SB

55

COMM RM 427

FISCAL NOTE

STATE OF ALASKA
1991 LEGISLATIVE SESSION

BILL NO. SB55

Revision Date:
Title: "An act relating to the detention and incarceration of minors."
Sponsor: Senator Duncan
Requestor: Senator Duncan

Dept. Affected: Health and Social Services
BRU: Purchased Services
Component: Preventive Services

COMPONENT SERIAL NO. 0248

Expenditures/Revenues (Thousands of Dollars)

OPERATING	FY92	FY93	FY94	FY95	FY96	FY97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
REVENUE	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

Enactment of the statutory changes proposed in SB55 would demonstrate Alaska's intent to meet the requirements of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974. The JJDP Act of 1974 requires total and enforceable separation of children from adults when confined in the same facility and limits the placement of children in adult confinement facilities.

Prepared by: Russ Webb
Division: Family and Youth Services
Phone: 465-3170
Date: 2/10/91

Approved by Commissioner: Theodore A. Mala, MD, MPH
Agency: Department of Health and Social Services
Date: 2/25/91

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
OMB
Impacted Agency(ies)

(Rev 10/90)

ANALYSIS (cont.):

Annually, Alaska receives a federal formula grant of $325,000 to make improvements in the juvenile justice system including better practices for the detention of children. Eligibility for that grant requires state law or regulation which limits or prohibits the confinement of children in adult correctional facilities.

Passage of this bill would enable Alaska to continue to be eligible to receive the federal formula grant. Without this grant revenue of $325,000 it would be necessary to use state general funds to continue funding to support thirteen (13) shelters that provide alternatives to placing youth in facilities designated for the incarceration of adults.

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REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

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PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

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Division: Family and Youth Services
Phone: 465-3170
Date: 2/6/91

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Agency: Department of Health and Social Services
Date:

Distribution (by preparer):
Legislative Finance
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Alaska State Legislature

SENATOR JIM DUNCAN

P.O. BOX V JUNEAU, ALASKA 99811-3100

(907) 465-4766

COMMITTEES:
VICE CHAIR – FINANCE
VICE CHAIR – STATE AFFAIRS
RULES
BUDGET & AUDIT
ETHICS REFORM

MEMORANDUM

Date: March 4, 1992

To: All Senators

From: Senator Jim Duncan

Re: CS SE 55 (Judiciary), Relating to Detention and Incarceration of minors.

SB 55 amends state law to comply with U.S. Department of Justice requirements which prohibit incarceration of juvenile offenders in adult jails or lockup facilities. Currently attempts are made to separate juvenile prisoners from adults, however, in village jails they are not always successful. The potential for mental and physical harm to juveniles is great in such situations. This bill will show our good faith effort, given the problems we experience in this state with isolation and associated transportation problems, provide other options besides adult facilities for holding minors.

One option which has proven particularly successful in small communities had been the use of "attendant care shelters" where juveniles can be detained temporarily until released to their parents or transported to one of the five regional youth corrections facilities; Bethel Youth Facility, McLaughlin in Anchorage, Johnson Youth Facility in Juneau, Nome Youth Facility, or the Fairbanks Youth Facility.

The funding for Attendant Care Shelters is provided through a $325,000 Federal Juvenile Justice Formula Grant. In FY 91 grants were made for Attendant Care Shelters in Barrow ($25,000), Juneau ($20,000), Ketchikan ($24,200), Kotzebue ($17,000), Homer, Kenai, and Seward ($48,150), Kodiak ($9,987), Petersburg ($5,000), Sitka ($11,972), Valdez ($15,000), and Wrangell ($5,000). A portion of the funding also goes to the UAA, Justice Center for data collection and analysis. In addition, in FY 91, $22,392 was earmarked for Alaska Native non-profit organizations. During FY 91, 443 youths were served at 12 Attendant Care Shelters.

If we do not show a good faith effort to comply with the federal law in removing juveniles from adult jails and lockups, we will become ineligible for this continuing grant. Therefore, if we wish to keep our attendant care shelters open and use federal funds to do so, it is important to pass SB 55.

I urge your support for SB 55.

