direction and leadership by working to develop cooperative efforts with other Federal agencies, pri-

marily through the Coordinating Council of Juvenile Justice and Delinquency Prevention, which is comprised of representatives of 17 Federal agencies with responsibility for delinquency prevention and missing and exploited children programs. Further, in accordance with the 1988 amendments to the Juvenile Justice and Delinquency Prevention Act of 1974, OJJDP has launched several efforts addressing the issue of minority overrepresentation in the juvenile justice system.

In addition to these efforts, OJJDP provides formula grants to States and local governments to help them improve the juvenile justice system and address issues associated with preventing juvenile crime and delinquency. To receive formula grants, States and local governments must comply with provisions of the JJDP Act which require deinstitutionalization of status offenders, sight and sound separation of juveniles and adults in detention and correctional facilities, and removal of juveniles from adult jails and lockups.

I am pleased to report that of the 56 States and territories that participated in the formula grant program in fiscal year 1991, 52 are in full compliance with the deinstitutionalization mandate. One newly participating State is demonstrating progress, one State is out of compliance, and data is not yet due from two newly participating States.

A total of 41 States and territories were in full compliance with the separation mandate; 11 are showing progress. More data is needed for one State. One State is out of compliance, and data is not yet due from two States. Thirty-nine States and territories are in full compliance with the removal mandate. A waiver has been granted to six States, and OJJDP is reviewing waiver requests from an additional five States. Data is not yet due from two States. Additional data is needed to determine the compliance of one State, and three States are out of compliance.

OJJDP is continuing to work with the States and territories to help them achieve compliance with all three of the mandates of the JJDP Act. But, Mr. Chairman, it is clear that considerable progress has been made toward achieving the major goals and objectives of this program. It is important to note that over $1.2 billion has been provided to the States and territories to assist them in these efforts since the program's inception.

The Department believes that after these many years of Federal support, the States are keenly aware of the critical need of and the benefits to juvenile delinquents in complying with the JJDP Act provisions, and should now assume funding responsibility for achieving compliance with these mandates. Moreover, the time has now come to try a new coordinated and comprehensive approach to addressing serious and violent crime committed by juveniles.

The Department of Justice supports reauthorization for OJJDP. However, the Department has a number of serious concerns with this subcommittee's reauthorization bill, S. 2792, which authorizes a total of $250 million for programs to be administered by OJJDP. One is section 6, which adds title VI, Justice for Abused and Neglected Children. Title VI creates a $20 million grant program aimed at assisting child victims of sexual or physical abuse and prosecuting abusers.

The Department objects to the title VI provisions based on the fact that a number of Federal programs currently meet the purposes of this title and are operated under authorities existing within OJJDP, OJP's Bureau of Justice Assistance, and Office for Victims of Crime, as well as other Federal agencies such as the Department of Health and Human Services and the Department of Education, and we defer to these departments to comment specifically with regard to their related programs. In fact, OJJDP and OVC have an excellent record of cooperation in linking program efforts aimed at addressing the specific needs of physically and sexually abused children.

However, of primary concern is the bill's creation of new social service-focused grant programs that duplicate not only the existing authority within the JJDP Act, but also programs administered by other Federal departments. For example, section 2(g) would create a new OJJDP grant program titled "State Challenge Activities," authorized at $50 million. That would fund health care, mental health, basic education, and special educational programs without tying them to the juvenile justice system.

Furthermore, section 5 adds title V to the JJDP Act, entitled "Incentive Grants for Local Delinquency Prevention Programs," authorized at $30 million. This provision would authorize grants to support programs in the areas of recreation, tutoring, remedial education, employment skill development, health care, alcohol and substance abuse prevention, and leadership development, and would require a 100-percent match from local units of government.

These kinds of programs are and have been supported by not only OJJDP, but also numerous other Federal agencies such as the Departments of Health and Human Services, Labor, Education, Interior, Housing and Urban Development, and the Department of Transportation.

Indeed, a General Accounting Office study found that, based on 1989 figures, the Federal Government was funding through 7 departments and 18 agencies, 260 programs with approximately $4.2 billion in spending annually to serve delinquent and at-risk youth. The GAO study further emphasized, however, that most of this funding is for social programs such as job training, vocational education, and health services, with little funding, only 4 percent, directly targeted to preventing youth violence.

Statistics show that juveniles are responsible for a large share of violent crime in America. For example, the FBI's 1990 Uniform Crime Reports demonstrated that juveniles under the age of 18 made up the following percentage of all persons arrested for the following offenses: 33 percent of burglaries; 30 percent of larcenies; 24 percent of robberies; 15 percent of rapes; and 14 percent, 1 in 7, murders and cases of nonnegligent manslaughter. In 1990, persons under 19 accounted for 21 percent of all arrests for murder in this country.

Moreover, the rate of juvenile crime in this country is increasing at an alarming rate. According to the FBI's Uniform Crime Reports, between 1965 and 1989, the juvenile arrest rate for murder almost tripled, the arrest rate for aggravated assault tripled, and the arrest rate for weapons violations increased 2½ times.

Mr. Chairman, what is strikingly clear from these very alarming statistics is that the status quo is not working. In spite of annual Federal spending of approximately $4.2 billion in social programs, juvenile violent crime is going up. We cannot continue on our current path. We must find new and innovative ways to intervene early and sternly with tough love, as Attorney General Barr has stated, by holding juveniles accountable for their actions.

As the Federal coordinator of juvenile justice programs, it is important that the administrator of OJJDP link that office's accountability programs with those of other Federal agencies that address education, health, job training, and other like programs. While we recognize the importance of prevention and education programs—and there shouldn't be any misunderstanding on that point; certainly, the Department appreciates the importance of these types of prevention programs—there is no need to provide additional scarce federal funds for duplicating these programs within OJJDP.

Attorney General William Barr recently outlined a four-point approach to address the problem of youth violence and reform the juvenile justice system which the Department of Justice believes should serve as the foundation for any attempt to reauthorize the Office of Juvenile Justice and Delinquency Prevention.

The first part of this approach is to strengthen society's most important socializing institutions—family, schools, community associations, and religious institutions. As the Attorney General has pointed out, these are the primary vehicles by which values and ethics are instilled in our children and their importance cannot be overstated.

The family is a child's first educator. It is from the family that children learn the values that will guide them throughout their lives. These values should include respect for themselves and others and respect for the law and mores of society.

Our educational system also must restore moral authority to our schools. Schools must become a working partner with parents and social agencies to help form good character in young people, to reinforce the principles of hard work, honesty, self-discipline, responsibility for one's actions, and respect for authority.

We recognize, however, that reform of our social institutions is largely outside the jurisdiction of the Department of Justice. Clearly, the juvenile justice system should not be the first place that affords an opportunity for juveniles to learn and develop values.

While the Department does not maintain that confinement is an appropriate sanction for all juvenile offenders, if serious and violent juvenile offenders are returned to the community with only a slap on the wrist, the juvenile justice system is sending the wrong message both to the offender and to the other young people in the neighborhood. It is sending a message that the juvenile justice system has no teeth, that it is a joke, and that you can get away with almost anything. That is not serving either the best interests of society or juvenile offenders.

The Department believes that intermediate sanctions, alternatives to incarceration in a detention center, or just simple probation, need to be expanded, need to be developed, need to be tested and evaluated, and that is the thrust of the Department's concerns with the legislation that has been submitted by you, Mr. Chairman.

Seeing that my time is up, again, the subcommittee has my testimony. I would also ask—I did mention in my statement a report that recognized and identified 260 social programs that are being funded federally at the level of $4.2 billion. I brought a draft copy of that report which lists the programs and describes them in some detail, and I would ask that this report be included as part of the record of this hearing today.

That concludes my testimony and statement. I would be pleased at this time to respond to any questions that the members of the subcommittee might have. Thank you.

Senator KOHL. Thank you, and your full statement will be made a part of the record.

In your testimony on page 4 you state, and I quote:

> The department believes that after many years of Federal support, the States are keenly aware of the critical need of and benefits in complying with the JJDP Act provisions, and should now assume funding responsibility for achieving compliance with these mandates.

I would like to take just one of those mandated provisions. With bipartisan support, Congress, in 1980, mandated jail removal. According to your calculations, one-third of the States are still not in full compliance with this mandate. With that in mind, I have two questions. First, do you really believe that terminating Federal funds is the best way to get the one out of every three States that have not yet fully complied with jail removal to achieve that compliance? And, second, if you withdraw Federal funds, what do you think will happen to the two-thirds of the States that are in full compliance with jail removal? Won't they slip out of compliance again?

Mr. GURULE. The fact, Mr. Chairman, as you are well aware—the Federal Government, the Department of Justice, has been funding this effort of the JJDP Act to get the States to full compliance regarding the removal, the deinstitutionalization, and the separation mandates for now 18 years, approximately 18 years, to the point of $1.2 billion.

We believe that substantial progress has been made, certainly, in the area of deinstitutionalization, where I stated that 52 of the 56 States and territories were in full compliance. At this point, the Department believes, based upon the scarce Federal resources that are available, that we have satisfied our obligation in this area. We have made, certainly, good-faith attempts to assist the States in every way possible, have worked with the States in every way possible, for now going on 18 years to the tune of $1.2 billion. We believe that that obligation has been satisfied. If the States are acting in good faith, they will certainly continue to pursue compliance with those mandates at this time.

Senator KOHL. Yes, but one-third of the States aren't complying with the separation, and when you talk about our obligation, it seems to me what we are trying to do is achieve a goal, you know, that is very important in terms of where this country is going with respect to our young people. In this respect, we are saying—and I think you agree, we all agree—that we need to separate these offenders.

To suggest, it seems to me, that we have discharged our obligation, even if one-third of the States aren't complying and even if it

is true that some of the other two-thirds may fall out of compliance if we stop funding it, I don't understand how we say, well, we have discharged our obligation and if they are not doing it or if they are not doing it well enough, that is just too bad. I know you are not saying that.

Mr. GURULE. No.

Senator KOHL. So what are you saying?

Mr. GURULE. No, I am not saying that. I am recognizing the fact that you are looking at the point that one-third are not in compliance. We are certainly focusing on the fact that two-thirds of the States are, in fact, in compliance, or substantial compliance, and again that substantial progress has been made in that regard.

It is speculation that they would fall out of compliance if there was no State formula grant program or if the State formula grant program was maintained at the current level of funding. There is certainly no guarantee that that would be the case. We certainly believe that the States have recognized—certainly, the States that are in compliance have recognized the importance of this mandate and would continue on in that effort.

But at some point, I think we need to recognize, based upon budgetary constraints, priorities within the Department of Justice, that you just have to draw the line at some point. We believe that 18 years and $1.2 billion is the time to draw the line.

Senator KOHL. Some of the Governors, Governors associations, and State officials I have talked to are, as you might imagine, seriously concerned about their ability to continue to achieve these goals to begin with and to maintain what we have right now if Government funding is taken away. I am sure you are aware of that concern.

Mr. GURULE. I understand it is difficult budgetary times for everyone, Mr. Chairman.

Senator KOHL. In your written testimony on page 6, you state:

While we recognize the importance of prevention and education programs, there is no need to provide additional scarce federal funds for duplicating these programs within OJJDP.

But on the previous page, page 5, of your testimony you state that a recent GAO study emphasized that of some $4.2 billion that the Federal Government spends on high-risk youth programs annually, little funding, only 4 percent, is directly targeted to preventing youth violence.

This is confusing. Do you stand by your statement on page 6 or do you stand by your assertion on page 5, because as you, I am sure, recognize, they are somewhat contradictory of each other?

Mr. GURULE. Well, I don't think they are, and let me try to clarify that point if that is unclear. What the GAO report recognizes is that, first of all, a substantial amount of funding is being spent annually to address the problem of high-risk youth and delinquency. The vast bulk of that funding is directed at prevention programs, keeping the juvenile out of the juvenile justice system.

The focus and emphasis and priority for the Department of Justice at this time is to focus on the individual, the juvenile who is in the juvenile justice system and is a violent offender, and holding that individual accountable. It is a recognition that there are dif-

ferent gradations of offenders. We have those that are not involved in any type of serious, violent offense, and we certainly believe that these other Federal agencies, with the bulk of this $4.2 billion of funding, are doing a good job in keeping those kids out of the juvenile justice system.

But what happens when the juvenile gets in the juvenile justice system? Those types of individuals are fueling this increase in violent crime, and it is the Department's position that that class of individual juvenile offender needs to be held accountable, and if the juvenile justice system is simply just slapping that individual on the wrist, letting him go without any meaningful sanctions, it is sending the wrong message not only to that youth, but to other juveniles in the community.

So the focus here would be on accountability programs, and the Department believes that that is where the priority should be placed, and that is not where the priority is currently being placed in the $4.2 billion of Federal funding. And it doesn't appear, based upon my reading of the bill that is a question here today, it does not place emphasis on that type of individual as well.

And then at the same time there is a third class of offender, and that is the repeat, violent offender, the person that has committed multiple violent offenses. Let me give you one example. I had an opportunity, Mr. Chairman, to visit a juvenile detention center considered to be a model for this country about a year ago, and when I spoke with the director of that facility I asked him, I said, what is the typical juvenile justice profile of the kids that are in this detention center. And he told me that the individuals typically had 25 to 30 arrests prior to getting to that point, and that many of those arrests were for violent offenses. Many of those arrests were for offenses that would have been felonies if they hadn't been committed by a juvenile.

If that is the kind of system that we have that it takes 25 to 30 arrests before you get into the detention center, we are doing a disservice not only to our kids, but a disservice to the honest citizens in this country.

Senator KOHL. Mr. Gurule, if you stand by the GAO finding about the lack of funds targeted at preventing youth violence, then will you support our prevention title, title V? Doesn't that title give us the flexibility to target all those funds going to communities to prevent youth violence?

Mr. GURULE. Again, the difficulty the Department has with the incentive grants programs is that the types of programs—and there are six different categories, types of programs that can be funded under that provision. Many of those are currently being funded by other Federal agencies. For instance, you look at the tutorial and remedial education; that is one type of program that could be funded under the incentive grants. We believe that that duplicates program efforts in the Department of Justice, such as the neglected and delinquent children formula grant program, the education for deprived children program within the Department of Education.

Looking at the category "Development of Work Awareness Skills," we believe that programs of that type are being funded in the Department of Labor, such as the job corps programs. Health and mental health services, alcohol and substance abuse—many of

those programs, again, are being funded in other Federal agencies. They have the expertise. I think they are better suited to administer and manage those types of programs, and we shouldn't be duplicating efforts across Federal agencies.

Senator KOHL. Mr. Regier?

Mr. REGIER. Yes, Senator. I just wanted to add what Mr. Gurule said. Last night, I was visiting with the Attorney General and he again indicated to me his interest in this whole area of the coordinating council, and I wanted to let you know that we have already taken some steps with the coordinating council and, in fact, earlier this week met together to talk about how all of these programs that Mr. Gurule has referred to—how they can be better coordinated.

One of the vehicles, I think, is the Weed and Seed concept because this gives us a framework to coordinate many of these prevention programs, and there was a great deal of expectation as we came together as to how we could coordinate those in a better way.

Senator KOHL. On another score, on pages 7 and 8 of your written testimony you say that a mere nine percent of juvenile offenders nationwide were placed in residential facilities, and you say, quote, "if serious and violent juvenile offenders are returned to the community with only a slap on the wrist, the juvenile justice system is sending the wrong message both to the offender and to other young people in the neighborhood."

But on the bottom of page 8 you say that we must take advantage of, quote, "the broad array of immediate and intermediate sanctions that are available to us, such as fines, restitution, community service, home detention, intensive supervision, electronic monitoring, boot camps, and community after-care programs upon release from boot camps,".

Three questions. First of all, seven out of the eight programs that you highlight on page 8 are not residential. Only boot camps are residential. So, which do you support, community-based alternatives to incarceration or incarceration?

Mr. GURULE. The point that I made earlier, Mr. Chairman, is that we need to recognize that there are different gradations of offenders in the juvenile justice system—those that are involved in nonviolent offenses, those that are embarking on and have committed maybe one or two serious offenses, and then there is the chronic, habitual, serious offender that has committed multiple violent offenses. The juvenile justice system needs to respond differently to each of those three different types of offenders.

Relative to the nonviolent offender or that individual juvenile who is getting involved and is just beginning to embark on some serious, but let us say not violent offenses, a broad range of alternative intermediate sanctions needs to be available to juvenile court judges so that they have multiple options of how to address and respond to that individual, short of detention and incarcerated in a facility, but at the same time more than simple probation and just back on the street.

However, relative to that individual who has committed repeated violent offenses, the Department maintains that that individual needs to be certified and prosecuted in the criminal justice system, and that to do so is certainly in the best interests of the honest citi-

zens of this country. They need to be protected. That is a very important interest that we must recognize.

For instance, let me just make one last point on that question. In Los Angeles, there were 771 gang-related murders last year. That was up from, I believe, 680 the year before. That is just gang-related murders. A large number of those were committed by young offenders, some juveniles, and the wake of victims that has been left is tremendous. Relative to that class of individual, I believe that the Department of Justice owes a responsibility to the honest citizens of this country to take that individual, certify him as a adult, and prosecute him.

But, again, I will make the point that that is a very narrow and small percentage of the offenders that are being dealt with in the juvenile justice system. So I don't want my statement to be misconstrued. Again, it is a very narrow category, approximately 7 to 9 percent, that we are talking about that are the repeat, violent offenders. But the larger percentage, obviously, can be dealt with through these alternative intermediate sanction programs that have been mentioned.

Senator KOHL. But which of the intermediate sanctions that you mentioned cannot be funded under our bill?

Mr. GURULE. The part that is unclear—in the State challenge activities, there is—I believe it is subpart (C) that talks about community-based alternatives, but at the same time it is unclear whether or not it is limited to that type of intermediate sanctions, so to speak; that that is the only type of intermediate sanction that could be funded, a community-based alternative, or whether fines, restitutions, and this broad array of different types of intermediate sanctions likewise would fall under that category.

I would at the same time that under the JJDP Act as it currently stands, there is authorization to fund community-based alternatives to incarceration currently, and so it is unclear what this would add to the current statute.

Senator KOHL. Well, the State challenge program, as you know, specifically mentions community-based alternatives to incarceration. I think that is the point that you are making.

Mr. GURULE. Yes.

Senator KOHL. Third, you raise a legitimate point about boot camps, Mr. Gurule. Senator Kassebaum has a proposal for boot camps which I would like to include in our reauthorization, but I understand that although her staff has offered to work with Justice on this, so far you have not taken advantage of their offer. I am wondering if you are prepared and would like to work with her on her proposal.

Mr. GURULE. I would be more than happy to work with her and any Members of Congress regarding issues of concern. The juvenile justice area is of utmost concern to the Department of Justice and OJP. As you know, the juvenile justice office funded three juvenile boot camps last year, and we are very excited about the prospects of success and what we are going to learn from those demonstration efforts. I think juvenile boot camps hold a lot of promise.

I have had an opportunity to personally visit a boot camp. It wasn't a juvenile boot camp. It was a boot camp for young offenders, young adult offenders, in Allenwood, PA, and I was very im-

pressed with the program, the emphasis on discipline, hard work, and the prevention programs and treatment programs that are contained and are a part of the boot camp structure.

Senator KOHL. On page 9 of your written testimony, you raise an interesting point about the inadequacy of recordkeeping on juvenile offenders and the difficulty this may pose for identifying serious, chronic offenders. I would like to explore this just a little further.

If we were to support this idea, do you have any successful recordkeeping programs that you could point to along these lines, or are you funding any innovative programs?

Mr. GURULE. I am not aware—I was just conferring with Acting Administrator Regier—of any that we are currently funding, but I think that clearly there is a deficiency in that area and it is an area that we intend to focus on and to develop.

Senator KOHL. Well, we are aware of a program that you are funding through the National District Attorneys Association. It is called SHOCAP [phonetic]. It stands for a Systems Approach to Managing the Chronic Juvenile Offender. I have heard good things about it from prosecutors, and so I would like to hope that you will have a chance to talk to them about it.

Mr. GURULE. I am familiar with that program, Mr. Chairman, and, likewise, I think it is a good program and it has been a very successful program that we have funded.

Senator KOHL. Just a couple of followup questions. First, does anything in our bill prevent you from improving recordkeeping and data collection, in general?

Mr. GURULE. No, it certainly does not. That portion of my testimony was outlining the four basic components of the Attorney General's speech that he gave on juvenile justice reform, and emphasizing the importance and the need for doing a better job in juvenile recordkeeping.

Senator KOHL. Second, it appears you also want to change the use of these records in prosecuting juveniles. Isn't that outside the scope of this reauthorization in the same way that you say that teaching family values is outside the scope of the Justice Department? In other words, if you want to do that, wouldn't the appropriate place be in the crime bill?

Mr. GURULE. Well, it certainly could be. What I was recognizing or attempting to acknowledge there is the importance in, first of all, having accurate records, and then, second, the ability to share that information with criminal justice on the adult side of the courtroom, so they could have that information available to them in appropriate cases where repeat, violent offenders are appearing before the judge at sentencing to consider that information in making an appropriate sentence.

Senator KOHL. Thank you.

Senator Brown.

Senator BROWN. Thank you, Mr. Chairman.

Jimmy, I know you have some concerns about the bill. Do you have draft amendments that you would like the committee to consider?

Mr. GURULE. Senator Brown, there is some draft language that we have prepared and forwarded on, I believe, to one of your staff

for consideration on the issue of intermediate sanctions, alternative sanctions.

Senator BROWN. So we have a draft amendment on that particular one?

Mr. GURULE. I believe some draft language has been submitted.

Senator BROWN. What about the organizational questions? Do you have a proposal for us in that area?

Mr. GURULE. The organizational question is set forth in my testimony that has been received, but the concern there, of course, is that it is inconsistent with the Department's proposed reauthorization, and at the same time is inconsistent with delegation of authority and executive order that was signed by then Attorney General Thornburgh back in February of last year that was an attempt to address concerns regarding the organizational structure, management structure, and the administration of OJP and its five bureaus that was not an arbitrary statement on our part, but it was an attempt to recognize and address needs that were identified in a JMD report and in an inspector general's report of OJP that were conducted.

We received the reports back in November of 1990, and the organizational structure is difficult, at best. As Chairman Kohl stated, the Department certainly maintains that the Attorney General should have broad discretion in determining reporting requirements, administration of offices and bureaus within the Department of Justice.

We have been operating under the delegation of authority for over a year now, and I believe that it has proven to be effective. I think that it has eliminated a number of the problems that have plagued OJP and its bureaus over the past number of years. It has assisted us in coordinating efforts with the research arm of NIJ, the statistical arm of BJS, the juvenile justice office, the victims office, to complement programs, to take advantage of existing expertise within OJP, and to maximize the impact of scarce federal dollars.

We would certainly hate at this point to see the juvenile justice office pulled out of OJP and break the linkage, or strain the linkage and coordination that we have been building on over the last 15 months or so.

Senator BROWN. I am not sure I understand what you said. Let me put it in my words and see if you can maybe straighten me out. The bill changes the organizational reporting structural and it has the office report directly to the Attorney General, doesn't it?

Mr. GURULE. Yes.

Senator BROWN. And you object to that?

Mr. GURULE. Yes.

Senator BROWN. And the chairman agreed to drop that portion from the bill, or compromise on that issue?

Mr. GURULE. We have discussed that issue, focused on that issue, and I believe we can reach a compromise on that point. But, again, it is very important to build upon the positive efforts that we have been able to establish over the last 1½. We think it would be moving in the wrong direction to take it out.

Senator BROWN. I appreciate that. I was trying to get the problem resolved. That is why I am trying to be direct about it.

Mr. GURULE. I am not sure that it has been resolved.

Senator BROWN. OK.

Mr. GURULE. We discussed it. I am not sure that it has been resolved.

Senator BROWN. My understanding of the chairman in that—I don't mean to put words in your mouth, Mr. Chairman, but my understanding is that you, in an effort to try and work together, had been willing to compromise on it, and I just wondered if we were at a point of closure on that issue or if——

Mr. GURULE. We have discussed it. I don't know that we have reached a final agreement on that. There seemed to be an openness to discussing it further, and I think we can reach resolution, but I don't think it has been finally resolved.

Senator BROWN. Well, if you have other amendments that you would like us to consider, I know the committee is anxious to have your input, and if there are others other than that one, I think having your draft of what you would like and what you think makes sense, I think the committee would be appreciative in being able to consider it.

You mention in your testimony that the funds expended under the JJDP Act were ones that you thought now could be used in other areas. Now, those are my words, not verbatim your words. How would you use the money? How do you think the money would be best used? What purposes would you use it for other than what it has been used for under the current program?

Mr. GURULE. Let me discuss or respond to that question in terms of priorities, what should the priorities be within the Department of Justice in addressing the problem of violent crime, and consequently there would be a funding linkage, obviously, to those priorities.

As I previously stated, and as the GAO report recognizes, there is substantial funding federally on prevention programs across seven Federal agencies—260 programs that are being funded annually. At the same time we have this problem of juvenile violent crime going up. We believe the appropriate role for OJJDP should be the linkage with the juvenile justice system to many of these Federal prevention programs; that the juvenile courts can use these as options to sentencing to refer the juvenile to participation in these programs, and thereby hold the juvenile accountable for his or her acts.

What we object to is funding the same types of vocational education programs and job training programs in the Department of Justice that are being funded in multiple programs in the Department of Education and the Department of Labor and HHS. At the same time, we do not believe that we have the attendant expertise, for instance, to develop mental health programs in the Department of Justice, but certainly HHS does.

Senator BROWN. Well, Jimmy, I think you are giving me good reasons why you have come to the conclusion that you have. My question was a different one. The budget allocates you only so much in the way of outlays; it is a limited amount. If you don't spend some of those outlays in this area, either the money will not be spent, which is a possibility that some day this Congress may look at, or you will use it for other purposes.

I guess my question is, if you don't spend it in this area, as you have recommended, would you reduce the total appropriated funds for the Department or would you envision the money being used elsewhere, and if you envision it being used elsewhere, where would you use the money?

Mr. GURULE. I think there is a need, again, in this area of intermediate sanctions, alternative options for juvenile court judges. I think it is an area that we need to explore more fully. OJJDP just funded for the first time juvenile boot camps last year, the first time the Department of Justice had been involved in that type of an effort. The jury is still out, so to speak, on that type of program and the success and promise that it holds.

I think at the same time we have done some research in the area of boot camps, and one of the things that we have learned is that the boot camp program—and this was relative to adult boot camps—that you need to have a strong after-care component. You just can't have an individual participate in this boot camp for 6 months or 1 year and then let them go. There has to be some followup, very intensive followup, after the individual is released. I think that is another area that we would like to pursue.

Senator BROWN. Well, Mr. Chairman, I know that obviously some of these decisions get to be ones that the Appropriations Committee makes in their review, but I suspect they would be interested in observations we have in that area.

I guess the question I have at this point is would it be your thought that we ought to eliminate the authorization to spend money on these existing programs, or are you comfortable with a continuing authorization with these existing programs that would give the Appropriations Committee discretion to move either in the existing programs or into the new areas you have outlined?