7-LS0216\D

SENATE BILL NO. 55

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR DUNCAN

Introduced: 1/21/91
Referred: HESS, Judiciary and Finance

A BILL

FOR AN ACT ENTITLED

"An Act relating to the detention and incarceration of minors."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* **Section 1.** PURPOSE. The purpose of this act is to improve the state's juvenile justice system by

(1) ending, with minor exceptions, the practice of allowing the confinement of children in adult correctional facilities, jails, prisons, and rural lock-ups, however operated, based on evidence that the practice often leads to aggravated emotional problems and depression in, and suicide attempts by, the children who are confined;

(2) conforming state law and policy relating to the confinement of children to the requirements of 42 U.S.C. 5633(a)(13) and (14) (Juvenile Justice and Delinquency Prevention Act of 1974, as amended).

* **Sec. 2.** AS 47.10.130 is repealed and reenacted to read:

Sec. 47.10.130. DETENTION. (a) A minor may not be incarcerated in a correctional facility.

(b) When a minor is detained under this chapter, the person having responsibility for the

New Text Underlined [DELETED TEXT BRACKETED]

facility in which the minor is detained shall immediately notify the minor's parent, guardian, or custodian of the minor's detention.

(c) Notwithstanding (a) of this section, a minor may be incarcerated in a correctional facility

(1) if the minor is the subject of a petition filed with the court under this chapter seeking adjudication of the minor as a delinquent minor or if the minor is in official detention pending the filing of that petition; however, detention in a correctional facility under this paragraph may not exceed the lesser of

(A) six hours; or

(B) the time necessary to arrange the minor's transportation to a juvenile detention home or comparable facility for the detention of minors;

(2) if, in response to a petition of delinquency filed under this chapter, the court has entered an order closing the case under AS 47.10.060(a), allowing the minor to be prosecuted as an adult.

(d) When a minor is detained under (c) of this section and incarcerated in a correctional facility, the minor shall be

(1) assigned to quarters in the correctional facility that are separate from quarters used to house adult prisoners so that the minor cannot communicate with or view adults who are in official detention;

(2) provided admission, health care, hygiene, and food services and recreation and visitation opportunities separate from services and opportunities provided to adults who are in official detention.

(e) In this section

(1) "correctional facility" has the meaning given in AS 33.30.901 whether the facility is operated by the state, a municipality, a village, or another entity;

(2) "official detention" has the meaning given in AS 11.81.900.

* **Sec. 3.** AS 47.10.190 is amended to read:

Sec. 47.10.190. CONDITIONS GOVERNING DETENTION. When the court commits a minor to the custody of the department, **except when detention in a correctional facility is authorized by AS 47.10.130(c),** the department shall arrange to place the juvenile in a detention home [, FACILITY] or another suitable place that the department designates for that purpose. [A

JUVENILE DETAINED IN A JAIL OR SIMILAR INSTITUTION AT THE REQUEST OF THE DEPARTMENT SHALL BE HELD IN CUSTODY IN A ROOM OR OTHER PLACE APART AND SEPARATE FROM ADULTS.]

Alaska State Legislature

SENATOR JIM DUNCAN

P. O. BOX V JUNEAU, ALASKA 99811-3100

(907) 465-4766

COMMITTEES:
FINANCE
VICE CHAIR – HEALTH EDUCATION & SOCIAL SERVICES
BUDGET & AUDIT
BANKING & ECONOMIC DEVELOPMENT

MEMORANDUM

February 1, 1991

TO: Senator Arliss Sturgulewski, Chair
Senate HESS Committee

FROM: Senator Jim Duncan

SUBJECT: SB 55, An act relating to the detention and incarceration of minors.

I request the earliest possible hearing for SB 55, an Act relating to the detention and incarceration of minors.

SB 55 amends state law to comply with U.S. Department of Justice requirements for complete sight and sound separation of juvenile offenders from adult prisoners when housed in the same secure facility. Currently attempts are made to separate juvenile prisoners from adults, however, in village jails they may not always be successful. The potential for mental and physical harm to the juveniles is great in such situations. One option which has proved successful in small communities has been use of "attendant care shelters" where juveniles can be detained temporarily until they can be transported to regional youth correctional facilities such as McLaughlin in Anchorage and the Johnson Youth Facility in Juneau.

I urge your favorable consideration of this legislation.

STATE OF ALASKA

OFFICE OF THE GOVERNOR

BILL ANALYSIS

DEPARTMENT	DIVISION	BILL NUMBER	SPONSOR
DHSS	DFYS	SB55	Senator Duncan

SHORT TITLE OF BILL

"An act relating to the detention & incarceration of minors."

DEPARTMENT POSITION

The Department of Health & Social Services supports SB55.

PREPARED BY	DATE	COMMISSIONER'S SIGNATURE	DATE
Russ Webb	2/5/91		2/6/91

SUMMARY

OTHER AGENCIES AFFECTED BY BILL	CONSTITUENT GROUP(S) AFFECTED BY BILL
Dept. of Corrections Dept. of Public Safety Local Law Enforcement Agencies	
ORGANIZATIONAL SUPPORT FOR BILL	**ORGANIZATIONAL OPPOSITION TO BILL**
Alaska Juvenile Justice Advisory Committee	

FISCAL IMPACT: ☐ NONE ☒ FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

The intent of this legislation is to improve Alaska's treatment of juvenile offenders by bringing Alaska's law concerning the confinement of children into conformity with national standards and the Juvenile Justice & Delinquency Prevention Act of 1974.

ANALYSIS OF BILL/PROGRAM EFFECTS

This bill specifies the criteria for detaining a minor in an adult correctional facility and the maximum period of confinement. A minor may not be incarcerated in an adult correctional facility unless the minor is the subject of a petition seeking adjudication as a delinquent minor or in official detention pending the filing of a delinquency petition. A minor detained in a correctional facility could not exceed the lessor of six (6) hours, or the time necessary to arrange for the minor's transportation to a separate facility for the detention of minors. While detained in an adult correctional facility a minor must be sight and sound separated from adult prisoners.

This bill also requires adult facilities which admit children to provide admission, health care, hygiene, food services, recreational & visitation opportunities separate from the services and opportunities provided to incarcerated adults.

(see page 2)

AMENDMENTS PROPOSED

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS

The passage of this legislation would reduce the minor's risk of harm, which results from placement in an adult correctional facility. A minor's period of confinement would be shorter, and the number of children placed in facilities designated for the incarceration of adults would be less. Facility exposure to civil rights litigation for improper care also would be reduced.

Department of Health and Social Services
Division of Family and Youth Services

JAILING OF CHILDREN IN ALASKA - AN UNSOLVED PROBLEM
ISSUES FOR THE CRIMINAL JUSTICE WORKING GROUP
NOVEMBER 3, 1989

In Alaska, there is a historical and pervasive practice of confining children under conditions which violate both state and federal law, increasing the risk of harm and potentially violating the civil rights of children.

BACKGROUND:

Since 1976, Alaska has received formula grants from the U.S. Department of Justice under the Juvenile Justice and Delinquency Prevention (JJDP) Act. The former state Criminal Justice Planning Agency and the Division of Corrections administered these funds until 1982 when responsibility was transferred to the Division of Family and Youth Services of the Department of Health and Social Services. Acceptance of these funds has obligated the state to improve its juvenile justice system and comply with the requirements of the Act which calls for:

Deinstitutionalization - a termination of the practice of securely detaining non-offenders or status offenders;

Separation - complete separation of juvenile offenders from adult prisoners when housed in the same secure facility;

Jail Removal - termination of the practice of holding any juvenile in an adult jail or lockup facility; and

Annual Monitoring - regular inspection of facilities which detain children along with collection, analysis and reporting of admission or booking data to assess compliance.

These requirements were to be achieved incrementally with deinstitutionalization to be achieved within three years of submission of the state's first grant application.

Separation and jail removal were to be achieved by December 1985, but subsequent extensions allowed exceptions to full compliance until December 1988.

Based on action to date, Alaska is now in substantial but not full compliance with the deinstitutionalization and separation mandates. Compliance with the mandate for total removal is far from being achieved. Until full compliance with all of the mandates is achieved, Alaska risks termination of the federal juvenile justice grant and faces the possible threat of litigation.

Federal requirements compliment Alaska laws contained in Title 47. Alaska statutes do not permit secure detention of any juvenile status offenders except for an allowable 24-hour period for runaways already under court jurisdiction when there is specific prior court approval.

Further, Alaska statutes require that children be separated by sight and sound from adult prisoners when both are held in the same facility. Because virtually none of Alaska's over one hundred (100) adult jails, lockups or correctional facilities are physically designed or operated to prevent contact between children and adults, children cannot lawfully be confined in those facilities.

As recently as 1987, over eight hundred (800) children continued to be detained in municipal adult jails and rural lockups throughout Alaska. Most of these juveniles were detained following their arrest for minor crimes and status offenses. Some of the minor crimes, such as Consumption of Alcohol By A Person Under Age 21, are even defined as status offenses by the U.S. Department of Justice.

In most cases, children are detained in physically separate cells from adult prisoners, but not with complete sight and sound separation as required by law. None of Alaska's adult jails and lockups have separate booking, food service, exercise or visitation areas for children and few have the ability to provide much more than token separation. When separation efforts are made, they often result in solitary confinement for children.