Mr. GURULE. I have expressed our concern regarding the State formula program, and that may just end up being an area that we agreed to disagree. At the same time, on the discretionary program we certainly support the continued authorization for funding in the discretionary area. Back at the Department of Justice—and Mr. Regier has been involved in this more directly than I—we are involved in examining and developing a juvenile justice reform package focusing on, if there is going to be shift, where that shift should be. That hasn't been finalized. It isn't yet been approved by the Attorney General, but it is under examination and consideration at this time. We don't have the final recommendation yet, but we certainly support authorization; the funding levels in what area is under review at this time.

Senator BROWN. I see, and I appreciate that the funding question in terms of the exact allocation really is an area that Appropriations will look at, not necessarily solely in our purview.

I would just ask one other thing to see what interest you have in it and what your feeling about it is. One of the items I always thought was most useful, particularly with regard to Government programs, was to try and set out specifically in advance of the fiscal year goals and objectives that you anticipated to be accomplished with those funds.

We have talked this morning about a wide variety of programs in the juvenile justice area, but I am not aware of the Department

or the appropriations committees of Congress having laid out in advance how many fewer crimes they expect to be committed if the program is funded, or how much of the decrease and the increase will take place, or what specific results they anticipate taking place because we move ahead with any of these programs. Presumably, we wouldn't fund any of these if we didn't expect them to have positive, significant, discernible results.

My question is are you intrigued with trying to lay out in advance objectives for each of these programs and then coming back to us a year later and laying out how effective you were in reaching those objectives?

Mr. GURULE. I believe that we are doing that, maybe not in exactly the way that you have laid out. For instance, we are going to be embarking—when I say "we," the OJP bureau directors and senior management staff—on a fiscal year 1993 planning conference that will be here in Washington, DC; that will be 2 days next week. We are bringing in all the bureau directors from the five bureaus and we are going to be discussing program priorities; where should we be going in terms of program development and research, what are the trends, what are the issues that are facing us in the juvenile justice and criminal justice systems.

What will result from that conference will be an identification of priorities and some possible programs and research projects for funding in fiscal year 1993. We will then post—after the program plan is developed, that will be published in the Federal Register and those programs will be evaluated, and I want to stress that point. Evaluation has been a top priority for OJP over the last 2 years, because I agree with you, Senator Brown, we should not be funding programs that have not proven to be successful or that we cannot point to in some concrete and articulable way and show how that program has made a difference in enhancing the criminal justice system or reducing violent crime or juvenile crime.

Senator BROWN. Well, I would just encourage you in that regard. Let me give you an example that I think is apparent this morning. I don't think there is any partisan difference between any of us in our goals and concerns about the epidemic of crime, our concern about developing a better system for juvenile justice. That is a bipartisan concern and a bipartisan effort.

We have talked this morning about whether you put money in this program or that program. It strikes me, if you would come in and say, look, this program was supposed to give the areas it was tried in "x" percent lower crime rate, or lower juvenile crime rate, than other areas where it wasn't tried in—that was our objective; here are the results; it didn't work, or it did work. If it worked, you presumably might want more money for it. If it didn't work, you would say here is another program we think has a better potential and here is what we expect from it—not objectives, but clear goals that at the end of the year you can sit down and say, did we meet the goal or didn't we, or have we simply established an office and spent the taxpayers' money and not changed the situation, which they tell me occasionally happens.

But I think, again, just speaking for myself, but I suspect it is a feeling shared by others, that if we had real data as to how this worked and how it didn't work, it would be much easier to per-

suade both the appropriators and the authorizing committees to move in these directions. I am saying the link here is clear, discernible objectives and results at the end of the year, because I think we all share the same objective of trying to reduce this epidemic of crime.

Mr. GURULE. Well, the programs that we develop and fund certainly have clear objectives, goals, strategies, implementation plans, et cetera, and we currently have, I believe, 25 to 30 programs that are under evaluation by the National Institute of Justice at various stages. We have a responsibility to submit a report to Congress every year, NIJ, on what works and what doesn't, and the NIJ evaluation report should be sent up to Congress, we believe, within the next couple of weeks, and I think that will tell us some things.

Senator BROWN. Do any of those have comparative crime statistics in them?

Mr. GURULE. Some of them do, and one, in particular, that is not so much related to crime, but this one had to do with moving cases through the court system where there was a backlog of drug cases, just as an example, and that one had some specific statistical indicators in terms of how many days it took to move cases through.

Senator BROWN. An objective criteria?

Mr. GURULE. Exactly. And then, of course, we publish that information and disseminate it to criminal justice agencies across the country so that they can take advantage; at least are aware of those model programs and can implement them, if they so choose.

Senator BROWN. Well, I commend you for that. I think that is the key toward not only developing a funding system you have confidence in, but, in effect, persuading States, which may be our primary focus here—States and communities to adopt it. For example, with regard to separation of juvenile delinquents, it strikes me that ought to be something that we ought to have clear statistics on—community crime rates, recidivism rates, in communities that have separated juveniles and communities that have not.

To the extent you can expand the Department's willingness to be specific and set specific objectives and goals, and report winners and losers in terms of programs, I would encourage you.

Thank you, Mr. Chairman.

Senator KOHL. Thank you very much, Senator Brown, and thank you very much, gentlemen. It has been a pleasure to have you. You have been very useful to us.

Mr. GURULE. Thank you, Mr. Chairman. We certainly look forward to working with you and your staff, and Senator Brown as well, on this common goal and objective.

Thank you.

Senator KOHL. Thank you.

Mr. REGIER. Thank you.

[The prepared statement of Mr. Gurule follows:]

Department of Justice

STATEMENT

OF

THE HONORABLE JIMMY GURULÉ
ASSISTANT ATTORNEY GENERAL
OFFICE OF JUSTICE PROGRAMS

BEFORE

THE

SUBCOMMITTEE ON JUVENILE JUSTICE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

CONCERNING

REAUTHORIZATION OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974, AS AMENDED

ON

JULY 2, 1992

Mr. Chairman, I am pleased to have this opportunity to present the Administration's position regarding reauthorization of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended. As you know, Mr. Chairman, the Act created an Office of Juvenile Justice and Delinquency Prevention (OJJDP) within the United States Department of Justice to provide Federal direction, coordination, leadership, and resources to address the problems of juvenile crime and delinquency and to help improve the administration of State and local juvenile justice system.

OJJDP has worked to fulfill this mission by examining problems and testing possible solutions; creating, funding, and implementing programs that demonstrate the most promise; facilitating the exchange of information among Federal, State, and local juvenile justice policymakers and practitioners; and supplying technical assistance, training, and other expertise to juvenile justice personnel, communities, and organizations.

Program Priorities

Each year, OJJDP develops priority areas for the programs it supports through a program planning process. This program planning process is closely coordinated with the Assistant Attorney General and the bureau components within the Office of Justice Programs, of which, as you know, Mr. Chairman, OJJDP is a part. In this way, the impact of OJJDP programs can be maximized by targeting funds to mutual areas of high priority. Through this comprehensive program integration and coordination process, OJJDP efforts are further maximized by complementing OJJDP initiatives with programs from OJP's other bureaus.

Recent OJJDP priorities include programs aimed at juvenile gangs, including establishment of a National Youth Gang Clearinghouse; a major 5-year effort to improve national statistics on juvenile offenders and victimization; crises care for runaways and teen victims of sexual exploitation; intermediate sanctions, such as boot camp demonstrations for juvenile offenders; training for juvenile and family court judges and other juvenile justice

practitioners; programs to improve literacy training for teachers in juvenile detention or correctional facilities; programs that provide treatment to drug and alcohol dependent juveniles; programs that provide education opportunities and job training skills; programs aimed at assisting high-risk youth stay in school, such as the Cities In Schools program, alternative activities for high-risk youth through the Boys and Girls Clubs of America; and programs relating to missing and exploited children. OJJDP also provides Federal direction and leadership by working to develop cooperative efforts with other Federal agencies, primarily through the Coordinating Council on Juvenile Justice and Delinquency Prevention, which is comprised of representatives of 17 Federal agencies with responsibility for delinquency prevention and missing and exploited children programs. Further, in accordance with the 1988 Amendments to the Juvenile Justice and Delinquency Prevention Act of 1974, OJJDP has launched several efforts addressing the issue of minority over-representation in the juvenile justice system.

Formula Grant Program

In addition to these efforts, OJJDP provides formula grants to States and local governments to help them improve the juvenile justice system and address issues associated with preventing juvenile crime and delinquency. To receive formula grants, States and local governments must comply with provisions of the JJDP Act which require the deinstitutionalization of status offenders, site and sound separation of juveniles and adults in detention and correctional facilities, and removal of juveniles from adult jails and lockups.

I am pleased to report that of the 56 States and Territories that participated in the Formula Grant Program in Fiscal Year 1991, 52 are in full compliance with the deinstitutionalization mandate; one newly-participating State is demonstrating progress; one State is out of compliance; and data is not yet due from two newly-participating States.

A total of 41 States and Territories are in full compliance with the separation mandate; 11 are showing progress; more data is needed for one State; one State is out of compliance; and data is not yet due from two States.

Thirty-nine States and Territories are in full compliance with the removal mandate. A waiver has been granted to six States, and OJJDP is reviewing waiver requests from an additional 5 States. Data is not yet due from two States; additional data is needed to determine the compliance of one State; and 3 States are out of compliance.

OJJDP is continuing to work with the States and Territories to help them achieve compliance with all three of the mandates of the JJDP Act. But, Mr. Chairman, it is clear that considerable progress has been made towards achieving the major goals and objectives of this program. It is important to note that over $1.2 billion has been provided to the States and Territories to assist them in these efforts since the program's inception. The Department believes that after these many years of Federal support, the states are keenly aware of the critical need of and benefits to juvenile delinquents in complying with the JJDP Act provisions and should now assume funding responsibility for achieving compliance with these mandates. The time has now come to try a new, coordinated and comprehensive approach to addressing serious and violent crime committed by juveniles.

Reauthorization

The Department of Justice supports reauthorization for OJJDP. However, the Department has a number of serious concerns with this Subcommittee's reauthorization bill, S.2792 which authorizes a total of $250 million for programs to be administered by OJJDP. One is Section 6, which adds a Title VI, "Justice for Abused and Neglected Children." Title VI creates a $20 million grant program aimed at assisting child victims of sexual or physical abuse and prosecuting abusers. The Department objects to the Title VI provisions, based on the fact that a number of Federal programs

currently meet the purposes of this title and are operated under authorities existing within OJJDP, OJP's Bureau of Justice Assistance (BJA) and Office for Victims of Crime (OVC), as well as other Federal agencies such as the Departments of Health and Human Services and Education, and we defer to these departments to comment specifically with regard to their related programs. In fact, OJJDP and OVC have an excellent record of cooperation in linking program efforts aimed at addressing the specific needs of physically and sexually abused children.

However, of primary concern is the bill's creation of new social service focused grant programs that duplicate not only existing authority within the JJDP Act but also programs administered by other Federal departments. For example, Section 2(g) would create a new OJJDP grant program titled "State Challenge Activities," authorized at $50 million, that would fund health care, mental health, basic educational, and special educational programs without tying them to the juvenile justice system. Furthermore, Section 5 adds Title V to the JJDP Act entitled, "Incentives Grants for Local Delinquency Prevention Programs," authorized at $30 million. This provision would authorize grants to support programs in the areas of recreation, tutoring, remedial education, employment skill development, health care, alcohol and substance abuse prevention, and leadership development, and would require a 100% match from local units of government.

These kinds of programs are, and have been, supported by not only OJJDP, but also numerous other Federal agencies, such as the Departments of Health and Human Services, Labor, Education, Interior, Housing and Urban Development, and Transportation. Indeed, a recent General Accounting Office study found that, based on 1989 figures, the Federal Government was funding, through 7 Departments and 18 agencies, 260 programs with approximately $4.2 billion in spending annually to serve delinquent and at-risk youth. The GAO study further emphasized, however, that most of this funding is for social programs such as job training, vocational

education, and health services, with little funding (only 4 percent) directly targeted to preventing youth violence.

Statistics show that juveniles are responsible for a large share of violent crime in America. For example, the FBI's 1990 Uniform Crime Reports demonstrated that juveniles under the age of 18 made up the following percentage of all persons arrested for the following offenses: 33 percent of burglaries; 30 percent of larcenies; 24 percent of robberies; 15 percent of rapes; and 14 percent (1 in 7) murders and cases of non-negligent manslaughter. In 1990, persons under 19 accounted for 21 percent of all arrests for murder.

Moreover, the rate of juvenile crime in this country is increasing at an alarming rate. According to the FBI's Uniform Crime Reports, between 1965 and 1989, the juvenile arrest rate for murder almost tripled, the arrest rate for aggravated assault tripled, and the arrest rate for weapons violations increased 2-1/2 times.

Mr. Chairman, what is strikingly clear from these very alarming statistics is that the status quo is not working. In spite of annual Federal spending of $4.2 billion in social programs, juvenile violent crime is going up. We cannot continue on our current path. We must find new and innovative ways to intervene early and sternly, with "tough love," as Attorney General Barr has stated, by holding juveniles accountable for their actions. As the federal coordinator of juvenile justice programs, it is important that the Administrator, OJJDP, link that office's accountability programs with those of other federal agencies that address education, health, job training and other like programs. While we recognize the importance of prevention and education programs, there is no need to provide additional scarce Federal funds for duplicating these programs within OJJDP.

Attorney General William Barr recently outlined a four-point approach to address the problem of youth violence and reform the juvenile justice system, which the Department of Justice believes

should serve as the foundation for any attempt to reauthorize the Office of Juvenile Justice and Delinquency Prevention.

The first part of this approach is to strengthen society's most important socializing institutions -- family, schools, community associations, and religious institutions. As the Attorney General has pointed out, "These are the primary vehicles by which values and ethics are instilled in our children, and their importance cannot be overstated."

The family is a child's first educator. It is from the family that children learn the values that will guide them throughout their lives. These values should include respect for themselves and others, and respect for the law and mores of society.
Our educational system also must restore moral authority to our schools. Schools must become a working partner with parents and social agencies to help form good character in young people, to reinforce the principles of hard work, honesty, self-discipline, responsibility for one's actions, and respect for authority. We recognize, however, that reform of our social institutions is largely outside the jurisdiction of the Department of Justice.
Clearly, the juvenile justice system should not be the first place that affords an opportunity for juveniles to learn and develop values.

We must further recognize the need for early intervention and accountability in preventing gang-related and other criminal offenses committed by juveniles. This is the second part of the Department's approach.

The majority of juvenile delinquency cases are referred by juvenile courts to social welfare agencies for disposition. Sanctions imposed by juvenile courts are too often light and ineffective, even for serious offenses. According to Juvenile Court Statistics 1989, only a small percentage of delinquency referrals--just over 9 percent--were placed in residential facilities.

The Department does not maintain that confinement is an

appropriate sanction for all juvenile offenders. However, if serious and violent juvenile offenders are returned to the community with only a slap on the wrist the juvenile justice system is sending the wrong message both to the offender and to other young people in the neighborhood-- it's sending a message that the juvenile justice system has no "teeth," that it's a "joke," and that you can get away with almost anything. This is not serving either the best interests of society or juvenile offenders. Indeed, adult criminal organizations are reported to recruit and take advantage of juveniles, because they believe that juvenile offenders receive little, if any, punishment and are often back on the street before their arresting officer has even completed the paperwork.

The Department believes that intermediate sanctions which provide alternatives to secure confinement should be available to juvenile and family court judges. These alternatives will instill in a young offender the importance of discipline, hard-work, responsibility and accountability. One innovative and promising option is boot camps for juvenile offenders. OJJDP is currently demonstrating boot camp programs for juvenile offenders in 3 sites. Recognizing the gradations of juvenile offenders, we must take advantage of the broad array of immediate and intermediate sanctions that are available to us, such as fines, restitution, community service, home detention, intensive supervision, electronic monitoring and boot camps, and community aftercare programs upon release from boot camps. We must also provide for the development of a network of secure community-based treatment facilities to provide accountability coupled with intensive services and a strong aftercare component. S.2792 fails to adequately address these very important issue.

Furthermore, the unfortunate reality is that there are some young offenders who are not amenable to rehabilitation and refuse to respond to such efforts. Only a small percentage of youth fit this category. The National Youth Study published earlier this

year found that 7 percent of all youth accounted for 79 percent of all serious, violent offenses committed by young people. Some of these young offenders commit hundreds of offenses each year. Moreover, there is evidence that once a juvenile offender is arrested three or more times for committing serious crimes, his chances of rehabilitation are slim. S.2792 also fails to provide for this group of juvenile offenders.

Government has a responsibility to protect law-abiding citizens from violent crime. As Attorney General Barr has said, "Once a juvenile has embarked on a career of crime, the goal of protecting society must become paramount."

The third component of the Department's approach, therefore, is that, for the protection of society, chronic serious and violent juvenile offenders should be treated like adults and be appropriately punished through the criminal justice system. To do this, we must be able to identify this category of offender.

However, records regarding a juvenile's criminal history are often inadequate, making it difficult to identify these offenders and determine whether a juvenile has become a chronic, habitual offender who should be tried as an adult. In order to make appropriate waivers to criminal court, states must keep meaningful records of a juvenile's delinquent history. We need to establish standards, guidelines, and criteria with regard to the collection of this information at the State and local levels and its availability in both juvenile and criminal proceedings. Finally, in many states, statutes that allow juvenile cases to be waived to criminal court are cumbersome and difficult to use. The fourth component of the Department's approach recognizes the need for reform in these areas. Under Attorney General Barr's leadership, the Department of Justice is also considering other measures to strengthen the Federal Government's ability to deal with chronic serious and violent juvenile offenders.

Mr. Chairman, the Department of Justice believes that any reauthorization effort should reflect these themes for reform of

the Nation's justice system in dealing with juvenile offenders, and in serving the best interests of juveniles and society.

In addition, the Department of Justice has serious problems concerning the line of authority that would be established by S.2792. The bill would establish a new direct reporting relationship between the Administrator of OJJDP and the Attorney General, and further prohibits delegation of the Attorney General's authority under the Act. This is in direct opposition to the Administration's proposal to reauthorize the Office of Justice Programs and the Executive Order signed by the Attorney General on February 19, 1991, which seeks to establish a clearer line of authority between OJP and its bureaus by enhancing the Assistant Attorney General's ability to administer and manage the bureaus. The Administration's proposal creates an environment that fosters improved communication and cooperation, and the integration of resources by strengthening the connection between OJP and its bureaus and by enabling OJP to be more responsive to priorities of the Administration, the Department, and the Congress.

In this regard, I want to point out that we at the Federal level are making every attempt to coordinate and link projects to maximize their effectiveness and impact through comprehensive programs such as Operation Weed and Seed. Disconnecting OJJDP from OJP not only fragments these and other efforts, but impedes our ability to focus and coordinate other programs within the Department.

S.2792 would limit any authority of the Assistant Attorney General for OJP over the operation of OJJDP. The OJP components currently operate together as a coordinated unit, supporting the mission of the agency in providing leadership through innovation in the administration of justice, in keeping with the direction of the Administration, the Attorney General, and the priorities set forth in the National Drug Control Strategy. These collaborative programs prevent duplication of effort, take advantage of a wide range of expertise and resources among the OJP bureaus, and enhance

the implementation and effectiveness of coordinated, comprehensive efforts and partnerships to combat crime and revitalize neighborhoods. By limiting the authority of the OJP Assistant Attorney General over OJJDP, S. 2792 would significantly obstruct such coordinated, comprehensive efforts, which the Department believes hold great promise for substantive improvement in crime control.

Further, the bill's language appears to remove OJJDP from the administrative framework of OJP and, by doing so, from the administrative support services, such as personnel and grants financial management, that OJP provides. This removal would greatly increase the administrative costs of OJJDP.

The Department of Justice encourages this Subcommittee to seriously reconsider S.2792 in light of these concerns. The Department believes that its alternative proposals outlined herein will create a structure under which OJJDP, through OJP, can more effectively provide Federal leadership, direction, and assistance to State and local governments in dealing with the problem of youth crime, violence, and drug use.

I know that this Subcommittee and the Department of Justice are both committed to seeking ways to save our youth -- our Nation's most precious resource. We must stop the senseless tragedy of children killing children as a right of passage or as an initiation right into gangs. We must stop juveniles from randomly killing or resorting to violence to settle disputes, and in some instances killing for no reason at all. And we must stop our youth from dealing drugs for quick profits and from taking drugs as an escape. We must show our youth that there is a better way of life, filled with values and meaning that they can share. Juveniles must be taught how to become productive and law-abiding citizens. We must hold them accountable for their actions. Their lives and the future of America's children depend on it.

Thank you, Mr. Chairman. I would now be pleased to respond to any questions you or Members of the Subcommittee may have.

Senator KOHL. Our third panel this morning includes experts and advocates from around the country. We would like to call Susan Morris, Judge Gerald Radcliffe, Gordon Raley, and Robbie Callaway to the witness table.

Susan Morris is chairperson of the National Coalition of State Juvenile Justice Advisory Groups, and she is executive director of the Youth and Family Resource Center in Shawnee, OK, which is a community-based agency with programs to prevent delinquency, provide alternatives to detention, and offer emergency shelter for juveniles. A licensed counselor, Ms. Morris has many years of experience in delinquency prevention and probation services.

Judge Radcliffe is chairman of the Legislative and Governmental Relations Committee for the National Council of Juvenile and Family Court Judges. Having presided over probate and juvenile court in Ross County, OH, for almost two decades, Judge Radcliffe has received both local and national awards for his dedication to youth in trouble.

Gordon Raley is executive director of the National Collaboration for Youth and the National Assembly of Voluntary and Social Welfare Organizations in Washington, DC. A former staff director of the Subcommittee on Human Resources for the House of Representatives from 1977 through 1985, Mr. Raley is responsible for much of the language in the Juvenile Justice Act. His devotion to these programs and issues spans two decades.

Robbie Callaway is assistant national director of the Boys and Girls Clubs of America. Mr. Callaway's accomplishments are well-known. He was very involved in efforts to convince Congress to enact the Juvenile Justice and Delinquency Prevention Act of 1974 and has remained in the advocacy forefront ever since. Given Mr. Callaway's leadership, it is no accident that the Boys and Girls Clubs run so many model delinquency prevention and intervention programs.

So we thank you all for being here with us this morning. To leave enough time for questions and discussion, we ask you to confine your oral remarks to no more than 5 minutes, and your written testimony will be included in the record in its entirety.

Ms. Morris?

PANEL CONSISTING OF SUSAN C. MORRIS, CHAIRPERSON, NATIONAL COALITION OF STATE JUVENILE JUSTICE ADVISORY GROUPS, SHAWNEE, OK; GERALD S. RADCLIFFE, NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, CHILLICOTHE, OH; GORDON RALEY, EXECUTIVE DIRECTOR, NATIONAL ASSEMBLY OF NATIONAL VOLUNTARY HEALTH AND SOCIAL WELFARE ORGANIZATIONS, INC., WASHINGTON, DC; AND ROBBIE CALLAWAY, ASSISTANT NATIONAL DIRECTOR, BOYS AND GIRLS CLUBS OF AMERICA, ROCKVILLE, MD

STATEMENT OF SUSAN C. MORRIS

Ms. MORRIS. Thank you, Chairman Kohl, Senator Brown. I come here today, as you said, as chairperson of the National Coalition of State Juvenile Justice Advisory Groups and as executive director of the Youth and Family Resource Center in Shawnee. Youth and Family, as you said, is a community-based program providing the

prevention, diversion, and shelter services contemplated by the act. Because of my work, I see daily the children of the act, from abused infant, to confused runaway, to teenage offender.

Thank you for asking me to participate in this hearing. Although I have testified twice before, I am still a bit awed at this task.

The bill you all are considering today extends services to children on the verge of, if not already in trouble with the law. The Juvenile Justice and Delinquency Prevention Act brings together citizens and government to plan and provide services for America's least liked children—delinquents and status offenders.

The National Coalition is made up of members of State advisory groups. SAG members are a diverse cross-section of America. They work for Travelers Aid and Legal Aid. They come from juvenile service agencies and from citizen volunteer perspectives owing allegiance to no one agency. A number of the required youth members are recipients of services in the system. Other members are victims or parents of the very children for which this act was created.

State advisory groups are State, county, and local officials and citizens planning for juvenile justice and delinquency prevention in their own backyard. They know firsthand what is being done, what works, what is a waste of time and money. Because SAG members live in rural and urban districts, they know what happens in America on a daily basis. They see it on their very own streets on the way to work and again at home when checking the daily news.

Someone once said all politics are local. If so, this drawing together of knowledgeable citizenry for planning, funding, and monitoring is critical to attaining the federal mandates of juvenile justice and delinquency prevention. Besides, as we all know, people are much more apt to accept and follow through on something they themselves are actively involved in the planning of.

The Office of Juvenile Justice and Delinquency Prevention within the Department of Justice is the principal vehicle for the Federal focus on juvenile justice and delinquency prevention. The act specifically places final responsibility for managing the office and coordinating all Federal juvenile justice programs in the hands of the administrator of that office. This responsibility is necessary to the efficient and coordinated effort to adequately confront the problems of the juvenile justice systems across the nation.

The individual who bears this responsibility must also have the authority to carry out that responsibility. You in Congress have stressed this fact since 1974 in both conference reports and debate. Now, it is even more important that the office retain the independence Congress anticipated. Kids in trouble must come before the direct attention of the Attorney General. The solution is as simple and as significant as making a box on the organizational chart for the Office of Juvenile Justice and Delinquency Prevention that is equal in responsibility and reporting to the Attorney General as the Criminal, Civil, or Tax Divisions. Attending to that simple task makes a strong statement about Federal commitment to juvenile justice and delinquency prevention.

Congress intended that the office be a dedicated advocate for positive change in the area of juvenile justice and delinquency prevention. The act states that it is the policy of Congress to provide the necessary resources, leadership, and coordination for meeting

its strong mandates. One of the necessary resources for meeting the mandates of the act is maintaining the independence of the office.

The disagreements between the Assistant Attorney General for Justice Programs and the administrator of OJJDP have damaged OJJDP support for State efforts in the past 1½ years. I hope that the subcommittee language which would add some independence to OJJDP will not be compromised.

The National Coalition is asking for a higher authorization level. This amount represents an authorization level only. We in the States know how tight money is. In Oklahoma, we had $3 million in requests for roughly $500,000 in formula grant funds. This level of authorization we are seeking will allow use of money's which may become available through budgetary reallocations. If the authorization level is not there, we would not be able to use those funds as they become available.

In Oklahoma, we fund a range of programs, from prevention of juvenile violence in public housing projects, to alternatives to incarceration, to training for those staff working in detention and serious and habitual offender facilities.

The act provides a foundation for federal policy on juvenile justice and delinquency prevention. Solid funding and sound administration modeled at the Federal level sets the process in motion. SAG's, through their planning and local juvenile justice expertise, build on that foundation. Interdisciplinary services for children, including interagency groups such as prescriptive or multidisciplinary teams, are tools used in the process.

Blending funds prevents costly, unnecessary duplication. Flexible funds that follow a child rather than force him or her into an inappropriate program build yet another part of that structure. Once built, this structure of locally planned Federal policy will withstand the assault of the juvenile offender and salvage other juveniles from falling into the juvenile justice system. The act requires coordination, cooperation, and collaboration to work—all components of a good partnership.

Thank you for allowing me the opportunity to take part in my government.

[The prepared statement of Ms. Morris follows:]

Presented to the

SUBCOMMITTEE on JUVENILE JUSTICE

COMMITTEE on the JUDICIARY

UNITED STATES SENATE

on behalf of the

National Coalition

of

State Juvenile Justice Advisory Groups

"Committed to justice for juveniles and delinquency prevention"

July 2, 1992

Susan C. Morris
Chair

Preface

Jamie

Jamie's parents refer him to Court Intake because he won't stay home. The Court intake worker gets the local Youth Services Center to squeeze in a counseling appointment for Jamie, no easy task due to today's waiting lists. Jamie shows once and runs. He becomes more difficult to contain; this time he commits several delinquent acts before he's picked up. His parents, resigned to the bouts of running away, are totally helpless. The Intake worker finds Jamie a private placement, a true modern miracle. Jamie runs and when found is denied readmittance because he ran. There are several more runaways from placements - both shelter and residential.

The police weary of always having to pick up Jamie because nothing is ever done. The officers begin not to look real hard for him. Jamie becomes more deeply involved in life on the street. By now, it is impossible for that Intake Worker, or any other counselor for that matter, to reach Jamie. The judge becomes angry seeing Jamie before her time and time again, each time for something a bit more serious.

Finally, the judge refuses to consider any alternative other than custody within a maximum security facility. The counselor knows that it will be several weeks before Jamie is shipped off and then it will probably be to a private psychiatric hospital where he will be locked away and institutionalized, until the insurance money runs out, that is. However, while awaiting the secure placement, Jamie connects with friends. They rob a convenience store on the way out of town in one of the friend's mom's cars. A clerk is seriously injured. The kids are caught and placed in the county jail where Jamie watches while his best friend is raped by another inmate. When he goes to court, he is surly and angry before that same judge. He is certified, convicted, and sent to prison. Jamie is now lost forever.

Most of us know of a Jamie. The Jamies of the world are why the JJDP Act was created. The entire Act was passed in 1974. Title II of the Act encompasses the only program in which the federal government addresses the problems of delinquent youth from a planned, local basis. Title II did and still does demand radical reform in juvenile justice and delinquency prevention. It is the centerpiece of the Act. The crux of the Act is partnership. Even the original enactment was a non-partisan partnership. During reauthorization, the partnerships are highlighted once again. Reauthorization is when we not only question the continued force and viability of the Act, but also look at new issues and strategies for improving the effectiveness of the juvenile justice system and for preventing delinquency.

If Jamie lived in Illinois, he could be monitored at home through the DuPage County Youth Home, Home Detention Program, funded through Title II of the Act. Trained workers would make sure that Jamie stayed put and in school while awaiting court.

If Jamie lived in Los Angeles and was involved in a gang, he would receive structured independent educational study and conflict resolution classes from Catholic Charities of East Los Angeles through their Gang Violence Suppression Project. Another example of a program funded through Title II's formula grant funds.

If Jamie lived in Oklahoma, he would be referred to the Youth & Family Streetwise program after his first offense to learn the consequences of not following the law and that his actions affect his family, friends, and innocent victims. The Oklahoma State Advisory Group found a need for diversion programs in the state, and used formula grant moneys to bring them about.

Partnerships and planning in Missouri would provide emergency shelter care and crisis intervention services for Jamie. He and his parents would receive help before intake and adjudication was necessary from the YWCA Youth Crisis Center in St. Joe's. The program was planned via through the State Advisory Group's 3-year comprehensive plan to meet that community's needs.

If Jamie lived in New York, he would be seen by the Yonkers Bureau of Youth services in their Drop Out Prevention Project for inner-city youth. The program offers individual and substance abuse counseling, as well as guidance and encouragement in becoming involved in community and positive leisure-time activities. Yet another partnership between local, state and federal entities.

I. Introduction

Mr. Chairman, Subcommittee members, my name is Susan Morris. I come here today as Chair of the National Coalition of State Juvenile Justice Advisory Groups and as Executive Director of Youth & Family Resource Center, in Shawnee, Oklahoma. Youth & Family is a community-based program providing the prevention, diversion, and shelter services contemplated by the Juvenile Justice and Delinquency Prevention Act (JJDP Act). Because of my work, I see daily the Jamies of the world - from abused infant to tenage offender.

Thank you for asking me to participate in this hearing. Although I have testified twice before on this matter, I am still awed at being a part of this exciting task. This bill you are considering today extends services to children on the verge of trouble, if not already in trouble, with the law. The JJDP Act brings together citizens and government to plan for the provision of services for America's least liked children.

II. The National Coalition of State Juvenile Justice Advisory Groups

The National Coalition of State Juvenile Justice Advisory Groups (National Coalition) is recognized in Section 241(f) of the Act as that "eligible organization composed of member representatives of the State Advisory Groups appointed under section 223(a)(3)..." It is the body charged in the Act with advising Congress, the President, and the Administrator of the Office of Juvenile Justice and Delinquency Prevention. The National Coalition is the national voice for the State Advisory Groups. National Coalition members are united behind the common goals of justice for juveniles and prevention of delinquency.

The 56 members of the Board of Directors represent all states and six assorted U.S. Commonwealths, Territories, and one District. The Coalition has evolved in recent years to become a significant national force in juvenile justice reform.

Thanks to Congress, the National Coalition is assured the support to perform effectively. Among many other activities, the National Coalition, by mandate, prepares by January 1 an Annual Report to Congress, the President, and the Office of Juvenile Justice and Delinquency Prevention, and holds an Annual Spring Training Conference in May of each year. These tasks could not be accomplished without the partnership between the National Coalition and their hardworking staff, another result of the increased efficiency of the National Coalition. There is, also, today a working partnership between the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the National Coalition.

The National Coalition is committed to the intent, purpose, and mandates of the Juvenile Justice and Delinquency Prevention Act. Because of that, the National Coalition believes:

- *that no child belongs in an adult jail;*
- *that status offenders are best helped in their own community surrounded by supportive persons, whether kin or care giver;*
- *that prevention and early intervention combined with services for the serious juvenile offender are the keys to surmounting delinquency;*
- *that working together is the only way to achieve those beliefs; and further,*
- *that those beliefs are only worth achieving if done so for all our children - rich or poor, city born or country bred, red, yellow, black, or white.*

Consequently, in April of 1991, the Board of Directors of the National Coalition, meeting at the Annual Spring Training Conference, addressed issues and prepared materials surrounding the reauthorization of the Act. I will touch on those issues in this testimony.

Because of the National Coalition, State Advisory Groups (SAGs) have increased member training activities. At least three times each year, members can share their experiences with peers in other states and learn new techniques from national experts during national and regional training sessions. A cadre of experienced SAG members now exists to train their contemporaries on issues of juvenile justice & delinquency prevention, as well as the mechanics of empowering State Advisory Groups. This training and informative discussion must continue. The development of a clearinghouse function in the National Coalition office for information on state activities and state-of-the art research is the next step in augmenting the training of the SAGs and the exchanging of program information.

National Coalition members, because they are local folk from communities in every county of every state, know policy, systems, and programming at the state, county and local level. As a result, the National Coalition is developing policy papers on issues related to juvenile justice and delinquency prevention. Papers on the deinstitutionalization of status offenders and jail removal are available. Another on minority overrepresentation will be approved during the fall meeting.

During the last several years, the National Coalition worked hard at involving youth members in the decision-making and advocacy process. There is now a Youth Member elected to the National Steering Committee (the executive committee of the National Coalition). Funds are being solicited from private sources to assure the attendance at the Annual Spring Training Conference of one youth member from each state.

The Regional Coalition structure has been enhanced. States have a greater voice and chance for participation in all aspects of the National Coalition. Each Regional Coalition now meets for training and business as a region at least once each year other than during the national meetings.

The National Coalition believes that its partnership role in advising the President, the Congress, and OJJDP should be preserved. The independence of the National Coalition must continue so that it may be a constructive critic of OJJDP and of Federal efforts in juvenile justice and delinquency prevention The National Coalition believes that the role should evolve further into one with specific oversight responsibilities concerning actions taken by OJJDP - local citizen oversight of federal policy and programming.

III. The State Advisory Groups

The Act establishes a unique partnership between the federal government and committed citizen volunteers from communities, towns, counties and villages across the nation. State Advisory Groups (SAGs) are described in Section 223(a)(3) of the JJDP Act. The Act mandates gubernatorial appointments to SAGs to enhance credibility, influence, and commitment. These collaborative, collective relationships are not dinosaurs ready for extinction. Instead, they are representative groups actively involved in educating the public about juvenile justice concerns and the needs of youth caught up in the downward swirl of delinquency and crime. SAGs are comprised of a broad-based collection of public officials and citizen volunteers with

interest and expertise in the field of juvenile justice and delinquency prevention. Citizen members work for Traveler's Aid and Legal Aid. They come from juvenile service agencies and from citizen volunteer perspectives owing allegiance to no one agency. A number of the required youth members are recipeints of services from the system. Other members are victims or parents of the very children for which this Act was created. County officials and local citizens plan together for juvenile justice and delinquency prevention in their own back yard. These members know firsthand what is being done and what is not being done, what works and what is a waste of time and money. Because SAG members come from rural and urban districts, they know what happens in America on a daily basis. They see it on their very own streets on the way to work and, again, at home when checking the hometown news. Someone once said "all politics are local." If so, this drawing together of knowledgeable citizenry for planning, funding, and monitoring is critical to attaining the federal mandates of juvenile justice and deliquency prevention. Besides, as we all know, people are much more apt to accept and follow-through on something they themselves are actively involved with rather than something imposed on them from far away.

SAGs, key to the successes achieved under the Juvenile Justice and Delinquency Prevention Act, are charged among other things with the responsibilities of:

1) developing comprehensive 3-year state plans to carry out the Congressional mandates;
2) funding programs to implement the plans;
3) advising their Governors and state legislators on matters concerning juvenile justice; and
4) seeking regular input from juveniles in the juvenile justice system.

Each 3-year comprehensive plan allows individual states to address juvenile crime and delinquency, gangs, drugs, and minority overrepresentation - at the state and local level. Public hearings, research and data collection, and retreats hone the process. Through the comprehensive 3-year plan of work, the states build those partnerships necessary to impact the problems of today's young people. Consequently, any program dealing with juvenile justice and delinquency prevention, including planning and funding for at-risk or drug abuse programs, should be funneled through Title II's State Advisory Group planning process.

IV. Juvenile Justice Specialists

State Juvenile Justice Specialists provide the staff support and professional leadership necessary to enable the SAGs to perform their functions effectively under the Act. Specialists are the glue that holds the Act together. These knowledgeable, highly motivated individuals from each state have a deep commitment to the principles of the Juvenile Justice and Delinquency Prevention Act.

Given the tremendous efforts required to comply with the Act, anything less than one dedicated full-time Specialist in each state is unworkable. Unfortunately, several states appear to be considering cutbacks or reorganization in JJDP Act staff. In place of one identifiable Specialist, these states propose to distribute the responsibilities between a number of other staff. Because of the JJDP Act's strong and creative federal direction, it requires careful documentation and reporting. Splitting the responsibilities will cause fragmentation. No one person will be available, responsible, or capable of making needed decisions based on a thorough knowledge of the Act. Specialists have a tremendous amount of federal and state accountability - accountability which should continue. However, that accountability can only be achieved through the expertise of the Specialist.

We understand the reluctance of government to encroach upon local decision making. Unfortunately in this case, such a philosophy overlooks the practical need of a full-time Specialist who knows his or her job. One of the strongest selection criteria used for funding projects at the local level is the expertise and reliability of program staff. Programs are only as good as the staff who run them. Fragmented staff run fragmented programs. We ask for careful consideration of this issue. States need at least one full-time Specialist each.

V. The Office of Juvenile Justice & Delinquency Prevention U.S. Dept. of Justice

The Office of Juvenile Justice and Delinquency Prevention, within the Department of Justice, is the principal vehicle for a federal focus on juvenile justice and delinquency prevention. The single most important function of OJJDP is implementation of Title II of the Act. A primary task of that function is to provide responsive support to the State Advisory Groups. OJJDP must be staffed and ready to interact with the states in an efficient, timely, and professional manner. The Act specifically places final responsibility for managing the Office and for coordinating all federal juvenile justice programs in the hands of an Administrtor of that Office. This responsibility is necessary for an efficient and coordinated effort to adequately confront the problems of the various juvenile justice systems within each state and territory. The individual who bears the responsibility for juvenile justice programs must also have the authority to carry out that responsibility.

Congress has stressed this fact since 74 in both conference reports and debate. Now it is even more important that the Office retain the independence Congress anticipated. Kids in trouble must come before the direct attention of the Attorney General. The solution is as simple and as significant as making a box on the organizational chart for the Office of Juvenile Justice and Delinquency Prevention that is as equal in responsibility and reporting to the Attorney General as are the Criminal, Civil or Tax Divisions. Attending to that simple task makes a strong statement about federal commitment to juvenile justice and delinquency prevention. The Act states that it is the policy of Congress to provide the ncecessary resources, leadership, and coordination for meeting its strong mandates. One of the necessary resources for meeting the mandates of the Act is an independent Office - an Office that is unfettered in its ability to help states meet the federal mandates of juvenile justice and delinquency prevention.

Congress intended that OJJDP be a dedicated advocate for positive change in the area of juvenile justice and delinquency prevention. Currently, OJJDP is under the Office of Justice Programs (OJP). This stifles the independence of the Office. An example: in 1991 OJP set the agenda for the OJJDP comprehensive plan regarding implementation of the Act. OJP priorities did not mesh with mandates of the JJDP Act nor did it take into account the local, community based focus of the State Advisory Groups' 3-year plans. We agree that the Office should remain under the Department of Justice, but it makes more sense on a practical level for the Administrator of the Office to report directly to the Attorney General. Again, not only because of the seriousness of juvenile crime and delinquency but also because Congress intended it to be so for the more efficient accomplishment of local planning for federal policy on juvenile justice and delinquency prevention.

Not only must the Office retain its intended independence, it also must be led by a person who has " had experience in juvenile justice programs" (Sec. 201(b)). Beginning a new job is a challenging responsibility. A new administrator must learn how this Office works at the managerial level and according to government practices. He or she must know budgetary needs and contraints, personnel requirements and expectation, as well as information management and reporting requirements. Beginning that same new job without knowledge of the philisophical underpinnings, content, or nuances of that job's responsibilities makes the task more of a struggle than a challenge. Coming in as Administrator of the Office of Juvenile Justice and Delinquency Prevention and not knowing the difference between a status offender, and a delinquent offender, or even that there is a problem of over-representation of children of color in the juvenile justice system is like placing a business instructor in the position of violin instructor - he or she may know the requirements of the course but not the esthetics of the violin. Placing an Administrator without juvenile justice experience or knowledge in the Office can wreak havoc on systems. The federal system and each state's system have the same goal, juvenile justice and deliquency prevention, but differ in how that goal is attained. Like standing a groups of dominoes - an action or exception in one area may alleviate a specific situation in that particular are yet cause a whole system to come crashing down somewhere else. It is not fair to the Office staff, to citizen volunteers, or to America's children to take the additional time necessary to train an Administrator in the philosophies, principles, and code of the juvenile justice system. Thankfully, both the acting Administrator and Deputy Administrator have knowledge and experience in juvenile justice and delinquency prevention policy and programs. Language in the Act must remain to assure that this will continue to be the case with future administrators.

Because of neglect, albeit perhaps benign, the Office has suffered over the last few years. Only recently has the position of Deputy Administrator been filled. There have been four Administrators, permanent or acting, in the last 5 years alone. The State Relations and Assistance Division staff includes two members with five years' experience, all other staff knowledge and history goes back less than two years. As a result at present, the Office is entirely dependent on an outside contractor for training and technical assistance. That contractor, Community Research Associates (CRA), has 40+ years of pooled experience in juvenile justice and deqinquency prevention and, more specifally, in matters pertaining directly to the Act itself. It so happens that CRA is a for-profit entity. There is an effort to remove "for-profit" entities from contracting with OJJDP. Now is not the time to do this. The Office truly needs the training and knowledge base of CRA to put together a strong informed staff for work with the states. If the "for-profit" exclusion must stand, at least grandfather CRA in somehow as doing business as of a certain date. Don't further cripple the Office by withholding this vast area of expertise at a time when the expertise of the Office is limited.

Many delinquent youth were also abused or neglected. Title III's runaways or Title IV's missing children sometimes become Title II's delinquents. We cannot ignore the fact that drug-abusing or gang-involved juveniles commit a major portion of juvenile crime. All of these kids need help. Thus, the Administrator with a background in juvenile justice could provide greater leadership within the Coordinating Council on Juvenile Justice and Delinquency Prevention. Coordination within the group is difficult. Funds from the various Departments are disbursed to states through discrete channels without much communication. The active leadership of the OJJDP Administrator could ensure greater cooperation and coordination among those agencies responsible for runaways, drug abuse, child abuse and neglect, and other activities involving at-risk children. The Coordinating Council could be used effectively to combine responsibilities among agencies for funding, training, and technical assistance - coordination and collaboration from the top.

There must be greater interaction between OJJDP, the National Coalition, and the State Advisory Groups in carrying out the purpose of the Act. There must be a true partnership of caring, concern, and communication. Recently, OJJDP reorganized the assignments of states to state representatives. The reorganization conformed to the National Coalition's regional coalition groupings. Although delighted at the willingness to coordinate teams in an organized manner, the National Coalition was perplexed as OJJDP did this without even mentioning the idea to the Coalition. Collaborative and cooperative partnerships can not be achieved without communication. We ask that you, through the Act, prompt OJJDP to take part in encouraging and rewarding collaboration within and among states and territories and with the National Coalition.

VI. Mission and Mandates of the Juvenile Justice & Delinquency Prevention Act

The National Coalition reaffirms its unwavering support for the purpose and mandates of the Act:

- *removing status offenders from secure facilities;*
- *separating juveniles from adults in secure facilities, jails, and lock-ups;*
- *removing juveniles from jails, lock-ups, and other adult facilities;*
- *preventing delinquency;*
- *eliminating the overrepresentation of children of color in the juvenile justice system;*
- *modifying the formula for the Native American pass through.*

The Coalition believes that compliance with the mandates should be accomplished through incentives. Jurisdictions should not be allowed to cut corners in meeting the mandates nor should they be summarily kicked out. OJJDP can and should encourage creative methods for stimulating state actions. Rules should not be changed to accommodate states to sidestep the

mandates of the Act. Ideas, such as providing additional funds to states becoming involved in interagency cooperation and collaboration are exciting. Speaking from a purely local, service-provider view-point, working together is the only way to get anything done. We in the trenches have known that for a long time. We let the state agencies hash it out, while at the local level we go ahead and do what needs to be done - together.

The Coalition overwhelmingly rejects any relaxation of the standards of compliance set forth in the Act. We oppose any further extension or modification of the deadlines for compliance with the Act. States should be encouraged and rewarded in complying with the Act, not embarrassed and defunded. Nor should rules be changed to allow a facade of compliance. We don't change the law to accommodate misbehavior by juveniles, therefore, we shouldn't change the law (or regulations) to allow some states to circumvent the Act.

The Act should be amended to cover all children in trouble by requiring compliance of all federal agencies having any jurisdiction over juveniles. Two examples of agencies falling into this policy gap are the Immigration and Naturalization Service and the Bureau of Indian Affairs. This is particularly true for the mandate for removing juveniles from adult facilities. In what way? If a Native American youth living on a reservation commits a delinquent offense, he or she can now be held in an adult setting; a Mexican youth who gets into trouble in the States can be shuffled from adult jail to adult jail on the way back to his or her home Country. These kids should have the same protections and receive the same treatment as any other child caught up in the legal system.

A. Sight and Sound Separation

The Act mandated initially that juveniles be held out of both the sight and sound of adult prisoners. There were unintended consequences from the separation effort. Overcrowding, old facilities ill-suited for separation and scarce resources frequently resulted in youth being separated into total isolation. There was limited treatment in those facilities and it was usually medical in nature. There were no schools in the adult facilities. So, a child already behind in academics fell further behind. To remedy this, the Act was amended in 1980 to require the complete removal of juveniles from adult jails and lockups by December of 1986. Architectural separation of juveniles from adults in adult facilities was no longer an acceptable strategy for detaining and protecting juveniles while also protecting the public. Architectural separation doesn't work.

B. Jail Removal

"...no juvenile shall be detained or confined in any jail or lock up for adults..." [Section 223(a)(14)]. With the leadership and support of both the National Coalition and its State Advisory Groups, advocates for jail removal worked valiantly over the years to comply with this mandate. Neither substantial nor full compliance has come quickly. Some states have had an easier time than others. States used various methods, including programming, legislation, state regulations, and litigation, all with diverse results.

The National Coalition believes that no child belongs in any locked adult facility. No amount of fire walls, side entrances, cleared elevators or time-phased staff can change an adult facility into a juvenile facility. If kids are held within the same 4 walls of an adult jail, they perceive themselves as doing time in an adult jail. The reality taught by that perception is that they can live through jail and come out the other side - somewhat less innocent and less compassionate - but what do juvenile delinquents need with innocence and compassion anyway? The public needs to be protected; some kids need to locked up, but not in an adult facility. A 15-year old within reach of a 35-year old is not a good idea. For the habitual offender whose charges are serious, detention is unavoidable and may be necessary for the protection of the public, but the detention must occur within a juvenile facility. (By the way, once the juvenile facility door is locked, protection of the offender in terms of the conditions of confinement i.e. degree of restriction, the length of stay, and services then become critical.) We view enhanced forms of separation such as co-location as only an intermediate step towards the goal of jail removal. Co-location of juveniles within adult facilities is not jail removal. Therefore, the National Coalition urges that the language of the Act be amended to strengthen and tighten the standards for jail removal narrowing any opportunity for loosening those standards. The architectural loophole must be closed. Recognizing a need for practicality in states and territories having large rural or remote populations, we suggest that Congress reexamine the Act's provisions regarding the physical difficulties inherent in accessing secure detention.

Not only are states willing to remove juveniles totally from adult jails, they are also willing to pick up the funding to help the process succeed. People want to do the right thing. They want guidance on how to effect it, how to afford it and who will be affected. In 1979, the Michigan SAG funded a pilot project to remove status offenders from adult jails in Michigan's rural upper peninsula, replete with geographic and logistical obstacles. In 1980, using formula grant funds, their Department of Social Services developed a network of services for status offenders and alternatives to adult lockups and jails. The model eventually was replicated across the entire state. The alternative services network, now state funded, currently covers most of Michigan. The Oklahoma SAG funded a statewide system of alternatives to detention, including home bound detention, attendant care, and court shelter homes as part of their jail removal strategy. The SAG funded the alternatives on a decreasing basis for four years. The State Department of Human Services increased their funding each of those four years. The state now shoulders the programming and funding entirely.

C. The Deinstitutionalization of Status Offenders

Status offenders: those youth who engage in behaviors that would not be crimes if committed by adults, such as breaking curfew, running away from home, truancy, and in some states alcohol violations. The behaviors are proscribed by the state simply because of the offender's "status" as a minor or juvenile.

One of the goals of the 1974 Act was the removal of status offenders and nonoffenders (abused or neglected children) from secure facilities and instead referral to community-based agencies (some of which were residential). In the twenty years since the movement to deinstitutionalize status offenders began in earnest, states have made considerable progress. But most have joined the effort to remove status offenders from secure facilities by using some form of diversion processing and non-secure program alternatives in the community. As with other mandates of the Act, some have been more successful than others.

In 1967, the President's Crime Commission strongly advocated diversion from the juvenile justice system as an appropriate method of handling status offenders and minor delinquent offenders. Youth Service Bureaus, funded by the Department of Justice, emerged across the country. Eventually, most of the Federal funding was eliminated and the community-based bureaus were supplanted by diversion programs operated by government. There is one strong band of holdouts. Thirteen centers were begun with those funds circa 1969 in Oklahoma. Today the Youth Service Centers are mandated by state law and serve over 15,000 Oklahoma children each year. Youth & Family, where I work, is one such center. The State of Oklahoma appropriates roughly $11 million in general revenue funds to Youth Service Centers for community-based prevention, diversion and shelter services. Those Oklahoma Centers blend state dollars with funds from Title II of the Act for first-time-offender programs, alternative-to-detention programs, summer recreation, citizenship activities, and school-based counseling. The community-based Centers blend state dollars with funds from Title III of the Act to shelter and help, rather than lock up and punish, status offenders - another unique federal, state and local partnership fostered by the JJDP Act. The Oklahoma experience is unhappily the exception and not the rule. For the most part, diversion is controlled increasingly by juvenile justice system agencies rather than the broader community.

It's true that all status offenders may not become delinquents, but it's a good bet that most status offenders are involved in delinquent offenses and vice versa. When resources aren't made available to establish community-based treatment, diversion, and prevention programs, this becomes an even greater problem for communities. While contact with the juvenile court can never be entirely avoided, for many children penetration into the system can be minimal. Prevention and family preservation services, probation, foster homes, or group homes rather than detention or incarceration is the answer.

1. Valid Court Order

One can't conceive of the status offender issue without it's companion the "valid court order." The Valid Court Order exception of 1980 (See Section 223(a)(12)(A)) constituted a setback in the removal of status offenders from secure institutions. The valid court order exception allows a status offender to be incarcerated in a secure facility. The National Coalition believes that Congress should examine the valid court order exception in light of the April, 1991 GAO study, "Non criminal Juveniles." The Act should be amended to restrict to extreme circumstances the availability of the exception. The Act should require procedural safeguards during the decision to issue such an order, and, if issued, services must be available for the detained status offender. However, detention of status offenders must occur within a juvenile facility and never within an adult facility.

2. Community Based Services

The Act states that the policy of Congress is to provide the necessary resources, leadership, and coordination:

- *to develop and implement effective methods of preventing and reducing juvenile delinquency, including methods with a special focus on maintaining and strengthening the family unit so that juveniles may be retained in their homes;*
- *to develop and conduct effective programs to prevent delinquency;*
- *to divert juveniles from the traditional juvenile justice system; and,*
- *to provide critically needed alternatives to institutionalization.*

Every delinquent or status offender, whether housed in small, community-based programs or large training centers, eventually returns to the community. Planning for this goal starts the day a child is admitted to an out-of-home placement. Efforts must be continued to research and implement transitional programming for those kids. To be effective, this programming must recognize that a youth's successful return to the community as a productive citizen is the primary goal. The cooperative resources of the placement and the community must be applied to effect that success. Individualized assessment for community treatment through multidisciplinary teams with money that follows a child are key to success.

The State Advisory Groups and their National Coalition continue to advocate strongly and persistently for community-based treatment for delinquent and status offenders.

3. Private Psychiatric Hospitals

While large numbers of status offenders and nonoffenders are no longer housed in juvenile correctional institutions, there is growing concern that many are being shifted to equally restrictive drug treatment or mental health programs; some without any due process safeguards. These trans-institutionalized youth appear to be primarily youth from white, middle-class, "insured" America. (Children of color and poor white children occupy the beds in our nation's public correctional institutions.)