The practice of inappropriately confining children in adult jails is not only against the law, it is also contrary to the safe treatment of children. The national suicide rate of children placed in adult jails is eight times greater than that of children placed in separate juvenile detention centers. When a child is housed in an adult jail, rural lockup or adult correctional facility, their risk of becoming depressed, suicidal, or chance of experiencing emotional, physical and

sexual abuse increases significantly. Jail staff are seldom trained to handle the emotional and family problems of children in crisis. A child often leaves the jail angry and defiant, to act out their rage on the community.

A number of recent cases have been brought before other state and federal courts on the jailing of children. In several of those cases the court has determined than an aggrieved individual has a private right to civil rights action for deprivation caused by a violation of the Juvenile Justice and Delinquency Prevention Act. Litigation against one or more municipal jail or rural lockup and the state for failure to comply with the requirements of the JJDP Act is currently being considered by groups such as Alaska Legal Services Corporation and the American Civil Liberties Union.

WHAT HAS BEEN DONE ABOUT THIS PROBLEM?

From the time Alaska began participation in the JJDP Act grant program in 1976, federal grant funds have been used for a variety of projects to improve Alaska's juvenile justice system including community work service, restitution, and case management programs. However, until 1988 only two significant JJDP Act compliance strategies were implemented.

The initial strategy was statutory change to Title 47 which redefined acts such as runaway, truancy, and curfew violation so they were no longer delinquent acts which could result in secure detention. The second was to develop a network of secure regional juvenile detention facilities constructed and operated with state general funds. Five facilities are now in operation. They are located at Juneau, Fairbanks, Nome, Bethel and Anchorage. These facilities were costly to build and are expensive to operate. It is not likely this network of juvenile detention facilities will be expanded in the foreseeable future.

Until recently it was believed that the initial and subsequent statutory changes had brought Alaska into full compliance with the requirement to deinstitutionalize status offenders. In 1987 we were informed by federal officials that Alaska's misdemeanor offense of Possession or Consumption By Persons Under The Age Of 21 is defined as a status offense for the purpose of the JJDP Act. At the same time, annual monitoring data showed that a significant number of children were being detained at both adult facilities and regional juvenile detention centers on this offense. The Division of Family and Youth Services immediately stopped these admissions at the regional juvenile detention

centers except when the conditions for the protective custody of an intoxicated person are met. Many adult jails and lockups have continued to book children for drinking alcohol and other status offenses.

The overuse of detention as a mechanism for dealing with juveniles who violate alcohol laws is a continuing problem and one of the primary obstacles in achieving compliance with the JJDP Act. Nearly all of Alaska's violations of the JJDP provision requiring deinstitutionalization of status offenders result from the detention/jailing of youth charged with possession or consumption of alcohol. The vast majority of these youth do not meet the standards for detention required by the Rules of Court or the criteria established by DFYS.

As recently as 1980 only the Anchorage area had a separate juvenile detention center. Children from all other areas of the state were being confined at adult correctional facilities, municipal jails and rural lockups. The five DFYS-operated regional juvenile detention centers now account for about 70% of all juvenile detention admissions and over 95% of juvenile detentions which exceed 48 hours.

Despite significant expenditures to build and operate separate juvenile detention centers, many Alaskan children continue to be jailed in adult facilities. While the majority of the incidents have regularly taken place in only ten or twelve communities, there are over ninety (90) communities with a jail or lockup which may occasionally detain a juvenile. In many cases transporting the juvenile to a regional juvenile detention facility is not practical for the arresting law enforcement agency. In other cases, detention of a juvenile is a short term convenience but not a necessity to protect either the child or the public.

Construction of costly juvenile detention centers in every Alaska community with a history of jailing children is not a realistic solution to this problem. If Alaska is to stop putting its children in jails, other alternatives must be created.

Beginning in 1988 the Division of Family and Youth Services began to develop and implement some creative and moderately priced solutions. However, the efforts of only one participating agency of the Alaska juvenile justice system will not be sufficient to overcome decades of past practice by it and the many other state and community agencies which make up the system.

PROMISING NEW STRATEGIES:

In the fall of 1987 the Division of Family and Youth Services made a decision to focus 100% of its JJDP grant receipts on activities directly related to meeting JJDP Act mandates rather than on any other juvenile justice system improvements. Additionally, a full time central office program position was assigned to the compliance effort.