Institutionalized people become dependant upon the institutional environment. They can't make it in the real world. Institutionalization, in general, may stigmatize children. Psychiatric institutions also may allow juveniles to abdicate responsibility for their actions because they are "too ill to know what they are doing." The private psychiatric hospital issue allows America to abdicate its responsibility to the needs of families and children - an easy but very expensive way out.

The National Coalition urges that the Act place a greater focus on conditions within institutions and alternatives to inappropriate institutional confinement. The National Coalition urges Congress to call for a study of the increasing use of psychiatric hospitals and other secure residential treatment programs for children who might have been previously institutionalized as status offenders.

D. Native American Pass-through Funding

In its 1988 amendments to the Act, Congress incorporated pass-through funding for programs for Indian Tribes that perform law enforcement functions, and that agree to comply with other mandates regarding lockups.

The pass-through funding amendment was well-intended and much needed. However, the amount of funds passed through for the specific use of Native Americans depends on their percentage of the total youth population in each state and a tribal law enforcement function. As a result, its impact to date has been negligible. An example, the State of Oklahoma, known for many tribes and a large population of recognized Indian tribes, received only $476.66 in pass-through funds in 1990. See attachment 4 for a full list To remedy this, the SAG earmarked $100,000 of their formula grant funds for help with Tribes. To assess the actual need, the Oklahoma SAG held a series of public hearings with Tribal leaders and members. A list of priorities was prepared with funds granted according to the list. Another example of collaboration at the local level for solutions to local problems, thanks to the JJDP Act..

Since the current pass-through formula is inadequate to even begin to assess the problems of Native Americans, the National Coalition asks Congress to develop a new formula for providing adequate resources for Native Americans to address their unique juvenile justice problems in addition to the funds allocated through formula grants.

VII. Overrepresentation of Children of Color in the Juvenile Justice System

Overrepresentation and differential treatment of children of color within the juvenile justice system are evident along the entire continuum of that system. The extent to which such disproportionate representation exists in each state, the points of occurrence in the juvenile justice process, and the reasons for the occurrences are not clear. In 1988, the National Coalition was successful in seeking amendment of the Act to require the states to eliminate the overrepresentation of minority youth in secure confinement.

States have, for the most part, just begun to create data collection systems. Actual program and policy strategies will come later. A few states have already collected data necessary to determine action. Iowa and New Jersey, for example, are beginning to zero in on strategies for specific areas with disproportionally high numbers.

VIII. Formula Grants

The formula grant program is the heart and soul of the Juvenile Justice and Delinquency Prevention Act. In accordance with the Act, it is the principal tool for bringing about meaningful change in juvenile justice systems and in preventing juvenile delinquency. Congress must significantly increase formula grant funds to enable the states to work more effectively. The increase would be yet another incentive to stimulate compliance with the Act. Once funded, OJJDP must carefully steward the formula grant program in the states. A primary goal of the Office is to administer this program as effectively, imaginatively, and consistently as possible.

Over the 12 years from 1980 until 1992 alone, the problems faced by today's youth and the mandates of the Act increased dramatically while funding decreased. The amounts now provided to states and territories often are just not enough to take the required steps to comply with the Act. The 1992 allocation left 17 states with only $325,000 each under the Formula Grants Program. The mandates of the Act, which states must meet, address crime and delinquency, both highly visible and difficult issues. Nevertheless, states are facing difficult economic times. Fewer and fewer state and local dollars are available to invest in programs for youth. Act funds were once used to create programs which were then adopted and funded by state and local governments when their efficacy was established. Today this happens only infrequently. The problems of America's youth have become more complex since 1980, and the resources allocated to address those problems have shrunk in real terms at all levels. Additional funds are necessary to address the Act's specific mandates. Much has been accomplished in these areas over the years through the partnership forged by the Act between the federal government and the states. Much, however, remains to be done.

IX. Discretionary Grants

The discretionary grant program gives the Administrator of OJJDP the authority to make grants to and contract with eligible entities to address issues directly related to those described in the formula grants section. In reality, the majority of funds are earmarked for specific entities. This coupled with the fact that discretionary grants are frequently the source of funds to carry out the particular ideological agendas of various Administrators. This, too, crosses all administrations. The National Coalition recognizes that a certain amount of this is, perhaps, inevitable. Consequently, OJJDP should be directed to use the discretionary funds allocated to it to address special and unusual problems related to achieving the mandates within the states. Model programs to address problems presented by geography, distance, and topography are timely. Other areas ripe for assistance are jail removal, minority over-representation, the overuse and overcrowding of secure detention, the deplorable condition of many juvenile correctional facilities, effective counsel to represent delinquent youth, the status of waiver or certification, and delinquency prevention. The list goes on and on.

Discretionary funds for training and technical assistance are also allocated unevenly across the juvenile justice system. Large sums have been allocated over the years to support training and technical assistance for judges and prosecutors. In recent years, juvenile correctional personnel were added. This is wonderful. Yet, as we pass the twenty-fifth anniversary of the Gault

decision, it appears that many juveniles are being denied entirely their right to effective counsel. Others are receiving perfunctory representation from court-appointed lawyers or lawyer guardians ad litem for abused and neglected children. OJJDP is the only agency specifically charged with a focus on delinquent youth. All funds allotted to it should be reserved for that focus. The National Coalition asks that OJJDP fund functions or service categories based on special and unusual local needs of children as outlined in the comprehensive 3-year state plans.

X. Other areas of concern -

A. Waiver

The decision for waiver, or certification, to adult courts generally has been within the discretion of the juvenile court based on certain statutorily-defined criterin. The process of certification to stand trail as an adult has different names in different states. Transfer, waiver, jurisdictional hearing, fitness hearing, and certification are the most common. Certification is reportedly on the increase, yet, very little has been done to study this trend and the effect it has on juveniles or the system. In light of this, the National Coalition believes that there needs to be a formal study to determine what actually is happening. We urge Congress to call for a GAO study of certification or waiver practices across the country, with particular attention paid to the effect on minority representation.

B. Special Education Needs

Research indicates that incarcerated juveniles have a higher incidence of special educational needs than do adolescents on the whole. An increasing number of the juveniles committed to correctional and detention facilities around the country are eligible for special education services under the Individuals with Disabilities Education Act. The special education, individualized educational program, requires individual tailoring of educational programs in rehabilitative settings. The Act acknowledges this reality with a specific focus on learning-disabled youth. We support this philosophy.

C. Standards

The 1970s were a decade of standards promulgation in juvenile justice. At least three separate sets of comprehensive juvenile justice standards were issued by groups concerned with the reform of juvenile justice policy and systems. Little attention has been paid by OJJDP to any of the standards. Because of more current research, the standards need to be updated, annotated, and finalized. They need to be disseminated through the OJJDP as part of its technical assistance effort. They need to be in the hands of policy makers at the local level, not left to collect dust in federal archives.

D. Advocacy Efforts

The 1988 amendments to the Act required OJJDP to fund "advocacy activities" as a part of the Special Emphasis Prevention and Treatment Programs. Yet, little attention has been paid to this mandate by OJJDP. We would like to see that change. Funding for advocacy efforts could include expanded ombudsman programs or other independent programs dealing with conditions in detention or correctional settings, and to the provision of counsel to children facing trial on delinquency or status offense charges. Because there is a growing belief that the "right to counsel" should be an unwaivable right where children are concerned, training of effective counsel is especially deserving of support and promotion by OJJDP.

XI. How to Accomplish All of This?

The Act provides a foundation for federal policy on juvenile justice and delinquency prevention. Solid funding and sound administration modeled at the federal level sets the process in motion. SAGs through their planning and local juvenile justice expertise build on that foundation. Interdisciplinary services for children, including interagency groups such as prescriptive or multidisciplinary teams are tools used in the process. Blending funds prevents costly, unnecessary duplication. Flexible funds that follow a child rather than force him or her into an inappropriate program, build yet another part of the structure. Once built, this structure of locally planned federal policy will withstand the assault of the juvenile offender and salvage other juveniles from fallint into the juvenile justice system. The Act requires coordination, cooperation, and collaboration to work - all components of a good partnership.

XII. Closing

Someone once asked, '...can we, in all our wealth and power, afford the loss of a single American child?' The answer to that question begins with our commitment to children before they become one of the Jamies of the world. Jamie's way of handling his many problems was to run away from them. We have to stop the anger at the Jamies of the world and heed their cries for help. We have to stop running from our own responsibility and see that kids receive help and not punishment for their original behavior.

Most folks don't understand or like delinquents or status offenders. To be honest, lots of people don't want them around. They want them locked up..out of sight out of mind. Without us continually reminding people that although the Jamies of the world

may have done some pretty bad things, they really aren't bad kids; that's exactly what will happen - lock them up and throw away the key.

According to the a well-known author on leadership, '...leaders are renewers; shapers of what might be rather than servants of what is.' Those leaders in 1974 had visions of justice for juveniles, yes, even of preventing delinquency. It's time to renew those visions again.

The partnerships forged in 1974 remain. New ones continually form. Ours, between Congress, the National Coalition, the State Advisory Groups, Juvenile Justice Specialists, and the office of Juvenile Justice and Delinquency Prevention needs to be strengthened. Such partnerships are important to the Jamies of the world. Such partnerships heed the cries of each Jamie in every community.

Again, my deepest thanks and appreciation for the opportunity to take part in the operation of my government.

ATTACHMENT 1

Project name:	Soledad Enrichment Program A Gang Violence Suppression Project
Agency/organization:	Catholic Charities of East Los Angeles Los Angeles, California
Project Director:	Greg Fitzgerald
Phone:	(213)251-3259
Amount received:	$56,316

The Soledad Enrichment Program (SEA) is a viable alternative to the existing education programs for students identified as gang members. The SEA school program provides a structured environment for independent study programs for high risk youth or gang members not able to attend regular programs. Other services created by the project include counseling and networking of services within the community. In addition to this, SEA offers parenting and conflict resolution classes.

Project name:	Home Detention Program
Agency/organization:	DuPage County Youth Home DuPage County, Illinois
Project Director:	Patricia McGrath
Phone:	(708)682-7356
Amount received:	$95,000

The program is used as an alternative to secure detention and as a means of reintegration into the community for use of for juveniles being released from secure detention. Through this program and the use of improved screening criteria, the number of DuPage County youth being placed in secure detention is beginning to be reduced.

Project name:	Drop-Out Prevention Project
Agency/organization:	Yonkers Bureau of Youth Services Yonkers, New York
Amount received:	$14,815

The pilot program demonstrates that continuity and prompt availability of drop out preventive services can maximize the chances for significant and positive outcomes when dealing with inner-city youth. The project will provide follow-up services to twenty-five eighth graders identified in the first year and will serve seventh graders the second year.

Project name:	Streetwise
Agency/organization:	Youth & Family Resource Center Shawnee, Oklahoma
Project Director:	Angela Carter
Phone:	(405)275-3340
Amount received:	$2,940

Streetwise is a program for first-time offenders that teaches juveniles the consequences of not following the law. Youth learn that they alone are responsible for their behavior and that their actions also affect family, friends, and innocent

victims. Presentations by community professionals and role play activities allow students to see how the justice system works from the inside and give the sense of community necessary for good citizenship. Visits to correctional and court facilities offer a first-hand look at the consequences of illegal behavior.

Project name:	YWCA Youth Crisis Center: A Community Response
Agency/Organization:	Young Women's Christian Association St. Joseph, Missouri
Project Director:	Aline Pfeifer
Phone:	(816)232-4481
Amount received:	$21,940

The program is for youth identified as status offenders and their families. The project promises to provide emergency shelter care, crisis intervention, community networking and volunteer advocates. The program will serve as an alternative to referral to the juvenile court. Youth are referred prior to intake and adjudication.

ATTACHMENT 2

OFFICE OF JUSTICE PROGRAMS

Distribution of Juvenile Justice Formula Grants by State - FY 1992

State	Amount	State	Amount
Alabama	$769,000	New Jersey	$1,307,750
Alaska	325,000	New Mexico	325,000
Arizona	713,000	New York	3,095,000
Arkansas	451,000	North Carolina	1,167,000
California	5,632,000	North Dakota	325,000
Colorado	626,000	Ohio	2,034,000
Connecticut	545,000	Oklahoma	608,000
Delaware	325,000	Oregon	526,000
Florida	2,083,000	Pennsylvania	2,031,000
Georgia	1,255,000	Rhode Island	325,000
Hawaii	325,000	South Carolina	669,000
Idaho	325,000	South Dakota	325,000
Illinois	2,141,000	Tennessee	884,000
Indiana	1,058,000	Texas	3,514,000
Iowa	522,000	Utah	456,000
Kansas	481,000	Vermont	325,000
Kentucky	693,000	Virginia	1,093,000
Louisiana	892,000	Washington	917,000
Maine	325,000	West Virginia	325,000
Maryland	844,000	Wisconsin	937,000
Massachusetts	983,000	Wyoming	325,000
Michigan	1,787,000	Dist. of Columbia	325,000
Minnesota	848,000	American Samoa	75,000
Mississippi	543,000	Guam	75,000
Missouri	955,000	Puerto Rico	839,000
Montana	325,000	Virgin Islands	75,000
Nebraska	325,000	Republic of Palau*	11,250
Nevada	325,000	N. Mariana Islands	75,000
New Hampshire	325,000		
		Total	49,735,000

Note: Population figures for the States, Puerto Rico and Virgin Islands are based on Bureau of Census 1990 Census. Allocations for territories of American Samoa, Guam, and Northern Mariana Islands are based on 1980 Census.

* Formerly one award to Trust Territory of the Pacific Islands, until FY 1987. At that time, P.L. 99-658 (amendment to P.L. 99-239) established a decreasing formula for funding to Marshall Islands and Micronesia; Republic of Palau allocation remained the same. Effective in FY 1990, Micronesia and Marshall Islands are eliminated for eligibility to receive funds by the Compact of Free Association.

Budget Staff 11/05/91

ATTACHMENT 3

U.S. Department of Justice

Office of Justice Programs

Office of Juvenile Justice and Delinquency Prevention

Washington, D.C. 20531

SUMMARY OF STATE COMPLIANCE WITH SECTIONS 223(a)(12), (13) AND (14) OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974, AS AMENDED (JJDP ACT) - BASED ON 1989 DATA

March, 1992 Status Report

Fifty-seven States were eligible to participate in the 1991 JJDP Act Formula Grants Program. The State of South Dakota is not participating; however, the Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has made South Dakota's allotment, pursuant to the provisions of Section 222(a) of the Act, available to local public and private non-profit agencies within the State for use in carrying out the purposes of Sections 223(a)(12)A, (13), and (14).

Following is a summary of compliance by States with Section 223(a), Paragraphs (12)(A), (13), and (14) of the JJDP Act, based on their 1989 Monitoring Reports, which normally determine eligibility for FY 1991 Formula Grant funds. Each participating State's annual Monitoring Report is based on data collected by the State from secure juvenile and adult facilities. Data collection by the States involves self-reporting by facilities to a State agency, on-site data collection by a State agency, or a combination of these methods. All State agencies administering the JJDP Formula Grants Program are required to verify data which is self-reported by facilities, and data received from other State agencies.

I. Section 223(a)(12)(A) Deinstitutionalization of Status and Nonoffenders (DSO)

Eleven States are in full compliance with DSO based on zero violations of Section 223(a)(12)(A):

American Samoa	No. Marianas	Rhode Island
Guam	Palau	Virgin Islands
Nebraska	Pennsylvania	West Virginia
New Hampshire	Puerto Rico	

Forty-one States are in full compliance with de minimis exceptions to Section 223(a)(12)(A), viz., less than 29.4 violations per 100,000 persons under age 18 in the State:

Alabama	Georgia[1]	Massachusetts	Ohio
Alaska	Hawaii	Michigan	Oklahoma
Arizona	Idaho[1]	Minnesota	Oregon
Arkansas	Illinois	Mississippi	South Carolina
California	Indiana	Missouri[1]	Tennessee
Colorado	Iowa	Montana	Texas
Connecticut	Kansas	New Jersey	Utah
Dist. of Col.	Louisiana	New Mexico[2]	Vermont
Delaware	Maine	New York	Virginia
Florida	Maryland	North Carolina	Washington
			Wisconsin

Reports of two States which recently began participating in the Formula Grants Program are not yet due:

North Dakota
Wyoming

One State that recently began participation in the Formula Grant Program demonstrated progress toward compliance with Section 223(a)(12)(A), as required in order to qualify for award:

Nevada

One State is out of compliance with Section 223(a)(12):

Kentucky

II. SECTION 223(a)(13)
Separation of Juvenile and Adult Offenders

Twenty-nine States are in compliance with the separation provision, Section 223(a)(13) of the JJDP Act, based on zero violations:

American Samoa	Minnesota	Palau
California	Missouri	Pennsylvania
Delaware	Nebraska	Puerto Rico
Guam	Nevada	Rhode Island
Illinois	New Mexico	Texas
Maine	New York	Utah
Maryland	North Carolina	Vermont
Massachusetts	Ohio	Virginia
Michigan	Oklahoma	Washington
	Oregon	Wisconsin

Twelve States are in compliance with separation based on the regulatory criteria set forth at Section 31.303(f)(6)(ii) of the OJJDP Formula Grants Regulations (28 CFR 31), published in the June 20, 1985, Federal Register: (noncompliant incidents are in violation of State law and no pattern or practice exists)

Alabama	Iowa	No. Marianas
Connecticut	Louisiana	South Carolina
Florida	New Jersey	Virgin Islands
Idaho	New Hampshire	West Virginia

[1]Above the maximum allowable de minimis rate. Determined to be in full compliance with de minimis exceptions based on Exceptional Circumstance No. 1 (out-of-state run-aways), pursuant to the January 8, 1981, Federal Register (46 FR 2567).

[2]Above the maximum allowable de minimis rate. Determined to be in full compliance with de minimis exceptions based on Exceptional Circumstance No. 2 (Federal wards), pursuant to the January 8, 1981, Federal Register (46 FR 2567).

Eleven States had not reached their respective compliance deadline during this reporting period but demonstrated progress toward compliance with separation as required by Section 31.303(d)(2) of the OJJDP Formula Grants Regulation (28 CFR 31): (designated dates for compliance are indicated next to the States)

Alaska	12/91	Dist. of Col.	9/92	Mississippi	12/91
Arizona	12/92	Georgia	1/90	Montana	12/93
Arkansas	12/91	Indiana	12/91	Tennessee	12/90
Colorado	12/92	Kansas	1/93		

Two States were not required to submit reports on 1989 data because they only recently began participating in the Formula Grant Program.

North Dakota - Began participating in 1989. Will report 1990 data.
Wyoming - Began participating in 1990. Will report 1991 data

One State is awaiting final determination of compliance with Section 223(a)(13) pending the submission and/or analysis of additional information:

Hawaii

One State is out of compliance with Section 223(a)(13), and has not requested a change in the designated date for compliance:

Kentucky

III. SECTION 223(a)(14)
Jail and Lockup Removal

All participating States' 1989 Monitoring Reports are required to demonstrate full compliance with the jail and lockup removal requirement. The 1988 Amendments to the JJDP Act established an alternative sanction for those States that fail to achieve full compliance with Section 223(a)(14). The Administrator may waive termination of a State's eligibility to receive Formula Grant funds, if the State agrees to expend all of its Formula Grant funds (except planning and administration, State advisory group, and Indian tribe pass-through) on jail and lockup removal.

Seven States are in full compliance with jail and lockup removal based on zero violations of Section 223(a)(14):

American Samoa	Guam	Oregon
Dist. of Col.	North Carolina	Virgin Islands
		West Virginia

Thirty-two States are in full compliance with de minimis exceptions to Section 223(a)(14), i.e., less than nine (9) violations per 100,000 juvenile population in the State:

Alabama	Iowa	Oklahoma
Arizona[1]	Louisiana	Palau
Arkansas[1]	Maryland	Pennsylvania
California	Minnesota	Puerto Rico
Colorado	Missouri	Rhode Island
Connecticut	Montana[1]	Tennessee
Delaware	Nevada	Texas
Florida[1]	New Jersey	Utah
Georgia	New York	Vermont
Idaho[1]	No. Marianas	Virginia
	Ohio	Washington

Six States have not demonstrated full compliance with Section 223(a)(14) but were awarded FY 1991 funds through the waiver provision:

Indiana	Maine	Nebraska
Kansas	Michigan	South Carolina

Five States have not demonstrated full compliance with Section 223(a)(14). These states, however, may be eligible for a waiver of termination of eligibility for 1991 Formula Grant funds, pursuant to Section 223(c)(3) of the JJDP Act:

Alaska	Massachusetts	New Hampshire
Illinois	New Mexico	

Monitoring reports from two States that recently began participating in the Formula Grants Program are not yet due:

North Dakota
Wyoming

One State is awaiting final determination of compliance with Section 223(a)(14) pending submission and/or analysis of additional information:

Hawaii

Three States have not demonstrated compliance with jail removal and their initial request for a waiver of termination of participation in the Formula Grants Program has been denied:

Kentucky
Mississippi
Wisconsin

Prepared: March, 1992

For further information contact: Roberta Dorn
Assistant Director, State Relations and Assistance Division, OJJDP
633 Indiana Ave., N.W.
Washington, D.C. 20531
(202) 307-5924

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[1]Above the maximum allowable de minimis rate. Determined to be in full compliance with de minimis exceptions based on the exceptional circumstance for recently enacted legislation pursuant to Section 31.303(f)(6)(iii)(B)(2) of the OJJDP Formula Grants Regulation (28 CFR 31), which was published in the November 2, 1988, Federal Register.

1991 FORMULA GRANT PROGRAM SUMMARY TOTALS

Deinstitutionalization of Status Offenders

Full compliance - zero violations	11
Full compliance - de minimis exceptions	41
Recent participant - data not yet due	2
Out of compliance	1
Newly participating state - demonstrated progress	1

Separation of Adults and Juveniles

Full compliance - zero violations	29
Full compliance - exception provision	12
Not in compliance - showing annual progress	11
Recent participant - data not yet due	2
Additional data needed to determine compliance	1
Out of compliance	1

Removal of Juveniles from Adult Jails and Lockups

Full compliance - zero violations	7
Full compliance - de minimis exceptions	32
Not in compliance - waiver granted	6
Not in compliance - waiver eligibility under review	5
Recent participant - data not yet due	2
Additional data needed to determine compliance	1
Out of compliance - Initial waiver request denied	3

ATTACHMENT 4

FIGURE 1

Example
CALCULATION OF INDIAN PASSTHROUGH FUNDS

A.	Total State Formula Grant Allocation	$421,000
B.	State Advisory Group Allocation	$16,250
C.	Amount of Funds Applicable to Total Passthrough Requirements	$404,750
D.	Total Local Passthrough Requirement (item C x 66 2/3 percent; $404,750 x 0.6666)	$269,806
E.	Total State Population Under Age 18	512,000
F.	Total Youth Population Under Age 18 Residing in Geographical Areas Where Indian Tribes Perform Law Enforcement Functions	12,300
G.	Percent of Youth Residing in Geographical Areas Where Tribes Perform Law Enforcement Functions (item F divided by item E; 12,300 ÷ 512,000)	0.0240 or 2.4 percent
H.	Indian Passthrough Proportion (item D x item G; $269,806 x 2.4 percent)	$6,475

TABLE 1

FY1989 ESTIMATES FOR INDIAN PASSTHROUGH

State	Total Juvenile Pop.	Juvenile Indian Pop.	FY1989 Formula Grant	Estimated Pass-Thru FY1989
Alabama	1,161,000	0	$ 738,000	$ 0
Alaska	130,000	261	325,000	413.21
Arizona	792,000	46,477	607,000	23,109.04
Arkansas	672,000	0	428,000	0
California	6,388,000	2,771	4,824,000	1,390.20
Colorado	809,000	567	577,000	261.98
Connecticut	823,000	0	500,000	0
Delaware	167,000	0	325,000	0
Florida	2,359,000	541	1,786,000	270.55
Georgia	1,646,000	5	1,147,000	2.29
Hawaii	276,000	0	325,000	0
Idaho	307,000	1,748	325,000	1,171.86
Illinois	3,240,000	0	2,005,000	0
Indiana	1,618,000	0	971,000	0
Iowa	825,000	179	484,000	67.65
Kansas	649,000	260	429,000	110.23
Kentucky	1,082,000	0	658,000	0
Louisiana	1,330,000	77	869,000	32.91
Maine	322,000	549	325,000	350.90
Maryland	1,167,000	0	743,000	0
Massachusetts	1,490,000	0	883,000	0
Michigan	2,751,000	647	1,625,000	252.21
Minnesota	1,172,000	3,318	734,000	1,354.53
Mississippi	815,000	1,270	523,000	526.39
Missouri	1,362,000	0	865,000	0
Montana	232,000	8,588	325,000	7,618.62
Nebraska	447,000	555	325,000	255.54
Nevada	215,000	1,471	325,000	1,408.14
New Hampshire	258,000	0	325,000	0
New Jersey	1,990,000	0	1,210,000	0
New Mexico	416,000	24,865	325,000	12,303.25
New York	4,687,000	1,713	2,881,000	697.93
North Carolina	1,655,000	1,883	1,075,000	802.99
North Dakota	191,000	4,779	325,000	5,149.63
Ohio	3,094,000	0	1,874,000	0
Oklahoma	855,000	1,016	590,000	454.48
Oregon	723,000	1,098	453,000	442.14
Pennsylvania	3,125,000	0	1,884,000	0
Rhode Island	243,000	0	325,000	0
South Carolina	941,000	384	622,000	164.78
South Dakota	205,000	11,237	325,000	11,281.55
Tennessee	1,299,000	0	826,796	0
Texas	4,305,000	376	3,293,000	190.78
Utah	540,000	2,836	416,000	1,399.48
Vermont	145,000	0	325,000	0
Virginia	1,474,000	26	964,000	11.14
Washington	1,139,000	5,977	772,000	2,643.64
West Virginia	560,000	0	325,000	0
Wisconsin	1,358,000	3,119	838,000	1,258.12
Wyoming	146,000	1,331	325,000	1,876.28
TOTAL	62,435,000	129,927	$44,294,769	$77,272.46

DRAFT

TABLE 2

FY1990 ESTIMATES FOR INDIAN PASSTHROUGH

State	Total Juvenile Pop.	Juvenile Indian Pop.	FY1990 Formula Grant	Estimated Pass-Thru FY1990
Alabama	1,161,000	0	$ 781,000	$ 0
Alaska	130,000	261	325,000	413.21
Arizona	792,000	46,477	667,000	25,456.13
Arkansas	672,000	0	455,000	0
California	6,388,000	2,771	5,249,000	1,513.10
Colorado	809,000	567	609,000	276.93
Connecticut	823,000	0	532,000	0
Delaware	167,000	0	325,000	0
Florida	2,359,000	541	1,958,000	296.84
Georgia	1,646,000	5	1,244,000	2.49
Hawaii	276,000	0	325,000	0
Idaho	307,000	1,748	325,000	1,171.86
Illinois	3,240,000	0	2,104,000	0
Indiana	1,618,000	0	1,023,000	0
Iowa	825,000	179	500,000	69.97
Kansas	649,000	260	457,000	117.70
Kentucky	1,082,000	0	687,000	0
Louisiana	1,330,000	77	908,000	34.41
Maine	322,000	549	325,000	350.90
Maryland	1,167,000	0	803,000	0
Massachusetts	1,490,000	0	933,000	0
Michigan	2,751,000	647	1,718,000	266.79
Minnesota	1,172,000	3,318	764,750	1,450.30
Mississippi	815,000	1,270	546,000	550.28
Missouri	1,362,000	0	919,000	0
Montana	232,000	8,588	325,000	7,618.62
Nebraska	447,000	555	325,000	255.54
Nevada	215,000	1,471	325,000	1,408.14
New Hampshire	258,000	0	325,000	0
New Jersey	1,990,000	0	1,283,000	0
New Mexico	416,000	24,868	325,000	12,303.25
New York	4,687,000	1,713	3,051,000	739.35
North Carolina	1,655,000	1,883	1,146,000	856.84
North Dakota	191,000	4,779	325,000	5,149.63
Ohio	3,094,000	0	1,977,000	0
Oklahoma	855,000	1,016	618,000	476.66
Oregon	723,000	1,098	480,000	469.48
Pennsylvania	3,125,000	0	1,995,000	0
Rhode Island	243,000	0	325,000	0
South Carolina	941,000	384	665,000	176.48
South Dakota	205,000	11,237	325,000	11,281.55
Tennessee	1,299,000	0	878,000	0
Texas	4,305,000	376	3,492,000	202.42
Utah	540,000	2,836	441,000	1,457.00
Vermont	145,000	0	325,000	0
Virginia	1,474,000	26	1,030,000	11.92
Washington	1,139,000	5,977	834,000	2,860.52
West Virginia	560,000	0	334,000	0
Wisconsin	1,358,000	3,119	892,000	1,340.79
Wyoming	146,000	1,351	325,000	1,876.28
TOTAL	62,435,000	129,927	$46,869,750	$80,485.38

DRAFT

Senator KOHL. Thank you very much, Ms. Morris.
Judge Radcliffe?

STATEMENT OF HON. GERALD S. RADCLIFFE

Judge RADCLIFFE. Senator Kohl, Mr. Chairman, Senator Brown, and other members of the subcommittee represented by staff, we are very pleased as the representative of the National Council of Family and Juvenile Court Judges of America to come and be given this opportunity to testify today.

The National Council of Family and Juvenile Court Judges was founded in 1937 and is the oldest national judicial membership association or organization in the entire United States. The council serves as the only national organization comprised of members of the States' juvenile and family court system. Current membership is about 2,500. Our council and our college is based at the University of Nevada in Reno. Our research division of the council is the National Center for Juvenile Justice located in Pittsburgh, PA. Our staff numbers around 60, and our annual budget is about $5 million.

No other societal institution has such awesome powers over the lives of its youth as does the juvenile court. It is the result of this position that the court has been subject over the years to the impingement by numerous and constantly varying forces, legal, political, sociological. The history of the court has been marked by responses to these strong currents, attempting to adjust its philosophy and operations to meet the changing needs of our society.

In the midst of such frequent changes, the court has endeavored to fulfill its paramount responsibility in maintaining the delicate balance between serving the needs of troubled youth while at the same time serving the self-protective needs of an orderly society as a whole. By both design and default, the juvenile court has been placed in the position of discharging its legal responsibilities while serving as a primary vehicle in the delivery of social rehabilitative services to a large segment of our population.

Our late past president, Judge Romae Powell of Atlanta, GA, said this very well in one of her statements: There is a substance abuse crisis in America. It is pervasive. It is destroying millions of our Nation's families, and it is the key underlying factor in the great majority of all the cases in which our juvenile and family courts must deal with today. Dealing in drugs or stealing for drugs is just the tip of the iceberg. We are talking about drug- and alcohol-addicted babies, 13-year-old school dropouts, 15-year-old prostitutes, throwaways, runaways; abused, neglected, dependent children, children whose fathers who won't support them. These are the children that pass daily before us in our courts.

The National Council surveyed all of its judges two years ago. They came back and told us what we have known all along. Drug and alcohol abuse is the underlying factor in from 60 to 90 percent of all the cases that we see. This is not just in Atlanta, New York, Miami, Los Angeles, Chicago, or Chillicothe, but all across our country.

Juvenile and family court jurisdictions number over 3,000, and we have more than 7,000 judges and referees, more than 100,000

administrative service and support personnel. Each year, we hear more than 400,000 child abuse or neglect cases, review an estimated 700,000 continuing protective service orders, and determine the custody of over 3 million children.

To the juvenile judge on the bench, the delivery of social rehabilitative services becomes almost academic and without meaning when you are confronted with the momentous decisions that you must render each day affecting the lives of many people. As these families and youngsters pass before us, the judge does not have the time to debate the fine points of judicial or social philosophy. He only knows that he must discharge his responsibilities to society and to that individual child in the best way that he can with whatever resources are made available by his community.

The juvenile court system represents only one facet of child care. Our function is integrally bound upon the values and the institutions by which care is administered. Judge Bazelon said, and I agree with this, the law increasingly recognizes that every man has certain entitlements as a citizen. It is difficult to think what more basic entitlements there could be than a child's right to a fair start in life. If indeed that is right, then thousands of our children never experience full citizenship. The price that we pay as a society for denying this right can be measured in one dimension by the constant increase in juvenile court caseloads and the mounting difficulties that we experience in finding adequate rehabilitative services.

We support the provisions of the current Juvenile Justice and Delinquency Prevention Act that provide for the separation of adults and juveniles in jail. We encourage all States to provide for separate facilities for juveniles charges with criminal violations. We support requiring removal of all nonoffenders from State training schools and State institutions. We also believe that it is very important that Congress reauthorize the Juvenile Justice and Delinquency Prevention Act.

I would like to just close in saying that early intervention is an important vehicle in the administration of juvenile justice in this Nation. The development and mobilization and coordination of resources in our communities that help children and their families have our support.

Our goal will continue to be to try to divert children from our court system and, when they are in our court system, try to meet their special needs with rehabilitative services provided by our communities, our State, and our Nation, and particularly under the leadership of our U.S. Congress.

Gentlemen, it is my pleasure to be here before you today and I would be pleased to respond to any questions that you might have.

[The prepared statement of Judge Radcliffe follows:]

TESTIMONY OF
Honorable Gerald S. Radcliffe
for the
National Council of Juvenile and Family Court Judges
Before the
Subcommittee on Juvenile Justice
Senate Committee on the Judiciary
on
Reauthorization of the Juvenile Justice and
Delinquency Prevention Act of 1974

July 2, 1992

Mr. Chairman, members of the subcommittee, The National Council is pleased to have been asked to testify before you today. I am Chairman of the Council's Legislative and Governmental Regulations Committee and for many years have served as a Juvenile Court Judge in Ross County, Chillicothe, Ohio.

The National Council of Juvenile and Family Court Judges ("the Council") was founded in 1937 and is the oldest national judicial membership organization in the United States. The Council serves as the only national organization comprised of members of state juvenile and family courts. Its current membership is about 2,500 juvenile and family court judges and related court professionals. All states are represented.

One of the primary goals of the Council is to offer continuing education for the nation's judiciary. In 1969, the National College for Juvenile and Family Law was established as the Council's continuing education division. Both the Council and the College are headquartered in the new Midby-Byron National Center for Judicial Education on the University of Nevada campus in Reno, Nevada. The research division of the Council is the National Center for Juvenile Justice, located in Pittsburgh, Pennsylvania. Our staff numbers about 60 and the yearly budget is about $5 million.

No other societal institution has such awesome power over the lives of our youth as does the juvenile court. It is as a result of this position that the Court has been subject

over the years to the impingement of numerous and constantly varying forces . . . legal, political, and sociological. The history of the juvenile court has been marked by responses to these strong currents, attempting to adjust its philosophy and operations to meet societal trends. In the midst of such frequent change, it has endeavored to fulfill its paramount responsibility in maintaining the delicate balance between serving the needs of troubled youth while at the same time serving the self-protective needs of an orderly society as a whole.

By both design and default, the juvenile court has been placed in the position of discharging its legal responsibilities while serving as a primary vehicle in the delivery of social-rehabilitative services to a large segment of our population.

> There is a substance abuse crisis in America, it is pervasive, it is destroying millions of our nation's families, and it is the key underlying factor in the great majority of all the cases in our juvenile and family court for dealing in drugs or stealing for drugs. That is just the tip of the iceberg. We are talking about drug and alcohol addicted babies, 13-year old dropouts, 15-year old prostitutes -- 'throwaway kids,' 'runaway kids,' abused kids, neglected kids, kids whose fathers won't support them. These are the kids we see in our courts every day.
>
> The National Council surveyed the judges two years ago and they came back and told us what we all suspected all along -- drug and alcohol abuse is the underlying factor in 60 to 90 percent of all the cases we see. This is not just in Atlanta, New York, Miami, Los Angeles, or Chicago, but all across the country.

Judge Romae T. Powell, President of the National County of Juvenile and Family Court Judges 1988-1989.

Juvenile and family court jurisdictions number over 3,000 and require more than 7,000 judges and referees, and more than 100,000 administrative service and support personnel. Each year they hear more than 400,000 child abuse or neglect cases, review an estimated 700,000 continuing protective

service orders, and determine the custody of almost 3.0 million children.

To the juvenile judge court on the bench, the delivery of social rehabilitative services becomes almost academic and without meaning when he is confronted with the momentous decisions he must render each day, affecting the lives of many people. As these youngsters and families pass before him, the judge cannot debate the fine points of judicial or social philosophy. He only knows that he must discharge his responsibilities to society and to the individual child in the best way he can, with whatever resources are at the communities disposal.

The juvenile court system represents only one facet of child care: its function is integrally bound upon with the values and the institutions by which that care is administered. Thorough reform of the juvenile justice system of our nation can occur only through a re-evaluation of our commitment to the young. Judge David Bazelon has said,

> [T]he law increasingly recognizes that every man has certain entitlements as a citizen. It is difficult to think what more basic entitlements there could be than a child's right to a fair start in life. If indeed this is a right, and I believe it is, then thousands of our children never experience full citizenship. The price we as a society pay for denying this right can be measured in one dimension by the constant increase in juvenile court caseloads and the mounting difficulty of finding adequate rehabilitative services.

The National Council continues to support provisions of the current Juvenile Justice and Delinquency Prevention Act that provide for separation of adults and juveniles in jails, encourage all states to provide for separate facilities for juveniles charged with criminal violations, require removal of all non-offenders from state training schools and other secure facilities, and maintain Constitutional authority of judges to enforce court orders.

The National Council believes it is very important

that Congress reauthorizes the Juvenile Justice and Delinquency Prevention Act. We testified to this effect three months ago before the House oversight committee and, at its request, have worked with the House Subcommittee staff. The National Council supports House Bill, H.R. 5194, and urges the Senate to support the Bill. H.R. 5194, if enacted into law, provides for the sound continuance of this vital effort which provides for several necessary national programs and assists the states to improve their response to juvenile crime and to develop more effective delinquency prevention programs. We urge speedy action so that the reauthorization can be assured.

Since the advent in the late eighties of the federal war on drugs, and despite the sharp increase in serious and violent drug-related youth crime as shown in FBI statistics starting in 1988, virtually no federal resources have been devoted to juvenile justice. Spending of federal drug war funds for State and local criminal justice has been devoted primarily to law enforcement. Meanwhile, massive funds have flowed into the whole federal system, for prosecution, courts and corrections, as well as for law enforcement. This mirrors closely the experience of the federal war on crime which commenced in 1968 as strictly a State and local law enforcement program, which quickly expanded to corrections, eventually to prosecution, and only in its most later states to criminal courts, upon the belated recognition that they were a necessary element between arrest and prison. Under LEAA very little was done for the juvenile justice system, then as now a perennial stepchild.

So far as "juvenile justice" and the federal government is concerned, since 1974, the OJJDP Program has been the program with strong continuity dealing with the needs of the troubled youth of our nation.

It was the National Council of Juvenile and Family Court Judges which successfully urged the Congress in 1980 to

amend the Act to add serious and violent juvenile crime as a priority area for attention. Since the seventies, the Office had devoted little concern or resources to juvenile crime. That change in the Act has proven salutary, we believe, and has resulted in the development of several effective programs, utilizing both "formula" or State funds or discretionary special emphasis funds or a combination of both. An outstanding example, now replicated in Florida and elsewhere, is the Paint Creek Youth Center program in Bainbridge, Ohio. It has dealt more successfully with serious, violent juvenile offenders, than state training schools.

Despite the most recent and disturbing increase in serious and violent juvenile crime, much drug related, it remains true that a relatively small percentage of juveniles, approximately 7%, are responsible for at least two-thirds of serious, violent youth crime. These youth are usually chronic, repeat offenders, and the system needs to deal more effectively with them.

At the other end of the spectrum, "early intervention", "identification", "assessment" and "prevention" programs have proven successful. Basically, it is development, mobilization and coordination of resources at the community level that help troubled kids and their families. Our goal is and should continue to be to keep children out of the kind of trouble that can lead to serious crime further down the road.

When the needs of the child require a foster home and none are available, the community fails the child.

When the community and the child would benefit from the child being educated and the parents fail to cause the child to be educated, both the community and the child fail.

When the needs of the community require a child to be institutionalized and no institutional service are available, the community fails the community.

As we collectively address the plague of drugs and

alcohol that has befallen our nation and its children, we must renew our efforts to produce constructive and positive relationships that will enhance and strengthen the future of the most valuable asset of our community--our youth.

The National Council supported and worked for the initial passage of the OJJDP Act in 1974, and has worked closely with oversight subcommittees of both bodies on the reauthorizati[illegible] of the Act ever since. We have also played a leadership role in continuing to urge Congress to provide uninterrupted yearly appropriations for the Office of Juvenile Justice. In that connection we would urge you to increase the prior level by at least $100 million for the basic Title II program which is a modest increase of the actual approximate appropriation level twelve years ago in 1980.

We urge you to reauthorize the Act and to retain the basic structure of State or "formula," special emphasis, training and technical assistance grants as last revised in 1988. We support peer review for special emphasis grants, and we support establishment of additional areas for possible funding under the special emphasis program, provided additional resources for them are authorized. Community alternatives are the heartbeat of the juvenile justice system. We only wish there were more of them!

Child abuse and neglect, including family violence, sexual abuse, crack and HIV babies, establishing parent/child support are an even faster growth area in our courts than delinquency. These cases are most difficult to deal with in part because they are continuing cases requiring the court to periodically review the status of each in a meaningful way. As is true in delinquency, the options available to the court are usually too limited. It is clear that, if intensive home based services were available for many of these children and their families, removing a child from his/her home to foster care or a group home, would often not be necessary for the child's

safety. Furthermore, if quick and effective treatment and other services can be provided, keeping the family together usually results in a better outcome for the child and family, and usually at lower taxpayer cost.

Without intervention, an abused child from a seriously dysfunctional family will often become a seriously delinquent child. It is with neglected and abused children, minor delinquents, runaways, truants and "out of control" children that "early intervention" proves most effective.

Intervention through a comprehensive network of private and public community services need to be available to serve the needs of the child under an order of a juvenile court, if necessary. Juvenile and family court judges work with their communities, often in leadership positions, to see that the needed resource networks are developed, that they are effective, that they actually do the job, and that every dollar of public expenditure is needed and justifiable.

With respect to Title VI of S.2792, purportedly dealing with the abuse and neglect of children, this proposal appears to direct its major attention to the adult criminal justice system. If the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, is broadened to include the prosecution of adults in adult criminal court or the proceedings in adult divorce court, the cost of the proposal will be great. We fear that the small amount that children receive under the Juvenile Justice and Delinquency Prevention Act would be lost.

It is not unusual where children are severely beaten or injured to have a case brought against the adult in adult criminal court also to have the case of the child brought to the attention of the juvenile and family court.

The juvenile and family court judge must then deal with the needs of the "child victim" - before, during and after the court hearing. Services the court orders to be provided

for the child and his family can enhance and improve the prospects for severely abused and neglected children and make a vital difference in the future mental and physical development of the child.

There is no objection to improving adult criminal prosecution for crimes committed by adults against children, but if this program is undertaken it is expensive and, by the very nature of the proceeding, does not address protection of the child.

In the area of abuse and neglect, the Subcommittee may wish to assess the provisions of Public Law 101-647 (104 Stat. 4797), the Victims of Child Abuse act of 1990, in terms of a more modest approach addressing this important concern within the juvenile justice system. Were the programs provided for therein funded and implemented within OJJDP, much progress could be made in the next four years.

From its very inception, the judicial process for juveniles was conceived of as a hybrid between the criminal justice system and the rehabilitative mental health process. Juveniles who were to be brought before a court of law would be given benevolent, adult supervision for the purpose of reforming their behavior. While the protection to society afforded by the judicial process was clearly applicable, punishment inflicted on adult criminals was deemed cruel and inappropriate in the handling of juvenile offenders.

While there have been efforts to reform the process, we have failed thus far to guarantee that juveniles be given the humanitarian care that was the original objective of the juvenile justice system. In response to legislative inaction, the courts have extended the developing right to treatment of institutionalized juveniles. Legislatures and communities need to rethink their commitment to the young so that the promise of treatment might be made a reality.

Parens Patriae -- the theoretical justification for

the intervention of the state into the lives of children -- manifests itself in the continuing debate that has become exacerbated in recent years, as a result of the rapidly increasing levels of juvenile crime, neglect and abuse. This debate is one which presents the fundamental issue of how we, as a society, should react to the needs of our children.

Important as reform of court proceedings may be, I am deeply concerned that focusing efforts exclusively on court procedures will allow another crucial issue -- how we care for children once the court makes its recommendation for their treatment -- to recede into the background. In the absence of coordinated efforts by legislatures on all aspects of juvenile reform, the courts will be unable to unilaterally transform statements of principle into reality. For children, quality care and an adequate judicial system cannot be established independently of one another.

Perhaps original concepts of juvenile court movement may now appear too unworkable, and perhaps even too naive, to provide substantive justice and adequate care. The growing body of decisions indicates that the principle of flexibility through benevolent discretion and sympathy has often lead to punitiveness, arbitrary decisions, and serous violations of children's fundamental rights.

The courts' real purpose in establishing a right to care and treatment for juveniles is to try to convince legislatures, communities and service agencies to provide adequate services for deprived and troubled children and their caretakers. This can occur only through a comprehensive analysis of the types of support suited to the kinds of children and families who are likely to come before the court, followed by action on the part of governmental agencies. Whether or not community efforts in this respect are forthcoming, legislative action must provide the crucial initiative.

The National Council of Juvenile and Family Court Judges commends the Final Report of the National Commission on Children, "Beyond Rhetoric, A New American Agenda for Children and Families" to your attention.

The National Council urges you and your subcommittee, Mr. Chairman, to provide for the swift reauthorization of the Juvenile Justice and Delinquency Prevention Act. We have previously provided your staff with information on the National Council and our College, on the many faceted educations, technical assistance and demonstration programs we carry on, and on the ongoing research and statistical analysis and other programs of our National Center for Juvenile Justice. Please call on us if we may be of assistance. We appreciate the opportunity to testify before you here today.

Senator KOHL. Thank you, Judge Radcliffe.
Mr. Raley?

STATEMENT OF GORDON RALEY

Mr. RALEY. Senator Kohl, thank you, and Senator Brown. Thank you for that generous introduction. I want to clarify that I am in no way responsible for the language in this legislation. After listening to the Justice Department, I am not sure I would want that tagged on me this morning.

It is very clear to me that Congressman Ike Andrews, who was my chairman over in the House, and Congressman Carl Perkins, Congressman Railsback, Congressman Petra, and Congressman Coleman, who were leaders in this both on the Democratic and the Republic sides of the aisle, are responsible and, in fact, that the Senate and the Congress were responsible for this language. You are responsible again, and it makes your deliberations today all the more important.

The National Collaboration for Youth is an affinity group of the National Assembly, and I represent them, really, this morning. The collaboration is made up of groups like the YMCA, the Boys Scouts, the Boys and Girls Clubs of America, Girl Scouts, YWCA, Camp Fire, and I could go on. We have about 15 national organizations that I think you would recognize in toto if I went through the list.

Each of them have in common the mission of serving young people, and they organized in 1973 as part of the assembly based, oddly enough, around the reauthorization of the Juvenile Justice and Delinquency Prevention Act an important need to have community-based and preventive services as part of that.

I prepared a written statement. It is a good statement; I like it. I hope you will read it. If I might, let me just talk to you this morn-

ing especially in light of the Justice Department's testimony. They make some statements which are of concern to me, and I think concern to our membership. I should mention, by the way, my statement is based on a policy statement that was reviewed by the executives of each of our member organizations, and whereas they did not review this precise testimony, they reviewed the statement on which this testimony is based.

Certainly, the testimony that we got this morning was frightening. I think sometimes we can get frightened to the point that we begin to try to do some things in an emergency—Senator Brown, as you mentioned, an epidemic—which not always be in the best interest, and I would like to look at a few of the things made by the representative of OJJDP.

First of all, there is a sense of trying to frighten us that things are out of control. I believe on page 6 of the statement, he makes the point that the status quo is not working. Well, let me reassure you, first of all, that things are not quite that bad. The status quo includes the juvenile courts. It includes many community-based organizations, it includes local law enforcement. Things are not as bad as they might appear.

He gave you a very frightening statistic. He said that violent crime by juveniles has tripled. Let me point out that we have Uniform Crime Reports, of course, for every year. He went all the way back to 1965 to provide that for you. It would be much more useful, I think, to look at 1974. That happens to be the year that we authorized the Juvenile Justice and Delinquency Prevention Act for the first time. Senator, as you point out, if we want to look at arrest rates, which is one of the reasons we got into this, perhaps we ought to look at that year rather than going a decade before that to start counting.

This is actually a report from the Justice Department. It would have been perhaps good if they had used it. If you look at the rate of juvenile crime—that is, rate per 100,000—and you start with 1974, you find that actually the rate of violent crime by juveniles has actually gone down a little bit. Violent crime by adults has gone up some, and I think this chart is available to you as well.

Again, if you look at 1974 for serious property crime, rates were very high in 1974. That is one of the reasons we created the Juvenile Justice and Delinquency Prevention Act. You will also find that the rate has dropped since then, and I think certainly we don't want to claim that the Juvenile Justice and Delinquency Prevention Act by itself is solely responsible. But the leadership that it has provided in State, local, and Federal partnerships is important because it has provided Federal leadership

They have tried to frighten you that we are being a little too lenient on juveniles nowadays; just for example, a reference that we were only putting about 9 percent of the kids in secure incarceration today, and we ought to be tougher. We shouldn't be slapping them on the wrist.

Elsewhere in his statement, though, he proves the point, I think, that the status quo was working pretty well and maybe appropriately, which is about 7 percent of the kids are responsible for about 79 percent of the arrests. Well, it is probably those 7 percent who are actually in secure confinement, and that is about right.

The Juvenile Justice Act and your bill, Senator, through the challenge grant programs and the advanced techniques, are opening up a whole array of other approaches that were not there prior to 1974. It is all of those things like home-based probation and various ways we can use community-based for those kids that we don't have to confine. According to the Justice Department testimony, we are probably confining about those who need to be confined. Maybe we should work on that a little less.

They are trying to frighten you, perhaps, that maybe we have already finished the job on deinstitutionalization and ought to stop funding. Senator Kohl, you answered that very well, I think. My father raises some cows down in Texas and I grew up—he is retired now, but I grew up with him. We used to walk along the fence line and if, in doing that, I went back and reported to him that we had 52 percent of the cows separated from the other pasture because we had a fence up, he would think that was pretty good. If I then suggested to him that we tear the fence down, he would think I was a little silly. I am going to suggest to you that the Department's suggestion that we take down these reforms simply because they are working is kind of silly.

Just a brief point of fact. He gave you a very large book of programs, and again the use of statistics can sometimes be misleading—according to the GAO report, some 260 programs and $7 billion worth of expenditures for juvenile delinquency, and then clarified, well, some of those are prevention. Senator, that is just not the case and I hope you will review—we are going to kill some trees, I know, to put that report into the record, but I hope you will look at some of those.

For example, GAO was careful to say, for example, that that included things like vocational education. Well, it does. To get to that $7 billion figure, you have got to have the whole Vocational Education Act in there; 1 percent of the Vocational Education Act is to corrections, and only some portion of that, if any, is actually dedicated toward juveniles.

Trying to frighten this committee that we are duplicating services by this piece of legislation, using the full gamut of human and educational services, is just not correct, and there is a question about whether it should even have been proper this morning.

This act is not duplicating anything. The reason the act was created was because we had all those programs over there back in 1974, but there was not a focus on kids in trouble. These are not attractive kids; they are not popular kids. When you put them in the full mix—and JJ programs and youth development and delinquency programs prior to 1974 were in the Department of HEW. Congress wisely put them in the Department of Justice so that they could get attention for troubled kids because when they are in competition with other areas, they tend to lose that.

Your bill, S. 2792, is extremely effective. It opens up new areas; it opens new authorizations. It is imperative that there be independence for the Office of Juvenile Justice and Delinquency Prevention within the Justice Department. The department proved that as well this morning.

It is striking to me that when they come to speak to you this morning, the so-called acting administrator spoke three or four

words, and that was at his insistence. Kids in this country, troubled kids, are not going to get the attention they need unless there is an independent office. The office, by the way, was made independent by Congress from LEAA in 1980. It was only in 1988 that they made this adjustment.

I have exceeded my time. Thank you, and I look forward to answering questions.

[The prepared statement of Mr. Raley follows:]

STATEMENT

OF

GORDON A. RALEY

EXECUTIVE DIRECTOR

THE NATIONAL ASSEMBLY

AND

THE NATIONAL COLLABORATION FOR YOUTH

Mr. Chairman and Members of the Committee:

My name is Gordon Raley and I am Executive Director of the National Assembly of National Voluntary Health and Social Welfare Organizations and its affinity group, the National Collaboration for Youth (NCY). Today I am testifying on behalf of the National Collaboration for Youth, based on a policy statement which has been reviewed by the executives of each of our member organizations.

The National Collaboration for Youth is a coalition of fifteen of the larger national youth serving organizations in the country who are each members of the National Assembly. Organized in 1973 around the issues of delinquency prevention and the role of voluntary youth serving agencies relative to passage of the Juvenile Justice and Delinquency Act, NCY has become an active voice nationally for prevention services and positive youth development.

Collectively, our organizations serve an estimate 30 million young people each year. They are not served because they are delinquent, poor, handicapped, disadvantaged, deprived, or disturbed or because they wear any of the other labels often required of the young to get service in this country. In Girl Scouts and Boy Scouts, Camp Fire, Boys and Girls Clubs, Girls, Inc., the YMCA or YWCA, youth are not served because they are problems: they are served because they are youth. Our reason for service is not so much because of what we can stop young people from doing but rather because of what we can help young people become.

Yet, we also are aware that the needs of certain groups of young people require special attention -- attention that can be provided via the Juvenile Justice and Delinquency Prevention Act. In simple summary these young people include: (1) delinquent youth, especially those committing violent offenses, as well as those at-risk of delinquency; (2) young people who are challenged by poverty and racial and ethnic discrimination, who are over-represented in our juvenile correction facilities; and (3) girls and young women whose needs have not been addressed equitably.

NCY agencies are well aware of the commitment of this subcommittee and its chairman to the issue of juvenile delinquency and its prevention. Mr. Chairman, we know, in fact, that without your leadership, there might very well not be a Senate Subcommittee dedicated to the needs of children in trouble. You and your staff are to be commended for providing many opportunities throughout the past two years for public testimony on the issue before us this morning and the bill you have drafted is one we can all be proud of.

The Juvenile Justice and Delinquency Prevention Act is indeed a rather landmark accomplishment. While juvenile justice legislation was one of the first pieces of law to provide domestic assistance directly to states and localities, dating back to 1961, it was changed and reorganized every several years or so up until 1974. The Juvenile Justice Act, passed in 1974 with the strong bipartisan support of Senator Birch Bayh (D-IN) and Senator Roman Hruska (R-NB), has been around now for more than 15 years and well proved itself. It has provided rich dividends to American taxpayers as well as to the children and youth it was intended to serve.

Much progress has been made since 1974. At that time, according to the FBI Uniform Crime Report, about 43 percent of serious violent and property crime in this country was committed by juveniles. Today that figure has dropped to 28 percent. To be sure, since 1981, violent crime by juveniles has increased about 29 percent, but while that is alarming and shows that much needs yet be done, it should be noted that during that some period, violent crime by adults rose by nearly 50 percent.

Yet there are indeed signs that our progress to date is beginning to slip. Arrests of runaways is up 20 percent, reversing a trend which was favorable as recently as 1984. About 100,000 children and youth were arrested for running away last year. Serious crime by young women has gone up faster than arrests for young men -- an increase of 10 percent for young women compared to a 4 percent drop for young men -- and there remains a serious over-representation of racial and ethnic minorities in our juvenile correctional facilities.

My testimony today on behalf on the National Collaboration for Youth can be summed up in one sentence. The Juvenile Justice Act is working and should be continued; but it has been neglected over the years and its role as a strong partner in federal-state-local cooperation should be restored. Your bill, S. 2792, does just that. It does so in the following ways:

S. 2792 provides for an independent Office of Juvenile Justice and Delinquency Prevention within the Justice Department

In section 201 of the Act, S. 2792 requires that the Administrator of the Office of Juvenile Justice report directly to the Attorney General instead of reporting through the head of Office of Justice Assistance Programs. When the Juvenile Justice Act was first passed, it was a part of the Law Enforcement Assistance Administration (LEAA) and the Administrator reported through the head of the LEAA. Congress changed that in 1980 to end interference by the Administrator of LEAA in the operation of OJJDP and to assure that the needs of youth were highly visible within the Justice Department and paramount in its administration of the law. Unfortunately, that was changed in 1988, and rumors of renewed interference by some Justice Department officials, which surfaced during the last several years, seem substantiated with the recent and sudden firing of an OJJDP Administrator, acknowledged by most to be doing an excellent job. We commend S. 2792 for placing the needs of kids in trouble above those of administrative officials in the Justice Department. The Attorney General cannot afford to be too busy to deal directly with the OJJDP Administrator regarding the topic of delinquency and its prevention and that responsibility should not be one easily delegated to subordinates.

S. 2792 provides an adequate authorization for FY 1994 and the years ahead.

There is the old axiom about leverage to the effect that, given a fulcrum and stick long enough, we can move the world. Through the Juvenile Justice and Delinquency Act, the Congress gave this country a stick long enough to move state and local policy on behalf of our children and youth. It has provided leverage for change and it has worked. But since 1980, as the chart which accompanies my testimony indicates, we have allowed that stick to be whittled down by inflation. It is much shorter now and its reduced leverage is beginning to show. The Act's funding level in fiscal year 1978 was $100 million and it reamined at that level through fiscal year 1980. About $250 million would be necessary in FY 1994 just to bring the buying power of our federal policy "leverage" back to 1978 levels.

S. 2792 provides several new programs which can help States and localities regain the leverage they lost during the eighties. We are especially supportive of the new State Challenge Activities and Incentive Grants for Local Delinquency Prevention Programs. Both of these approaches are innovative, unduplicated elsewhere in government, and fiscally responsible.

S. 2792 retains the mandates of the Juvenile Justice and Delinquency Prevention Act related to the deinstitionalization of status offenders, separation of juveniles from adults convicted or charged with criminal offenses, and the removal of children from adult jails and lock-ups and requires effective monitoring.

Section 223(a)(13),(14), and (15) of the Act are crucial to Act's success. These reforms are the results of decades of research which have in no way been disputed. The findings upon which these reforms are built are simply these: the best way to prevent crime is to invest in our young and the best way to prevent repeat offenses by our young is to treat them in the least restrictive settings appropriately available. In short, in terms of reducing recidivism, the early use of nonsecure, community-based services are better than secure institutionalization.

This is not a reform founded simply on fairness or humanity. It is a reform in place because it works.

S. 2792 continues citizen involvement and oversight

S. 2792 maintains the state advisory groups created under section 222(d) of the Act. These groups assure that attention is being paid and progress being made in all the States. It provides a citizen network of concern. Moreover it gives much needed authority for citizens to "look over the shoulder" of the bureaucracy and advise the Congress and the President when misadministration occurs.

S. 2792 reemphasizes the advanced techniques section of section 223.

When it comes to the expenditure of resources, perhaps no section is more important than section 223(a)(10) which provides the "advanced techniques" on which states are to spend their money. Yet over time, these techniques have become so expanded -- the introductory sentence alone is now 21 lines long -- that almost anything short of flogging might be considered eligible. S. 2792 remedies this by streamlining the advanced techniques section governing state expenditure of funds and updating what we have learned over the past 15 years or so.

1. It increase incentives for the development of community-based alternatives to incarceration and institutionalization, including home probation;

2. It emphasizes community collaboration that meets the needs of youth through many local systems including: schools, courts, law enforcement, child protection, welfare services, health care, and private nonprofit agencies offering youth services.

3. It emphasizes equitable educational support for delinquent youth; and

4. It increases incentives for positive youth development services for delinquent youth which help them obtain a sense of

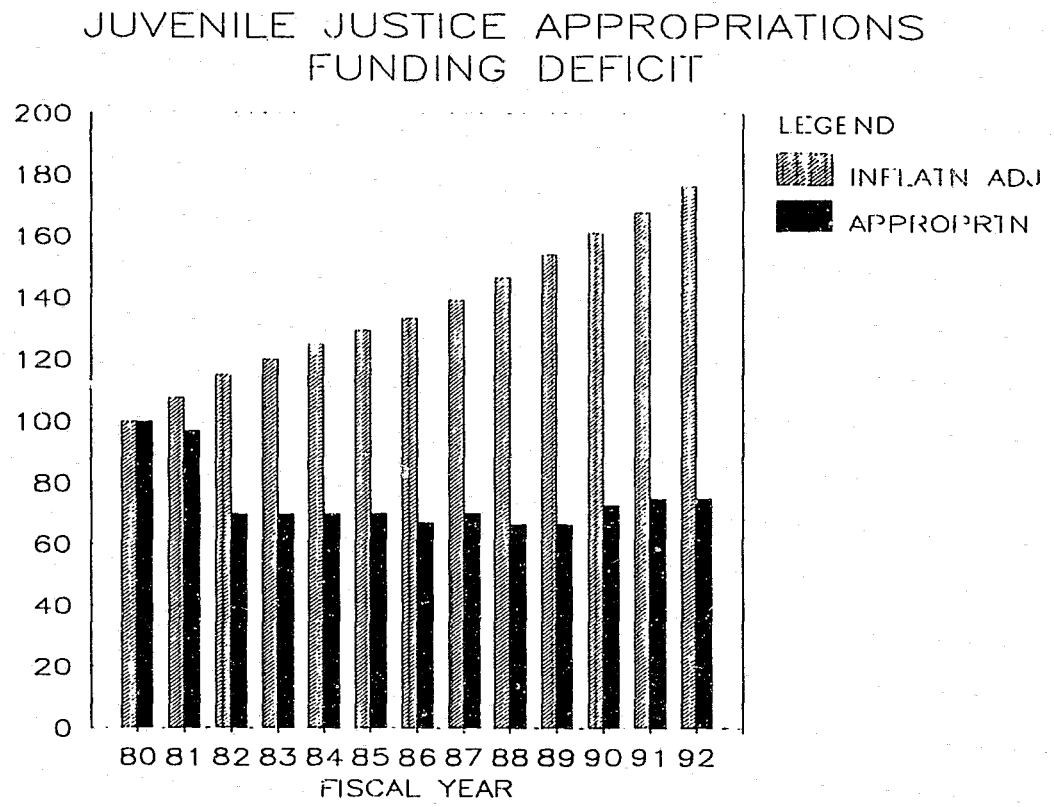
safety and structure; belonging and membership; self-worth; control over one's life; closeness in interpersonal relationships; and competence and mastery.

S. 2792 assures accountability by requiring the Administrator to evaluate all programs funded under Title II and to conduct assessments regarding discrimination in treatment or the provision of services based on sex, race, or income.

In section 243, current language authorizes the Administrator to conduct evaluations of Title II programs and perform assessments pertaining to discrimination in the juvenile justice system but does not require it. The Administrator should be mandated to perform these assessments.

Finally, may I commend S. 2792 for something it does not do. In current law there is a provision that requires the President, when choosing an Administrator for the Office, to choose from among individuals who have experience in or special knowledge about juvenile justice and its prevention. I understand the Justice Department is suggesting that this provision be removed. S. 2792 does not remove this important provision and we ask you and all members of this committee to resist such suggestions.

Mr. Chairman, That concludes my remarks. I will be happy to answer any questions.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FISCAL YEAR
MILLIONS OF DOLLARS

Senator KOHL. Thank you very much, Mr. Raley.
Mr. Callaway?

STATEMENT OF ROBBIE CALLAWAY

Mr. CALLAWAY. Mr. Chairman, Senator Brown, for the record, my name is Robbie Callaway and I am the assistant national director of Boys and Girls Clubs of America. Senator Kohl, we have 5 clubs in your hometown of Milwaukee and we have 18 in your State. Senator Brown, we have 14 in Colorado, and I don't know your hometown, but we have a residential camp in Ward which I will be visiting in 2 weeks, where we are going to have the first meeting establishing Indian public housing Boys and Girls Clubs. That will be a historic meeting and I will be out there in your State.

The first Boys and Girls Club was in 1860; we have been around a long time. We haven't lost sight of our mission at all. We have 1,350 clubs now in 49 States; 175 of those clubs are in public housing. Why are they in public housing? Our leadership, our private sector supporters, identified public housing as one of the areas of greatest need. We have not given up on those kids, and I think some of the earlier witnesses this morning seem to feel that you can give up on those kids and just focus on adult criminals and you are going to take care of the criminal justice system. You are not going to do that, and that is what the Juvenile Justice Act has tried to do.

In 1974, we were a major advocate for the Juvenile Justice and Delinquency Prevention Act based on that history of the first club in 1860. Some of the programs that we have done recently with the Office of Juvenile Justice included a targeted outreach program, which is a program where the juvenile court judge, and we have had a good relationship with them, or the schools or probation will come and tell our Boys and Girls Club leader, this kid has been kicked out of school twice, or this kid has come before me and hasn't really done that much; they have just been truant, or they have just done something. How about you working with them at the Boys and Girls Clubs? And we have done it. We have taken and worked with those kids through juvenile justice funds that program has created, and today it has a success rate that less than 10 percent of those kids have had reintroduction into the system after going into the Boys and Girls Club—less than 10 percent. You asked for a statistic; there is a good one. It is a targeted outreach program.

We have a gang intervention program where, Senator Kohl, in Milwaukee we have done many things trying to keep the gangs out of Milwaukee and trying to work with the gangs that are there, and taking little brothers and sisters and taking some of those younger kids and keeping them from joining those gangs, and keeping them from going into Chicago or going into the other cities and becoming gang members. The same type of program is working in Denver.

We have a drug demand reduction partnership that was funded originally through the Juvenile Justice and Delinquency Prevention Act, and it is a drug demand reduction partnership with the

FBI. Director Sessions said he wanted to look at a local agency to work with. He chose Boys and Girls Clubs of America; that was in 1988.

Two weeks ago, I was with 59 drug demand reduction coordinators from around the country and we were reinvigorating this program. Next year, next summer, we will have a Boys and Girls Club kid, probably from inner city public housing, working as a paid intern in every FBI office in this country. That program works. That program was initially funded by the Office of Juvenile Justice.

We have a manual for starting Boys and Girls Clubs in public housing, that if somebody in one of your States would call and ask how could they do it, we would send them a copy of this manual. We also funded three Boys and Girls Clubs in public housing through the Office of Juvenile Justice. As I said, we have 175 now, and one of these programs is also in Hillside, in Milwaukee, in public housing.

Now, you hear me talk about money from OJJDP. Boys and Girls Clubs doesn't need money from OJJDP. It is has never been more than 8 percent of our national budget, but OJJDP's money has allowed the leadership to take place and has allowed the private sector to step in and support things, such as the NBA and CBS-Fox last year gave us $100,000 to help do Boys and Girls Clubs in public housing.

Our club in Portland is funded by one of your friendly rivals, the Portland Trailblazers. They actually fund and operate the Boys and Girls Club in Portland.

Senator BROWN. I don't think they are friendly at all. [Laughter.]

Mr. CALLAWAY. What does Boys and Girls Clubs see in this reauthorization? I have testified on this authorization for many years. At one point I testified, and this guy was the staff director and he was back there sitting where Marsha is and looking at me and telling me that the light just went on.

Four key issues—we call it the four A's real quick so you can remember it. Autonomy for the administrator of the Office of Juvenile Justice; that program needs to be separated out. I think the testimony earlier this morning showed that it is not going to get the priority it deserves as long as it is part of the criminal justice system at the Justice Department. The Attorney General's direct attention to this program is an important part of it. I think this Attorney General genuinely cares and I think he needs to have somebody who is talking to him directly about juvenile justice as well.

The second A is the appropriation. We talk about authorizations, and different people are going to talk authorization level. Appropriations is where it hits the road, and I think it should be $100 million, or Boys and Girls Clubs thinks it should be $100 million. In 1980, it was actually a $280 million program. Today, it is less than a $70 million program, and everybody up here has said it worked. Even the people who didn't like it have said it worked; $100 million is an adequate and it is an appropriate appropriation.

The third A is the children's advocacy center. You heard Bud Cramer up here this morning with Senator Nickles, and I know Senator Biden has been involved and Senator Kassebaum has been

involved. This program he talked about is a very good program; it should be in the juvenile justice system. It is a $10 million program. It could be a $100 million program.

At my Boys and Girls and Clubs when they see abused kids—right now, many of them are afraid to turn that kid over to the system. They have to by law, but they don't want to because they see that kid further victimized by the system. In Huntsville, AL, when my Boys and Girls Club sees an abused kid, they feel very comfortable turning it over to the children's advocacy center that Bud Cramer is running in Huntsville, AL.

And then the fourth A would be an advisory committee for OJJDP because they need some advocates. They need somebody down there who can talk to them from the judges, from the State advisory groups, and from others who can actually talk to the administrator of that office and give it the support it needs.

Real quick, maybe I shouldn't do this, but Jimmy is a good friend. Jimmy is a very good advocate for the criminal justice system; you heard him this morning. Where we part company, though, is how much emphasis he places on the criminal justice system and how little he places on the juvenile justice system.

If we don't stop those kids from becoming criminals, you are going to keep locking them up and locking them up and locking them up. I am a firm believer in locking up true criminals, getting them away from the streets. I support Weed and Seed 100 percent if they do the seed part of it and not just the weed part of it. They clean up my public housing neighborhoods and then they put a Boys and Girls Club or then they put in a seed program. That is great. Make sure that that seed part of that program is there.

They talked about accountability this morning. They said that delinquents and criminals need to be held accountable. The Boys and Girls Club philosophy is that all kids need to be held accountable. The kid in the game room at the Boys and Girls Club who bounces the pool ball off the pool table loses his turn; he loses his turn in the rotation. That kid is held accountable for goofing off on the pool table. When he throws his chewing gum wrapper down at the Boys and Girls Club, he or she has to pick it up. We hold those kids accountable. We don't wait until they steal a car to hold them accountable. We don't wait until they rob somebody to hold them accountable. We teach them accountability from the very beginning.

One last thing. You had asked about statistics. Lou Harris did a survey of our living alumni. He found that 91 percent felt Boys and Girls Club had a measurable impact on their lives—a measurable positive impact on their lives.

I will save the rest for questions and answers.

Thank you.

[The prepared statement of Mr. Callaway follows:]

BOYS & GIRLS CLUBS
OF AMERICA

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT

TESTIMONY
of
Mr. Robbie Callaway
Assistant National Director
Boys & Girls Clubs of America

before the

SUBCOMMITTEE ON JUVENILE JUSTICE
of the
COMMITTEE ON THE JUDICIARY
U.S. SENATE

Thursday, July 2, 1992
226 Dirksen Senate Office Building
Washington, DC

Government Relations Office, 611 Rockville Pike, Suite 230, Rockville, MD 20852 (301) 251-6676 • Fax (301) 294-3052

Mr. Chairman and Members of the Committee, my name is Robbie Callaway and I am the Assistant National Director of Boys & Girls Clubs of America. It is a real honor to testify before you this morning. Every member of this Committee has Boys & Girls Clubs in their State. Mr. Chairman in your hometown of Milwaukee we have 5 Clubs with a total of 18 in your State. My folks there tell me you have been most supportive. Senator Brown we also have 14 Clubs in Colorado, including a great residential camp in Ward.

Today, there are 1350 Boys & Girls Clubs located throughout 49 States, the Virgin Islands and Puerto Rico. 175 of these 1350 Clubs are located in public housing properties. We are currently expanding in public housing on the average of one new Club every 2 weeks. Next week I will be in Colorado meeting with Indian Housing leaders to discuss establishing Boys & Girls Clubs on Indian Reservations.

These Clubs are designed for the long haul. They are not a quick fix -- short term solution. They are designed to help kids, families and the overall community.

When the first Boys Club was created in 1860, it was designed to serve the neediest kids in the community. We have never lost sight of that mission.

It is therefore no wonder that in 1974 Boys Clubs of America was one of the major advocates supporting the creation of the Juvenile Justice and Delinquency Prevention Act. It is also no wonder that Boys & Girls Clubs of America has been on the front lines advocating for the continued authorization of the Act.

Why? The Juvenile Justice and Delinquency Prevention Act has worked. It has proven very effective over the years with the only true drawback being the lack of adequate appropriations and occasional lapse in Administration, often due to the lack of autonomy of the Administrator.

How has the Juvenile Justice and Delinquency Prevention Act been successful? Three of the obvious success areas have been in the reform of the juvenile justice system.

1. It is now the rare exception when a status offender or non-offender is locked up in a secure detention or a correctional facility.

2. It is now the rare exception when a juvenile is not separated from adults when placed in institutional confinement.

3. It is now the rare exception when a juvenile who doesn't need to be, is locked up in an adult jail or police lock-up.

   Although we have made great progress in these areas, there is still much that needs to be accomplished.

In addition to reforming the juvenile justice system, the Office of Juvenile Justice and Delinquency Prevention has been the strong national leader in the prevention of delinquency.

Working with the Office of Juvenile Justice and Delinquency Prevention, Boys & Girls Club of America has developed and implemented many very successful delinquency prevention programs.

For example:

1. **Targeted Outreach** - Local Boys & Girls Clubs identify potential delinquents

by working closely with schools, police, and juvenile court judges. These kids are then mainstreamed into regular Club activities.

The recidivism rate of these kids back into the juvenile justice system is less than 10%.

2. Gang Intervention - Using the techniques learned in Targeted Outreach, local Boys & Girls Club workers identify potential gang members, including younger siblings of gang members, and mainstream them into Club activities. Again the success rate has been exceptional.

3. Drug Demand Reduction Partnerships - Boys & Girls Club of America and the Federal Bureau of Investigation have formed a great partnership. In October of 1988, FBI Director, William Sessions, identified Boys & Girls Clubs of America as a potential major ally in the Bureau's war on drugs.

The Office of Juvenile Justice and Delinquency Prevention seized on this opportunity and funded a joint training between FBI Agents and Boys & Girls Club leaders from around the nation.

Jim Schwab, Executive Director of the Kips Bay Boys & Girls Club in the Bronx, has been in youth work for 25 years. He has a keen insight into what programs really have an impact on kids in this country. In the Bronx he has implemented this program with the FBI and he says, "I can unequivocally say, this FBI and Boys & Girls Club program motivates young people to both stay in school and stay away from drugs!"

As FBI Special Agent Terri Beck says, "By its nature, the Boys & Girls Clubs is a drug demand reduction program. It is giving kids an alternative, a safe place to be after school and on weekends."

Thanks to OJJDP's leadership in this area Special Agent Terri Beck and I participated in an anti-drug rally and walked from our Chicago Club at the Henry Horner Public Housing complex to another complex blocks away. The Boys & Girls Club and the FBI are making a difference in the lives of the kids in this drug-infested neighborhood.

4. Public Housing - has seen a difference thanks to the leadership at OJJDP. Boys & Girls Clubs were showing amazing success in opening Clubs in public housing. One of our problems was we did not have the person-power to get the information out fast enough. OJJDP again showed the leadership and published the manual on "Starting Boys & Girls Club in Public Housing." This manual has now been sent to housing authorities and Boys & Girls Clubs all across America. They have put it to great use as nationally they average 1 new Club created every 2 weeks.

A recent Columbia University Study of the effects of Boys & Girls Clubs in public housing concluded;

"We discovered that the presence of a Boys & Girls Club in public housing encourages residents to organize and improve their community. The Clubs stimulate communication between public housing residents, the police, housing authority managing personnel, and other community groups. The increase in communication seems to have enriched the social quality of life in public housing."

The national leadership of the Office of Juvenile Justice and Delinquency Prevention helped make all this, and more, happen at Boys & Girls Clubs throughout America.

Today other witnesses will expand on the many successful activities that OJJDP has allowed for their organizations and constituents. My friends at the National Collaboration for Youth have countless stories and we all know how OJJDP has dramatically assisted the National Council of Juvenile and Family Court Judges improving not only the overall system, but the quality of the juvenile and family court judges throughout America. My own involvement with the State Advisory Groups on Juvenile Justice and Delinquency Prevention (SAG) began in 1975 and ran continuously through reappointments by 3 Governors. My direct experience as a SAG member ended in 1988. I saw numerous successes on the State level thanks to a strong SAG.

Enough about the many successes of the program. What are the key issues to consider during this reauthorization?

1. **The autonomy of the Administrator of the Office of Juvenile Justice and Delinquency Prevention.**

   This is not a new issue! As far back as the 1980 reauthorization there was a need expressed to have the Administrator report directly to the Attorney General.

   At that time, as today, the Office of Juvenile Justice and Delinquency Prevention has been treated as the lowest rung of the Justice Department hierarchy. The demands of the adult criminal justice system have historically taken precedent. Yet over and over again we hear of the need to more adequately address juvenile crimes and prevention.

   We encourage this committee to examine this structural issue carefully. We are very encouraged by the current Attorney General's interest in the Office of Juvenile Justice and Delinquency Prevention. We hope this interest translates into a strengthening of the Office.

   For 10 of the last 12 years there has been active and inactive Administration opposition to the Juvenile Justice and Delinquency Prevention Act. This Attorney General has come out in support of parts of this program and has already placed more emphasis on juvenile justice than many of his predecessors.

2. **Appropriations.** In 1980, the appropriation for the Juvenile Justice and Delinquency Prevention Act was $100 million. In addition to this $100 million there was another $100 million devoted to the Juvenile Justice and Delinquency Prevention Act through the Law Enforcement Assistance Act, "Maintenance of Effort Provision."

   In 1980 this meant about $200 million in the Juvenile Justice and Delinquency Prevention Act. In 1981 the overall figure dramatically dropped to $70 million and has been around that figure ever since.

   Given the success this program has had, can you imagine what success it might have had if the appropriation had been maintained at the $200 million level?

   Today, we are advocating a minimum appropriation level of $100 million.

3. National Children's Advocacy Program Act of 1992. (H.R.4729, S.2509)

On April 1, 1992, the first day of "Child Abuse Prevention Month, " Congressman Bud Cramer (D-AL) introduced a bi-partisan bill to establish a children's advocacy program.

Under Mr. Cramer's proposal the Director of the Office of Juvenile Justice and Delinquency Prevention, in coordination with, the Director of the National Center on Child Abuse and Neglect, shall establish a children's advocacy program to refocus attention on the child victim and to provide support of the nonoffending family member by assisting communities to develop child-focused, community-oriented, facility-based programs designed to improve the resources available to children and families.

The program will also enhance coordination among existing community agencies and professionals involved in the intervention, prosecution, and investigation systems that respond to child abuse cases.

This bill was introduced in the House by Representative Bud Cramer, and in the Senate by Senators Nickles and Heflin. It has a numerous list of bi-partisan co-sponsors. It will replicate a program which has had major success in dealing with the victims of child abuse. Over and over again, we see the correlations between child abuse victims and delinquency.

We strongly encourage passage of the National Children's Advocacy Program Act of 1992 as a separate title of the Juvenile Justice and Delinquency Prevention Act.

4. **There needs to be an appointed advisory committee to advise the Administrator of the Office of Juvenile Justice and Delinquency Prevention.** This advisory committee should be appointed by the Attorney General and approved by the Congressional Oversight Committees.

This committee should minimally include representation from the juvenile courts, the non-profit youth serving community, the prosecuting attorneys, the State Advocacy Group Chairs, and others.

This committee should be empowered to advise the Administrator on the progress of the Office of Juvenile Justice and Delinquency Prevention and the current status of the juvenile justice system in America.

In closing, allow me to reiterate the strong support of Boys & Girls Clubs of America for the reauthorization of the Juvenile Justice and Delinquency Prevention Act. The current National Director of Boys & Girls Clubs of America, Tom Garth, held my job in 1974 and was influential in the passage of the original JJDPA. Our support for this program has never diminished as we have seen it accomplish more than anyone thought possible back in 1974.

We know it can do even more given the strong support of you, Mr. Chairman, and the other Members of this Committee.

Let us seize the opportunity, reauthorize a strong Juvenile Justice and Delinquency Prevention Act, and encourage even stronger on-going national leadership from the Office of Juvenile Justice and Delinquency Prevention.

Thank you.

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Senator KOHL. Very good. For the entire panel, for the past 12 years Congress and the administration have clearly not seen eye to eye on the Juvenile Justice Act or on OJJDP. For 10 years, the administration zero-funded the program and the office in its annual budgets. For the past 2 years, there has been some progress. The administration did request a minimum funding allocation, but it was only 10 percent of current funding levels and it was only for discretionary programs and nothing for the State grant programs.

So how important is it, in your opinion, to increase the authorized spending levels for the juvenile justice State formula grant program?

Ms. MORRIS. Well, as I told you, in Oklahoma alone we had $3 million in requests for about $500,000 in grant money. Say, only a third of those requests were good requests; that is $1 million in requests for $500,000 of funds. I think it is critical that the appropriations be increased so that more programs that work can be funded at the local level through the 3-year State plan.

Also, it would help in our State and in other States with a high number of Native American populations. The Native American passthrough formula allowed us to only have $600 to go to a State that has one of the highest percentages of Indian population. The State advisory group for Oklahoma itself set aside $100,000, had some public hearings, and put that money where it was needed within the tribes. An increase in the funding would allow for more programs of the type that we funded.

Senator KOHL. Very good. Anybody else? Yes, Mr. Raley.

Mr. RALEY. I just figured we were waiting to get our chance. No question about it; in fact, with my written statement, if you go back and just look at inflation, in 1978 we were getting $100 million for this program. The buying power we need today just to have the dollar be what it was in 1978 would be about $250 million. That is important because we are looking at a State and local partnership to accomplish some things in policy throughout the entire country. This is not just a discretionary program.

If I could brag a little bit on S. 2792, the creative, brilliant thing about that is, it doesn't just raise the authorization level, and I think all of us need to thank the committee for that. What it does is provide some new funding streams, and they are funding streams that have been updated. For example, the new challenge grants provide some new ways for States to embark upon some new activities. It is not just throwing more money at the same old things.

The new prevention program, for example, opens up a new avenue. So in providing higher authorizations for the act, you are actually also creating some new ways for that money to help State and local governments in the private, non-profit area.

The fact that the administration would only provide funding at the national level is staggering to me because the success of this program—the successes they quote when you look at removing status offenders from secure incarceration, to separation of kids from adults, and the removal of kids from adult jails and lockups, has all been accomplished at the State and local level by State and local areas. The very idea that we would strike them from this program and allow a Federal agency to pass out some discretionary

funds, again, is staggering. We need at least $250 million in authorizations for this program.

Senator KOHL. Why do you think the administration over the past 10 years or so has been so difficult to deal with? Do they know something we don't know, or what do you think?

Mr. CALLAWAY. Having been around during that period of time and been an advocate for the program, I remember when David Stockman first talked about cutting it, and when we tried to meet with him he said, look, I am not talking to you about any program under $100 million; I don't care whether it worked or not. That was David Stockman's reason, and he never real got in depth.

Attorney General Meese never really appreciated the program, having had some bad experience as a member of the national advisory committee. And when they talked about eliminating the program, they said they wanted to eliminate it because it has worked. You heard that again this morning, because it has worked, it has worked. So, you know, we don't need to do the State part of the program anymore because it has worked.

They talked about 250 social programs that haven't worked. Maybe we ought to take a few of those social programs, put them over into OJJ where they have proven that they work, and let them work. I can't figure out the administration's rationale, and I have talked to several Attorneys General about this program. I can't figure out why they want to eliminate it.

Mr. RALEY. There is a cynical answer to that as well. Having been around as long as I have, I guess I can come up with some cynicism, which is that there was a lot of pressure during the last 10 years for the administration and each of its departments to try to cut back programs, or to come at least in their budget preparation with a lower figure.

Some suggest cynically that perhaps one reason they have always tried to zero out juvenile justice is because they knew that it worked and they knew that the Congress would not allow it to be cut because it worked. If you look in the budget document, if you look in the testimony of this department before the congressional appropriations committees over the last 10 years, you will not find a statement that says we want to eliminate this program because it has not worked, because it is bad, because it does harm.

It is simply because it has worked. Those fences are keeping the cows out and now it is time to tear the fences down. There is absolutely no reason why we should not continue to help State and local governments work in this program, and if we want to be uncynical about it, we need the extra money.

Judge RADCLIFFE. Mr. Chairman, the National Council, of course, has supported and worked for this act since its inception in 1974. As Congressman Cramer mentioned about his experiences as a district attorney before he came to Congress, the National Council of Juvenile and Family Court Judges brought him to Ohio to put on a training session for the judges of Ohio to develop multidisciplinary child abuse teams to work in each county.

As a result of that training program with the judges, under the leadership of then District Attorney Cramer, we probably have, out of our 88 counties, probably 80 of those counties have followed that leadership role now and provided multidisciplinary investigations

and cooperation in dealing with the sexual abuse cases, particularly of children.

While I am on that subject, I would just like to make an additional comment. There are two different philosophies. When an adult commits sexual abuse against a child, obviously, they are committing a criminal offense and should be treated as such. We deal with the child victim in the juvenile court. Through our intervention, when that child comes into our system, it is our responsibility to provide some protective assistance to that child to not allow that child to be further traumatized, as mentioned by others, and also to make certain that the social services agencies of our respective communities become involved in the life of that child immediately to provide not only mental health services to that child, but to continue to provide protective services in whatever area that child needs throughout this whole experience. We must also put those protective orders around children sometimes to keep the law enforcement agencies to continue examine and investigate and interrogate those children.

So I think what Congressman Cramer is proposing on a national level is certainly one that is well deserving of the support of all of us in this nation. I would just throw that in as an added comment.

Senator KOHL. Senator Brown.

Senator BROWN. Thank you, Mr. Chairman. I echo your concerns. This has been an excellent panel, and I think helpful comments.

First, an observation. I would hope our witnesses would not feel in their own mind that past administrators' reluctance to fund this program at a level they would like reflects only an ignorance of the program or callousness toward it.

I must say I believe, when we are facing a $400 billion deficit and a $4 trillion debt in a nation where we are going to see most of our capital formation simply go to government deficits, to assume that somehow controlling spending isn't a reasonable factor to be thought of—I hope that does not reflect your opinion when you have a chance to reflect on it. I believe there are other factors here other than people simply not sharing your viewpoint.

Mr. RALEY. Senator, let me just be clear. I think, certainly, the organizations I represent are not at all absent of the fact that we have a deficit at the national level, and, in fact, a deficit at the State and local level as well.

One of the short-sighted things, though, about not funding this program, in particular, is because there is almost nothing less cost-effective, I guess, than institutionalizing and warehousing people, be they kids or otherwise. We probably save the taxpayer of this country, especially at the State and local level, far more money than we have expended. That $1.2 billion figure you heard was over an 18-year period, of course, but we support that as well.

Senator BROWN. I think that is a valid point and a valid concern. The point I was trying to make was a little different. When you begin to evaluate the motives of people who have not agreed with you on the funding levels of these, and you overlook the fact that there is a genuine concern on the deficit and that might well be a factor that they weren't as generous in handing out public money as you and I might agree they should have been in this area, I

think there is a danger in overlooking that there are other motives here that are not without some merit.

Mr. CALLAWAY. I would agree with you, Senator, and I think my request of a $100 million appropriation really reflects that. Other people said I was crazy to come up here and just say $100 million, that I should be saying $300 million. I said I would have absolutely no credibility saying that.

Senator BROWN. You are afraid we wouldn't even notice you if you only said $100 million.

Mr. CALLAWAY. That is right. David said it had to be 100 to get noticed. But we agree with you 100 percent, and we also agree, though, that every kid we get out of public housing and we get out off the public dole and we get to become hard-working citizens is a dollar well spent. This program, dollar for dollar, has been one of the most effective Federal programs up here.

I could sit and you and I could talk later about some of those 280 programs that you could eliminate tomorrow—one of them is a $450 million program—and it wouldn't really make a blip on the screen.

Senator BROWN. Well, that was one of the questions I wanted to offer to you, and not necessarily that you should feel compelled to answer right now, but if you have thoughts on it later on, I would appreciate hearing them, and I know the committee would.

This is a balancing act. I asked the administration to lay out what they would do with this money if they didn't use it here, and hopefully they will have a more specific response to that, although they did outline some programs they were interested in.

But I guess I would ask you all the same question the other way around. Are there other programs within the Justice Department purview that you think are less cost-effective than this, and if there are, that gives us the ability to make some judgments. One of the tough things we have to look at in this bill is we are dealing with a significant increase in authorization in this area. Eventually, we either have to reduce authorizations in other areas or simply submit to the appropriations committees far more authorization than they have money to spend.

So if you have thoughts or areas that you think are of lower priority, I think hearing those would be helpful to us.

Mr. RALEY. Would you like those now?

Senator BROWN. Sure.

Mr. RALEY. This is not coming from my membership, obviously, since they have not had a chance to consider that, and I would be happy to get back with some more detailed information.

Senator BROWN. Well, it is a tough question. I appreciate that, but anything you have that——

Mr. RALEY. One could wonder, certainly, with the Office of Justice Programs, if its sole purpose is to provide sort of a barrier between the Attorney General and some of the other programs, like the Bureau of Justice Statistics, for example, that that might be a place to start. It seems to me the administrators of each of these four programs that it seeks to coordinate have substantial congressional authority. In other words, they pretty well have their directions from Congress, and from the people, therefore, as to what they ought to be doing.

Senator BROWN. Thank you. I think that is well worth looking at.

Susan, you had addressed the question of the status of the office, or, put more properly, who it reports to. In that, you used the term "independence of the office." Tell me what you are thinking there. Are you suggesting that whoever heads the office should be independent of the Attorney General and not reflect the Attorney General's policy in this area?

Ms. MORRIS. No. I think that whoever is head of the office should report to the Attorney General, but should reflect the mandates of the act and that those are priorities for the States to achieve, and that the 3-year plan that States put together that is a grass-roots, States-up-type plan should be a priority.

The Office of Justice Programs' 1991 plan included a list of priorities which did not include the priorities of the Juvenile Justice and Delinquency Prevention Act. So the independence that I am talking about would allow the administrator to work with the Attorney General to see that the mandates of the act are met and to see that States have the technical assistance and other kinds of assistance necessary not only to meet those mandates, but to see that their 3-year plan is written and implemented.

Senator BROWN. Let me see if I understand you because whether or not you follow the mandates of the law doesn't depend on who you report to. I don't think you are suggesting that, are you, that if you report to anyone less than the Attorney General, you would feel less compelled to follow the law?

Ms. MORRIS. No. I think that reporting—I think what has happened is that the administrator has been reporting to the Attorney General through OJP, and that the Attorney General may not hear as clearly the message of the JJDP Act, its priorities and its mandates, because it gets filtered through another person who has their own priorities for their areas that they are working on.

Senator BROWN. You are thinking of whoever heads this office as more of a lobbyist for its programs or an advocate for its programs rather than an implementor of policy?

Ms. MORRIS. I think they should do both. I think that what they hear from the States is what people in the States believe needs to be done in their areas. So I think that that administrator would need to go to the Attorney General and say, now, this message is coming from the States, the States believe that we need more alternatives to detention programs, for example.

Senator BROWN. Well, I will just tell you what I am having a problem with. If you have anybody run a business, run an agency, somebody running a Boys Club, a Girls Club, you give them the responsibility to run it. They are responsible for what happens, and then you turn around and say to them, by-the-way, you can't organize the office the way you want to.

I mean, I just don't know anybody, Democrat or Republican, liberal or conservative, that thinks that is a reasonable way to deal with somebody you give responsibility to. I mean, if you say, Susan, we are going to make you Attorney General of the United States, but, by-the-way, we are going to tell you how to arrange the furniture in your office and who can report to you and who can't, and who can come through your door and talk to you and who can't—I

mean, I raise it because I think it is a sincere concern in thinking about the status we want this office to have, and I guess I would count myself among those who think this should be a very high status. In my mind, that is a different question than simply gutting the Attorney General's ability to organize his own office.

Ms. MORRIS. I guess that I look at it in terms of making this office, as I said, a box on the organizational chart that is equal with the Criminal or the Civil or the Tax Divisions; that that elevates juvenile justice and delinquency prevention to a level of visibility that I think that it needs, especially in light of the fact that, perceived or not, there is juvenile crime in the States. I guess I am coming from a different direction.

Senator BROWN. Don't misunderstand me. I don't disagree with you in anything you have said. The only point I have is—we have common objectives here—I just don't see how you would turn to somebody whom you have put in charge of being Attorney General of the United States and say you don't even have the ability to decide who reports to you in your office.

I mean, talk about a slap in the face and a binding of the wrists. I just don't know of anybody who is going to be put in a responsible position that wouldn't feel they need the ability to at least organize the furniture in their office or organize who reports to them in their office with their own discretion.

Ms. MORRIS. I understand that, but I believe that juvenile justice and delinquency prevention needs more visibility, and that if it requires suggesting or telling the Attorney General that it needs to have that visibility, then perhaps that is what needs to be done.

Mr. RALEY. Senator, 95 percent of the time I think you are exactly right. There are situations, though, and special populations—and that is really what we are talking about here—where I think even the Congress has made that exception. For example, if you will look at the Older Americans Act, and especially the Administration on Aging, you will find the language that is in S. 2792 resembles that language very carefully. It is because when Congress looked at the needs of elderly citizens in our country, they wanted to make sure that they got visibility and that there was a direct relationship between the Secretary of HHS and that administrative level. So for a number of years, they asked the commissioner to bypass the Office of Human Development Services for that reason. The same is true here. It is the exception that proves the rule.

Senator BROWN. I can understand that. Just think about your own office. If your board of directors told you who you can talk to and who you can't talk to, and who makes reports to you and who doesn't—I mean, at some point you have got to give the human beings that run these agencies some ability to run their offices.

Mr. RALEY. You are going to have me feeling sorry for the Assistant Attorney General here in a few minutes.

Senator BROWN. Well, no. I mean, I just think we are concerned about making this country work and function, and here you are micromanaging a little detail. Frankly, I think we are focusing on the appearances rather than the substance.

Mr. RALEY. I disagree.

Senator BROWN. One other thing, I guess, would be helpful to me to understand. We have done an awful lot in this country, and I

appreciate, it is not necessarily tied with this office, to set up a different system in treating juveniles—and, Judge, I think you have been on the front of this—so that instead of going to court and facing the penalties that are administered there, you have developed other alternative ways unique to a juvenile in handling it.

In some States, that has boiled down to the fact that you simply can't get punished until you become of majority age. You can get counseled, you can get alternatives meted out to you, but at least what a lot of people tell me is they will have juveniles who have been arrested a dozen times, two dozen times, but have never been incarcerated, and they have almost been trained to be criminals before they learned that there were consequences to their actions. Obviously, there is a different side to that story, too, where you have someone who has made a mistake and gets the counseling they need without having a record established.

Would you share with us your thoughts on that subject? is what we have done a good idea? Does it have some shortcomings?

Judge RADCLIFFE. Well, let me take you back in history to 1899, I guess, in Chicago when a group of ladies found that children were being held in jails with adults, and commingled, and they decided that they would try to do something about it and out of that grew the juvenile justice system of America.

The concept was that the juvenile process was conceived of a hybrid between a criminal justice system on one hand and the juvenile justice process on the other. The juvenile justice process was theoretically a rehabilitative mental treatment concept. Now, the public perceived in our country, because every State, every county has a juvenile justice system now, that children should be treated different than adult criminals.

So where the concept falters is when you don't provide the next thing. We can have intervention, we can have identification, we can have assessment, and we can have recommended treatment, or, as you call them, treatment goals. Where we don't have the system locked together as we should have, we don't have the treatment facilities to meet those goals. We can come up with a fine treatment program put together by psychologists, the mental health persons, the educational community; all the disciplines come together in the juvenile justice system and give us a plan.

Now, when it comes down to the execution of that plan of service for that child, we like to think that a juvenile court is a service conduit. A child has needs to be in a State training school, to be rehabilitated, and then released. You have to have the rehabilitative system there. If a child needs to be in a mental health facility, he needs that kind of treatment. If his educational input is faltering because of lack of parent involvement or lack of support, then we have to deal with that issue.

Every child that comes in the juvenile justice system theoretically has a need or they wouldn't be there. The need can be minimal neglect, abuse-dependent, traffic offender, or the most major one, of course, is obviously the delinquent child.

Senator BROWN. Is it your feeling that part of the problem with this system is that when you get a child to the point where they do need some of these services, the services simply are unavailable?

Judge RADCLIFFE. Yes. Let me give you an example. I can identify the drug-addicted child in our community. I can identify the alcohol-addicted child in our community. Mental health, which is the component that accesses the alcohol and drug funds in our State, can say that that child should be in a treatment facility, and they will recommend that in writing to me and I will say, well, let's do it. Well, they say we don't have the funds for that.

It is sort of like the Weed and Seed concept. You can weed them out, but then when you come down to the seeding part, the rehabilitation, the resources aren't available. If I could make one suggestion to our legislative friends—we all three work in different branches of government, but if I could make one suggestion, it is that you mandate that funds that are appropriated be made available for services to the juvenile court, not necessarily to the judge, but to those that come before us for services when we have need for those services. We see children every day that have need for a tutor in the educational community, but it is difficult to convince the educator to spend some extra money in tutoring the child.

Senator BROWN. The child that may have been arrested a dozen times—you are saying part of the problem may have been, after the third time, the judge may have wanted to given him some attention that would capture his attention, but the facilities simply aren't available?

Judge RADCLIFFE. Well, in some areas. For example, in our State the only ones that a judge may commit to the State training schools are felony offenders, and if the classes are 3's and 4's, they would be there for a minimum stay of 6 months to be rehabilitated. If they are a 1 or 2, then they are there for a minimum stay of 1 year. They can be retained up until age 21.

The breakdown comes when the State training schools quit rehabilitating. This then becomes the preparatory school for the prison system, the adult criminal justice system, and that is what——

Senator BROWN. Instead of a training school, it becomes a warehouse?

Judge RADCLIFFE. Instead of a rehabilitation center for children, it becomes a preparatory school because they start to move on into the adult criminal justice system. If we are going to intervene in the lives of these children, we are going to have to do it on each of these levels at the point of entry, or if we can keep them out, if we can divert them away.

As I was trying to point out in my testimony, without those resources, then we judges get the reputation of slapping them on the wrist because we don't have those resources. We sometimes have an alternative. Many States, as you know, have given up on children and have had an absolute bind-over at age 15 into the adult criminal justice system if you commit a felony.

We had last year in Ohio 14,000 felony offenders. Out of the court system itself, we retained in our own treatment programs on a county level three-fourths of those. The State ended up with one-fourth of those children. Quite frankly, from newspaper articles of recent vintage, there seems to be some breakdown in the rehabilitative system of the State based on what they call an overcrowding situation.

Our courts are overcrowded, but we don't give up on trying to deal with the needs of each child that comes before us. We really don't count arrests many times because we find that is one segment of our society that is easily detained, but not charged. In our particular jurisdiction, our prosecuting attorney processes every claim or every complaint that is filed in court. So we don't have to go back and screen to find out if they are valid. We go through the total process or procedure that is involved in the court system today—appointment of counsel and discovery, and whatever.

However, this still does not provide us with the alternatives. Our code and our rules of court tell us it is our responsibility to rehabilitate that child. That is our mission; second, within the resources of the community, if at all possible. If the safety of the community or the safety of the child requires that they be put in a different type of a facility, then that is our mission, also. But the purpose of the service is to rehabilitate the child, also, to reintroduce that child back into the home and the family.

I have a very interesting program that we started a few years ago in my county which may be of interest to you. We have a county rehabilitation facility next door, and we also have a detention facility. We try to keep those children in the rehabilitation module if we can, and through the benevolence of the Crock Foundation, we were partially funded in another unit on that facility to bring the family there with the child as we endeavor to rehabilitate that child, feeling that we couldn't isolate that child from the family, but we wanted that family to see the changes that were happening in that child's life so that when that child went back to the family, the whole family would sort of sync together.

Many times when you separate a child, you remove him from the family, and then when you release the child you put him right back in the same environment with no changes there. Why do you have a high rate of recidivism? It is because of that factor. You haven't totally rehabilitated the situation; you have only dealt with maybe the needs of the child on a temporary basis. Senator, it is not just a simple kind of a thing that we deal with in the justice system today.

We had 103,000 delinquency complaints filed in Ohio last year. Now, these are crimes all prepared and filed by prosecutors. We had 27,000 unruly complaints. Out of that, the State training schools were given about 3,900 of those children, out of the delinquency children. We have 147,000 parent-child cases to be filed in our court next year that haven't had a parentage determined yet so that there is a supporting father or others out there.

You see where the American family is starting to get into more and more crisis and why it is important that we do more and more to deal with the families of America. These are children coming on, the next generation, the ones that are succeeding us.

I bring you a judge's viewpoint who sits in court every day and sees this stream of American life which is changing. The concepts of America are changing out there. Who would have ever suspected that in our State, with 1.2 million kids, that we have 147,000 of them who have not had their parentage established yet?

Senator BROWN. Mr. Chairman, you have been most indulgent. I had two quick questions.

Senator KOHL. Go ahead.

Senator BROWN. Mr. Callaway, help me understand how this particular act is of service to the Boys and Girls Clubs. Obviously, you do great work and have a wonderful record. How does this act help you?

Mr. CALLAWAY. Well, in a couple of ways. One, the original way—when we first came up here to talk about the bill, we were interested in getting status offenders removed from the adult system and from the delinquency system. I mean, that is how we got involved initially. We really saw a problem there.

Today, what we do with the Office of Juvenile Justice is we try to develop innovative models of programs that can work in the community, programs that put us in touch with the judges. You heard the boot camp initiative mentioned, and the gentleman, Mr. Gurule, said that it was a very good program that he is doing. That is being done and one of the three sites is Mobile, AL. It is being done at a Boys and Girls Club.

Senator BROWN. So you develop some of these initiatives, get funding for them and follow through?

Mr. CALLAWAY. Yes, and then the funding is picked up by the private-sector. We never take government money and plan to take government money over any period of time, ever. It is usually money that we could not go to the private sector—quite honestly, I can't go to Exxon and say, hey, give me some money to sit down with my counterparts in the juvenile and family court judges to develop a boot camp that is going to deal with juveniles that is then going to put them out in the community with some after-care. Exxon is not going to fund that.

Three years later, though, when that program works, Exxon comes to me and says, hey, you have got a good one here. Mobil Oil did it with the FBI drug demand partnership. The Andy Casey Foundation did it with the targeted outreach program. But those programs couldn't get started, public housing being a prime example.

When we go into public housing, we initially were going to do that with no government dollars. No corporations would put money into those public housing projects at first. Now, every dollar that goes in is matched with three private-sector dollars. OJJDP helped provide some of the leadership there.

You asked earlier about you can't tell the Attorney General how to administer his office. But what you can do is tell the administrator of the Office of Juvenile Justice how to administer the act that you wrote. If that is not being done, then somebody needs to come up here and explain why.

Senator BROWN. Sure.

Mr. CALLAWAY. And if the Attorney General is allowing it not to be implemented as you wrote it, then there needs to be some accountability. You know, the previous administrator of the Office of Juvenile Justice received fairly universal acceptance. He was there 2-years and he was fired. One of the reasons that many feel he was fired is because he refused to allow money for juveniles to go into the adult criminal justice system. Is that the case or not? I don't know. No one has ever asked. But you do have a responsibility to look at how that office is administered in the Justice Department.

Senator BROWN. A very valid point.

Mr. Raley, you bring to us a great deal of perspective to this, and background. You were here, I think, when we heard the Attorney General's office talk about—I am going to phrase it differently than they did, but I think at least it is meant to be a fair representation of what they are saying.

They are saying this money can be used in other areas. Essentially, they are saying the function of the Federal Government here is to develop and improve programs a bit, as Mr. Callaway has outlined, and improve the program and then get others to fund it, whether it is the private sector or perhaps even the public sector in terms of the State level; that the Federal role is more one of developing those concepts, sharing the information, and moving on to develop other concepts. Give us your evaluation of that.

Mr. RALEY. I think that is exactly right. Frankly, even the representation of $1.2 billion being spent on those three reforms is not totally correct because really what the act says is that States agree to adopt these policies, which almost everyone agrees with anyway. And for that, they are able to take innovative money. In this case, it is called the advanced techniques category, and they can spend that money on a wide array of things. It could be for those three areas, but it can also be for a number of other areas.

The act has always been the innovative sponsor. When I talk about Federal leadership, it is really Federal leadership in innovation and programs like that that eventually States and localities pick up either through the private sector or through State and local funds.

Senator BROWN. So you are not quarreling with that concept. You are simply pointing out that some of the things that they are certainly doing now are worth continuing?

Mr. RALEY. Oh, certainly.

Senator BROWN. I am trying to put words in your mouth, but I——

Mr. RALEY. Those are fine words. Thank you.

Senator BROWN. Thank you.

Senator KOHL. Thank you very much, Senator Brown.

Before I dismiss the panel, I need to say that Chairman Senator Kohl Biden also has some questions that he would like to submit, as well as an opening statement that he will put into the record.

[The prepared statement of Senator Biden follows:]

STATEMENT OF SENATOR JOSEPH R. BIDEN, JR.
CHAIRMAN, SENATE COMMITTEE ON THE JUDICIARY
HEARING BEFORE THE JUVENILE JUSTICE SUBCOMMITTEE
"REAUTHORIZATION OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT"
JULY 2, 1992

I AM PLEASED THAT THE SUBCOMMITTEE IS CONVENING THIS IMPORTANT HEARING ON THE REAUTHORIZATION OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT. THIS ACT IS THE SINGLE MOST FAR-REACHING FEDERAL LAW CONCERNING CHILDREN AND OUR CRIMINAL JUSTICE SYSTEM. I BELIEVE IT IS IMPERATIVE THAT IT BE REAUTHORIZED.

I WOULD LIKE TO COMMEND SENATOR KOHL FOR HIS INTENSE INTEREST NOT ONLY IN REAUTHORIZING THE JUVENILE JUSTICE ACT, BUT IN IMPROVING IT, AS WELL.

I WOULD ALSO LIKE TO TAKE THIS OPPORTUNITY TO WELCOME OUR DISTINGUISHED WITNESSES AND THANK THEM FOR TAKING THE TIME TO COME HERE TODAY AND SHARE THEIR INSIGHTS WITH US. IT IS A PLEASURE TO HAVE THEM HERE.

SOON THE COMMITTEE MUST DETERMINE THE FUTURE OF THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT AND ITS ADMINISTRATIVE BODY, THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION. THE TIME HAS COME TO CHART THE COURSE FOR THE NEXT FEW YEARS.

MANY EXPERTS IN THE JUVENILE JUSTICE FIELD ARGUE THAT WE MUST MOVE TOWARDS PREVENTION AND "FRONT-END" INVESTMENT IN

PROGRAMS DESIGNED TO DETER JUVENILE DELINQUENCY. AT THE SAME TIME, WE MUST CONTINUE TO ACHIEVE THE ORIGINAL JAIL REMOVAL MANDATES OF THE ACT -- MANDATES THAT ALL MUST CONCEDE HAVE NOT BEEN ACHIEVED.

TODAY, WE WILL HEAR FROM A NUMBER OF WITNESSES WHO, I HOPE, WILL OFFER THEIR INSIGHTS ON HOW BEST TO REACH THESE GOALS.

FIRST, THE BILL TO REAUTHORIZE THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT, AS WELL AS THE HOUSE COMPANION MEASURE, OFFERS SEVERAL PROVISIONS TO EXPAND AND STRENGTHEN THE OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION. THERE IS AN URGENT NATIONAL NEED TO INCREASE THE EFFICIENCY OF THE OFFICE WHILE REDUCING BUREAUCRACY AND ADMINISTRATIVE COSTS -- NEVER LOSING SIGHT OF THE FUNDAMENTAL GOAL OF MEETING THE NEEDS OF CHILDREN.

SECOND, THIS LEGISLATION MUST ALSO ENSURE THAT THIS OFFICE REMAINS INSULATED FROM POLITICAL PRESSURES, SO THAT IT IS FREE TO SERVE ONLY ONE INTEREST -- THE NEEDS OF AMERICA'S CHILDREN.

THIRD, PREVENTION IS THE KEY TO FIGHTING THE PROBLEM OF JUVENILE DELINQUENCY AND, IN PARTICULAR, THE DEVASTATION OF OUR YOUTH BY ILLEGAL DRUGS. HOWEVER, FOR MORE THAN A DECADE THE ADMINISTRATION HAS BEEN UNWILLING TO SUPPORT THE USE OF PREVENTIVE TOOLS TO FIGHT JUVENILE DRUG USE AND DELINQUENCY. IN FACT, THE PRESIDENTS' FISCAL YEAR 1993 BUDGET REQUEST FOR STATE AND LOCAL LAW ENFORCEMENT DRASTICALLY SLASHES JUVENILE JUSTICE PROGRAMS -- AN 89% CUT, FROM $68 MILLION TO $7.5 MILLION.

NEW AND INNOVATIVE PROGRAMS LIKE THE "STATE CHALLENGE GRANTS" AND THE "INCENTIVE GRANTS" FOR LOCALITIES PROVIDE OPPORTUNITIES FOR STATE AND LOCAL GOVERNMENTS TO INVEST IN PREVENTION PROGRAMS. THESE PROGRAMS FOCUS ON THE APPROPRIATE FEDERAL INTEREST IN JUVENILE JUSTICE -- PROVIDING THE NECESSARY RESOURCES, LEADERSHIP, AND COORDINATION IN DEVELOPING AND IMPLEMENTING EFFECTIVE MEANS OF PREVENTING AND REDUCING JUVENILE DELINQUENCY.

THE FULL COMMITTEE WILL SOON CONSIDER REAUTHORIZING EACH OF THESE ISSUES IN THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT, AS WELL AS THE OFFICE OF JUSTICE PROGRAMS. THESE PROGRAMS FORM THE VITAL LINK BETWEEN THE FEDERAL GOVERNMENT AND THE STATE AND LOCAL OFFICIALS ON THE FRONT-LINES OF THE NATIONAL EFFORT TO PREVENT AND FIGHT CRIME. ALL MUST RECOGNIZE THE URGENT NEED TO STRENGTHEN AND IMPROVE THESE PROGRAMS.

I LOOK FORWARD TO THE TESTIMONY OF TODAYS' WITNESSES.

Senator KOHL. We appreciate very much your being here today. You have been very informative, very frank, and I think you have added a great deal to the debate and you will help us to fashion a better bill. Thank you very much for being here.

Mr. RALEY. Thank you.

Ms. MORRIS. Thank you.

Senator KOHL. This hearing is closed.

[Whereupon, at 12:25 p.m., the subcommittee adjourned.]

APPENDIX

LUIS C. GARCIA
ATTORNEY AT LAW
34 NORTH MAIN STREET
ST. ALBANS, VERMONT 05478

LICENSED IN
VERMONT AND GEORGIA

TELEPHONE (802) 524-0393
FAX (802) 524-7130

May 6, 1992

Senator Patrick J. Leahy
433 Russell Senate Bldg.
Washington, D.C. 20510

Dear Senator:

Enclosed is a copy of a letter which I have recently mailed to Governor Dean. I am providing you with a copy of said letter due to the exasperation, I have reached as a concerned parent, advocate for children's welfare and attorney. This is due to the number of flagrant abuse and disregard to human dignity, which I have witnessed the Department of Social and Rehabilitation Services perpetrate upon the poor, uneducated or persons which for one reason or another find themselves facing great turmoil.

All attempts to reach a solution which would conform with both Federal and State legislative intent have failed. I am left with few options, one to bring this problem to the attention of our elected officials and the public and/or to proceed with legal action. This is a problem that I have found to be State wide although perhaps, not as severe, as it is in Franklin County.

These are indeed, issues that are very dear to our hearts and of great consequence to the future of our communities. It also involves the use of substantial federal funding, which is contingent upon compliance with federal statutes.

My goal is, that by making SRS accountable to the people they serve, they will become more responsible, empathetic to the plight families find themselves and the problems they encounter as they raise their children. It is also my goal to place greater importance on the family unit, while protecting the rights of both children and parents. We must ascertain that children are receiving a proper education and at least graduating from high school. The number of drop outs is alarmingly very high, especially as we turn them over to foster care. The use of foster care is being so liberally utilized, that we will soon have a generation with little to no family ties.

I respectfully solicit your assistance and will be glad to provide any further information you may deem appropriate.

Respectfully,

Luis C. Garcia

LUIS C. GARCIA
ATTORNEY AT LAW
54 NORTH MAIN STREET
ST. ALBANS, VERMONT 05478

LICENSED IN
VERMONT AND GEORGIA

TELEPHONE (802) 524-9303
FAX (802) 524-7130

April 29, 1992

Governor Howard Dean, M.D.
Office of the Governor
Pavillion Office Building
Montpelier, Vermont 05609

RE: Department of Social And Rehabilitation Services

Dear Governor:

My family and I, moved to the State of Vermont, over a year ago and therefore, being the "new kid" on the block or a "flatlander", it is only after a tremendous amount of soul searching, agony, sleepless nights and research, that I resort to writing you this letter. I would like to also assure you, that I am not a "flatlander" who has come to find fault with everything and wish to reinvent the wheel. To the contrary, we love Vermont and as a parent would say to his adopted child; "You are very special, as I choose you", I say to you, Vermont is very special, as we choose, "Verd Mont". I even like the winter!

I have always been a very strong advocate for the protection of children and preservation of the family unit. Upon moving to St. Albans and contracting with the Public Defender, for the "Conflict Contract" work, in Franklin County, I have had numerous occasions to work with children and parents, (in assigned counsel work, we do not choose who we represent). I have been amazed at the resources and money which the State of Vermont, utilizes in the protection of its children. Statistically speaking, as you know, Vermont spends more per child, than practically any of the other states, nation wide. This certainly shows that the citizens of this State, know the importance of raising happy, healthy and well educated children. It would seem senseless to have an Act 250, encourage re-cycling, worry about extinction of animals, the ozone, etc., if the children of today, are not educated and know the love and security that comes from the family unit. I know, from personal experience that the biological family may not always be able to provide the love, guidance and/or nurturing that every child may need. At the age of 14, I left Puerto Rico, destined to Lyman Ward Military Academy in Camp Hill, Alabama. From there, I went to live with John B. and Elena D. Amos in Columbus, Georgia, who in essence became my foster parents and without the love, affection and guidance, they showed me, (in those "wonderful" teen years), "Our Lord" only knows, where I would be today.

We need your help. I say we, because I speak for the people I represent and the many others which for some reason or another the system has failed. Now I am the first to admit that there is no such thing as perfection, but when the facts and numbers begin to bewilder you, it is time to do something.

In my 43 years, I have meet many Governors, even a "Nuclear Engineer Governor", but you are the first and only, who happens to be an "M.D.". Thus, I believe you will agree that a situation where

a child is taken to court and question by at least 6 persons before making it to court, could be more traumatic than perhaps the act that brought him/her to court. Now, imagine sitting in a court room, with your legs dangling from a chair, as they do not reach the floor, your attorney, whom you have meet a few times, is sitting by your side. In the middle, like a church altar, there is a big desk, which from your perspective is huge. Then each of your parents have their own attorneys, whom you do not know. There is a person with a computer screen and another with a little black device that, he/she touches every time someone opens their mouth. Then your brother/sister, whom you have not seen, since an SRS agent, whom you really do not know, and always tells you, not to speak to your brother/sister, because he/she is a "substantiated" "sexual deviant", comes in with another attorney. You also notice that your brother/sister's feet do not reach the floor either. Then, suddenly a person in a "black robe" comes in and everyone stands up. Then after a few nice salutations, arguments fly from one side to the other. One ask, did you play "do and dare" with your brother/sister and did you both get naked? Everyone is looking at you and you are so scared, you are about to regurgitate, your voice quivers and big tears come down your cheeks. Would you remember that scene, for the rest of your life? I wish I could say the above story was pure fiction, but I can't, because I was one of the 5 to 6 attorneys in the courtroom, where a scenario similar to this took place. I have only altered it enough, so that no recognition of any real case could be made.

I am sad to report that during the one year that I have been in practice here, the scenario described above, has been repeated too frequently. A situation such as the one described above, could and should be dealt with, without a petition for delinquency and/or "CHINS" [Child in Need of Care and Supervision]. In many of the cases I handled, in the Family Court, I am astonished to have witnessed the numerous abuse of discretion, perpetrated by SRS filing Petitions with total disregard to the consequence and effect such action may have on children and parents, not to mention the extended family. I am sure you would agree, that one of the most sacred of all relationships, is the right for parent and child to relate to one another, without Governmental interference. Being a parent myself and knowing that you too are a parent, I have no doubts that you would understand, why I am so alarmed by what I have witnessed. I am enclosing a series of different scenarios, to give you an idea of how serious this situation is.

In Franklin County, with a total population of 37,000, the abuse and neglect caseload has risen ten fold since 1983. With only 6.5% of the population of the State of Vermont we account for more than 8.5% of all abuse and neglect reports in the State. Statewide percentage of "founded" cases averages around 54%, while in Franklin county we are facing 66% of its cases as "founded". Now we cannot ignore the fact that "Webster's definition of "founded" and SRS' application of "founded" may differ. Juvenile filings rose 50% in Franklin County from 1989 to 1990. In an alarming comparison, from 1985 to 1990, Vermont's rates of neglect, physical and sexual abuse differed dramatically, on neglect the National rate was, 55%, Vermont's 32%, which is high as compared to other States, then we move to a whopping rate of sexual abuse in Vermont of 51% as compared to the National which is 15%. In 1990, 768 children were alleged victims of sexual abuse, a 773% increase from 1980. See, Children and the Law in Vermont, [Seminar October, 1991], "The Child as Victim and Witness" by Howard VanBenthuysen, Esq. [Appendix Exhibit 1]. Franklin County has one of the most if not the most active SRS offices in the State. The question we must ask is, "Why"?

I am also alarmed by the number of children who are abused

both physically and sexually, during and while in foster care. I recently read a Memorandum in which it stated, and I quote, "foster parents must eat the same food that foster children eat". Alarmed at what I was reading, I called the SRS Office to find that there has been numerous complaints because foster parents will prepare a steak for themselves and a hot dog for their foster children. Recently the number of foster children that can be placed in one home has been reduced to 4. However, we still have some foster homes that have more than 4 foster children. If we take into consideration that some of these children need a tremendous amount of support, I honestly cannot see how they can provide such when the number exceeds 4 total children, including their own, which in some instances may be another 4 or more kids. Thus, the conclusion is that in many situations, foster parenting has become a method of warehousing children. Another alarming factor is that many children are transferred from foster home to foster home, some going to as many as 4 different foster homes in 1 year.

As the Chief Executive of the State I am sure you know how expensive "Foster Care" is. To the best of my knowledge the minimum that a foster parent would get, "per" child is $350.00 per month and in some instances as much as $1,000.00 per month, "per" child.

As a Medical Doctor you are probably aware that experts in child welfare agree that the removal of a child from their family and placement in various foster homes should be a last resort and only when the welfare or safety of the child cannot be adequately safeguarded in the home. Studies have shown that of the children who had no significant social or emotional problems at entry into the "foster" home, many developed severe anxiety, enuresis, nightmares and/or severe hyperactivity. I wonder how our statistics would compare with the children raised in the communal child care arrangements in the "former" Soviet Union.

I refuse to believe that Franklin County has more sexual deviants than any other place in the Nation. If we take a look at the statistics, we find that the percentage of sexual abuse cases in Franklin County is one of the highest, if not the highest, in the State of Vermont and one of the highest, if not the highest, in comparison to the rest of the Nation. Clearly, if a sexual encounter occurs between adult and a child, immediate action must be taken. But if we are speaking of child to child, which may simply be acting as a result of curiosity, labeling them as sexual deviants is not proper. Instructing them and teaching them appropriate behavior would be in their best interest. Traumatizing the child by removing the child from the home, questioning the child by police officers, social workers, psychologists, attorneys, judges and taking them to Court is absolutely criminal.

I have been traveling to the Library at the Supreme Court in Montpelier and intend to continue, as time permits, since the amount of material and articles on this issue is enormous. I have found that, almost unanimously, "foster care" should only be used as a last resort. I am also finding that other methods, like "In Home Services" achieve a much greater degree of success than by foster care. Interestingly other services are more economical to administer. I have found that many people become overwhelmed by the system and, psychologically speaking, will give up the child to the system knowing they can go home and have another baby. I have a case in which this person has about 8 children in foster care, none at home, but just found out is pregnant. If you consider that the State is paying a minimum of $350.00 per month, per child, in that family alone, it adds to $2,800.00 per month, plus medical, therapy, education and incidentals. That is a hefty bill and it keeps on growing. Had the same family received, "In Home Services" it would have been not only more economical, but with more

favorable results. I also read, that "In Home Services" achieve better results if they do not have a duality of service, to wit spying for SRS.

Governor, we really need your help. We need a statute that will have some "teeth" to allow the courts to take a closer look at these cases and the actions taken by SRS. Unfortunately, we find ourselves, at times, dealing with self imposed "do gooders" which feel that all parents who are either poor, uneducated, or dare spank their children are wicked and their children must immediately be removed. A factor that has bothered me greatly is the lack of empathy.

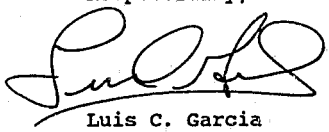
I respectfully submit to you that a task force should be established to investigate and review the procedures used by SRS and the results achieved by such procedures. Are we helping families learn how to better relate to one another or creating insecurity and distrust? I am willing to devote any necessary time I can, to ameliorate the services the children and families of our State receive. Under the present system not only will we soon find we are unable to afford it, but also, what are we achieving. Whenever possible, the preservation of the family unit should be a first priority.

Governor, I would be derelict if I did not inform you that a great amount of animosity has been generated between certain SRS employees and myself. A number of letters have gone back and forth. Long conversations and letters have achieved nothing thus far and we are at a stance that our only communication may be through the court. I know many of my colleagues have experienced similar or worse situations. My aim is to help reach solutions, and with God's help improve where I can.

Our forefathers left us with checks and balances, I beseech you to, by executive order, request a full audit of the rules and procedures by which SRS governs itself, determine the results of their actions and how it is benefiting the citizens for which SRS was created to assist. The number of terminations of parental rights is absolutely disgraceful and shows that the department's statutory mandate to unify families rather than splitting them is "res ipsa loquitur".

Thank you, for your time and at your service, I am,

Respectfully,



Luis C. Garcia

cc: Senator Patrick J. Leahy
Senator James M. Jeffords
Congressman Bernard Sanders
Members of the Legislature
Ms. Cathy Brauner, The St. Albans Messenger

The enclosed scenarios are actual cases brought by SRS. Names and information which could lead to the identification of any individual has been omitted or carefully edited to comply with the statutory requirements of confidentiality in juvenile matters.

I must add that this is only the "tip of the iceberg" and by no means the only problems we are encountering. In all fairness there are cases which do merit SRS intervention and in which positive resolutions have been obtained.

SCENARIO I

The following scenario has occurred in at least, two different cases that I know of.

The parent of children, under the age of 12, files a Petition to for Custody in Family Court. After several days of trial with testimony consisting of various witnesses, the Court enters an Order of Custody in favor of one parent. On the day after the Court's Order is filed, the Parent that did not get custody, takes one child to SRS Office and informs the intake agent that the child, does not wish to go and live with the other parent, and if forced to do so, the child would run away. SRS takes custody of child, files petition with Court, alleging that child is in need of care and supervision (CHINS). Custody is then awarded to SRS Commissioner. Child spends one or two months in foster care and then is moved by SRS with the parent that took the child to SRS. Various hearings are held, attorneys raised the issue of "res judicata" and of circumventing previous Court Order.

The State request that child testify at the hearing. Child's attorney and "guardian ad litem" refuse to allow child to testify, since the only purpose for the testimony would be to testify against the other parent.

More or less the same issues were litigated and brought to the Court's attention during the Custody Petition. Therefore, when SRS became involved, the same issues had to be re-litigated, taking up a tremendous amount of Court time. The State in these proceeding having to appoint attorneys for some or all the parties at Tax-payers expense.

A message in this cases to all attorneys or parents who are not satisfied with a Family Court Order, awarding custody to one parent, is to go to SRS and say that the child does not want to go home with the other parent and thus re-litigating the whole issues at tax payers expense, overloading the system and wearing out the parties. Worse of all, this is certainly against the best interest and welfare of any child.

SCENARIO II

SRS obtains custody of minor child which is brought into the State by one of the father of the child. Child's entire family resides in another State.

SRS with good reasons, in view of substantial abuse perpetrated on the child by the father, files "CHINS" petition and the Court awards custody to SRS. Notices are sent to the child's grandmother, who happens to be the custodial parent of the child by virtue of the Family Court's Order of the other State. A request for the return of the child is made. SRS refuses until it ascertains the appropriateness of the home in the other State.

In the meantime several years elapsed. The parent that brought the child to Vermont moves back to the other State and the child while in custody with the SRS' Commissioner is moved to 3 or 4 different foster homes. The State also obtains "Protective Order" to prevent the grandmother from seeing the child without supervision, notwithstanding the fact that grandmother is some 1,200 miles away and is very poor and can not afford to come up here.

The child at this time has absolutely no blood relatives in the State of Vermont. Grandmother is destitute and other State is not as generous in appointing counsel, thus she can not retain an attorney in other State to petition Vermont to send child and SRS will not send child until other State agrees to take child under some sort of protective custody, again notwithstanding the fact, that other State has made an award of custody to grandmother.

Meanwhile the child is destined to live, from foster home to foster home. His blood relatives cannot visit child because they do not have the money to come up here.

A full scale trial would require that many witnesses and the relatives of this child be brought to Vermont so they can testified. The taxpayers of the State of Vermont, would have to bear the expense for transportation and lodging. While expenses should be non-consequential when it involves the welfare of a child, the irony of this is, that the child remains here, due to SRS refusal to allow him to go home until they check it out. However, home is in another state. While it may be admirable that we are willing to do so much for this child, how are you to explain to this child, who may have been 6 years old, when he came to Vermont and now would be 9 years old, that he must remain in Vermont, because we do not trust what the other State may do or not do and we do not trust his family either.

Is this serving the best interest of the child?

Is this preserving the family unit?

SCENARIO III

The following scenarios are repeated very often with only slight variations.

Parents of teenager move out of State, teenager says he/she does not want to move and goes to SRS and claims, he/she will run away, if forced to go. SRS files "CHINS" and custody is awarded to

SRS. Child goes to foster home, until he/she gets into argument with foster parents and wants to leave. At which time SRS is called and child is move to another foster home. Parents frustrated by the system are devastated.

SCENARIO IV

Teenager has argument with parent, goes to school and states, that he/she can not get along with parents. SRS files "CHINS" and custody is awarded to SRS. Child is placed in foster home. Parents disapprove of the friends their child is going out with. SRS files protective order so Parents do not contact child. Parents work, but they are told that they need to attend parenting classes, parent anonymous, counseling, alcohol and drug abuse screening and several other programs, some of which are only available during the day. They explained to their SRS agent, that they can not attend a particular program, because of their work and SRS agent tells them that their child should be more important. Parents then go on welfare so they can attend classes because they love their child and are told that this is the only way they can get their child back.

SCENARIO V

Teenage daughter claims parents do not understand her. Parents do not approve of who she is dating. SRS files "CHINS" petition and places child in foster care. Several months later child announces she is pregnant, but does not know, who the father may be. Parents are upset and blame SRS. SRS profess there is no way they can be responsible for the pregnancy of the child, as they are not able to watch child 24 hours a day.

SCENARIO VI

SRS files delinquency petition on a child under age 14, because of allegation of sexual abuse with younger sister who is

over the age of 8. Counsel is appointed to child's mother, to the child, and father is either unknown or nowhere's to be found. The Court finds no sexual abuse and enters an order for the State to remove all references of any charge on sexual abuse. In the psychological evaluation, it is determine that older child, needs special assistance and counseling, so it is determined that the child is "CHINS" (child in need of care and supervision). All attorneys agree. SRS places the child in foster care in another county and mother is unable to visit, because she does not have the money to travel and SRS tells her that she can not visit her son with the daughter who was supposed to have been abused. SRS tells her that such would be detrimental to her daughter. She has several other children and they can visit.

Foster parents refused to allow child to call mother because the State takes to long in reimbursing for the expense. The child claims that the natural children of the foster parents beat him. He also claims that at Christmas, he only received a few "very inexpensive items" while the biological children, got a lot of nice presents. His presents from his family are at home. He was not allowed to see his family, because his sister, whom he was supposed to have abused was there and if he went to visit, SRS would have to take the sister away.

Attorneys for child and mother file numerous motions and several hearings are held, over a span of about 6 months. Child is finally moved to a place closer to home, but for reasons unknown, he is not enrolled in school. Two months go by and now the child will have to repeat the grade, due to the number of days he was absent from school.

Mother wants to see her child, but is told he wants a break from seeing her. Mother of child repeatedly states that she can provide better care, but is denied the opportunity on the basis of the possible abuse on younger sister and if her son comes home, SRS will file a CHINS petition on the sister.

Case still pending. Child still waiting.

SCENARIO VII

Mother and father are divorce and for several years have amicable communication and children visit without problems. One of the parents falls in love and plans to get married. SRS agent tells him that if he gets married to that person, he may lose custody of children. SRS agent states and I quote, "there is more to that woman's history, than what you may have been told". Parent proceeds with wedding plans and suddenly discover that SRS is questioning his children. A "slight" linear red mark on the child's thigh is found, due to a spanking and a petition for "CHINS" is filed. Court does not award children to SRS, but continues the hearing, pending further investigation. Meanwhile, relations between parents of children, deteriorates to the point, there is not trust, extended family gets involved and a relationship which was amicable, ends. The children as result will suffer the consequences.

SRS also recommended that children not be with the custodial parent, because of his girlfriend and that they be with the other parent, who lives some 45 to 60 miles away from children's school.

No reason for abuse may be found, but the family is destroyed and the children are moved from one place to another.

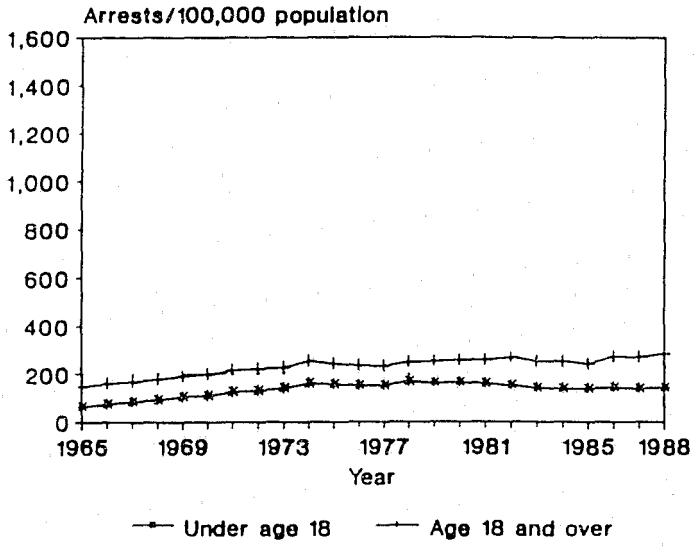
SCENARIO VIII

SRS removes children from parents custody for reasons which would certainly merit temporary removal. Prepares Case Plan which includes attendance at AA, Parents Anonymous, Nurturing Classes, Parenting Classes, Individual Counseling, Therapy, Marriage Counseling, Anger Management, Budgeting, etc. etc.. Parents attempted to attend everything, but fail on one or two, because either they did not have the time or for some other legitimate reason. Case is reviewed every six months and on each review, SRS adds a new condition and claims that the previous conditions have not been completely met. When a reasonable person reviews all of

the conditions and requirements, any prudent person would realized that, "Mother Theresa" could not meet such scrutiny.

Next, SRS petitions the Court for "termination of parental rights" because parents cannot assume their responsibility within a reasonable time.

Figure 13-1—Arrest Rates[a] for Serious Violent Offenses[b] by Persons Under Age 18 and Age 18 and Over, 1965-88

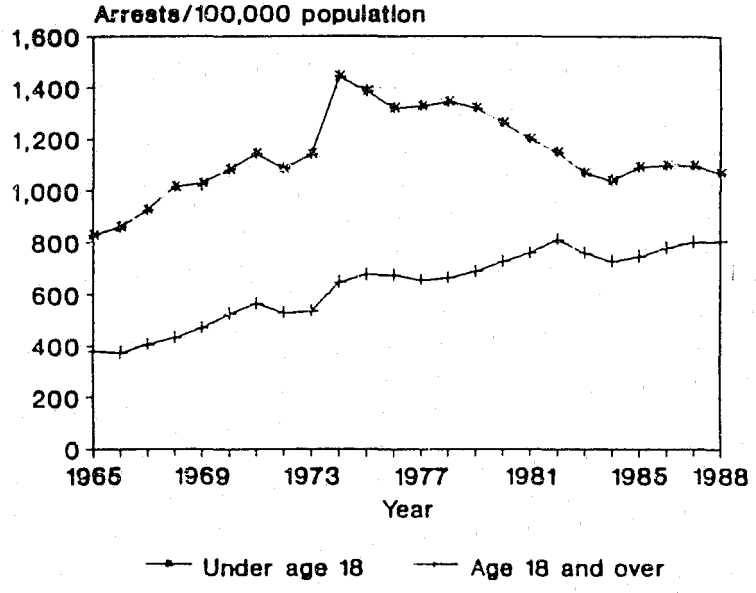


[a]The *arrest rate* is the number of arrests made in a given population per given population base. The arrest rate here is the number of arrests per 100,000 population of the same age group.

[b]*Serious violent offenses* are murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault.

SOURCE: U.S. Department of Justice, Federal Bureau of Investigation, *Age-Specific Arrest Rates and Race-Specific Arrest Rates for Selected Offenses 1965-1988* (Washington, DC: April 1990).

Figure 13-2—Arrest Rates[a] for Serious Property Offenses[b] by Persons Under Age 18 and Age 18 and Over, 1965-88



[a]The *arrest rate* is the number of arrests made in a given population per given population base. The arrest rate here is the number of arrests per 100,000 population of the same age group.

[b]*Serious property offenses* are burglary, larceny-theft, motor vehicle theft, and arson.

SOURCE: U.S. Department of Justice, Federal Bureau of Investigation, *Age-Specific Arrest Rates and Race-Specific Arrest Rates for Selected Offenses 1965-1988* (Washington, DC: April 1990).

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