A comprehensive review of successful program models used in other states has been completed. Several proven strategies have been adapted to Alaskan conditions in addition to the ongoing development of home grown ideas. The following components are part of the DFYS plan to end the jailing of children in Alaska.

Improved Monitoring and Data Collection - For the first ten years of JJDP Act participation the identified universe of municipal jails, rural lockups, adult correctional facilities, and juvenile detention facilities for monitoring and data collection only identified 14 facilities. While it was clearly obvious that more such facilities existed in Alaska, no effort had been made to identify their location. For years, Alaska had under reported both the number of secure facilities and the number of children detained in those facilities.

In 1988 the Division of Family and Youth Services negotiated an RSA with the University of Alaska Justice Center to develop a comprehensive monitoring plan and prepare monitoring reports for calendar years 1987 and 1988. **Over 100 secure facilities have now been identified.** One-third of these facilities will be inspected each year to verify sight and sound separation of children from adult prisoners. Booking and admission data is collected from each facility, where available, to complete a comprehensive monitoring report. Data from the 1987 report is currently been used for program planning.

Two major data recording deficiencies have surfaced during this monitoring effort. First, many of the 75 rural lockups do not maintain sufficient records to determine age, offense, and duration of confinement. Second, many of the records for 17 municipal jails (those under contract to the Department of Public Safety) do not separate booking records from admission records. On site inspection has revealed that children are often booked at arrest but never placed in the secure area of the jail. These jails keep booking records but not admission records. This

results in over reporting of JJDP Act violations. Efforts are underway to assist these adult facilities in maintaining more accurate records and DFYS anticipates the development of regulations to standardize reporting procedures.

Non-secure Attendant Care Shelter - Analysis of the data on juvenile confinement in adult facilities revealed that most children who are jailed could be safely placed in alternative facilities, if they were available. The attendant care shelter concept has been the most successful alternative used by other states. A child placed in an attendant care shelter is supervised on a one-to-one basis by a trained adult attendant until the child can be released to a parent or guardian, taken to court, or transported to a regional juvenile detention facility. Attendant care shelter sites are only operated on an as needed basis with a roster of available on-call attendants. The site itself may be an administrative office, a room in a public building, a foster home, or an apartment, with access to a restroom and minimal accommodations.

Since September 1988 ten (10) non-secure attendant care shelter sites have been established to serve the following 12 communities:

Barrow	Homer	Seward
Juneau	Kenai	Sitka
Ketchikan	Kodiak	Valdez
Kotzebue	Petersburg	Wrangell

These programs are funded by pass-thru grants using JJDP Act grant revenue. The average cost per program is $20,000 per year. Four of the programs are operated by local government, five by non-profit social service or mental health agencies and one by a native association. DFYS expects to be able to fund one or two more sites in FY90.

Secure Modular Holdover - The availability of a previous capital reappropriation for juvenile detention alternatives in Ketchikan permits DFYS to fund a model secure detention program in that community. A small modular building with two secure rooms is being designed and constructed. The modular unit will be placed at the new Ketchikan health facility and will contain two secure rooms. DFYS will contract with the City of Ketchikan for its operation on an on-call basis similar to a non-secure attendant

care shelter. JJDP grant funds cannot be used to fund secure facilities and this will be the only secure program operated under contract with DFYS. Cost of the modular unit is approximately $100,000 and annual operating costs are expected to be less than $50,000. This is significantly less than the cost of a regular regional juvenile detention center. This Ketchikan program will serve as a model for other municipalities who may wish to exercise their statutory authority to operate juvenile detention homes.

24-Hour Intake - Since 1984 the Division of Family and Youth Services has used the concept of 24-hour intake screening to reduce unnecessary and inappropriate detentions at the regional juvenile detention centers. Intake probation officers review all requests for detention to determine if secure pre-adjudicatory confinement is necessary. If secure confinement is not necessary, the on-call probation/intake officers arrange for alternative placement. In the DFYS FY91 budget request the Division is seeking funds to expand on-call services to all 13 areas of the state where DFYS has an established local office. These on-call staff will be available to assist local law enforcement agencies in determining if detention or placement is necessary following the arrest of a juvenile and to provide help in obtaining the services of alternative programs. DFYS staff may not, however, authorize placement of a child in any municipal jail or local lockup which does not meet the separation requirements of state statutes or the JJDP Act.

Transportation and Guard Hire Service - Some of the children who have historically been placed in adult jails and lockups may require secure custody pending completion of court action. In some cases, the arresting law enforcement agency may not have the ability to promptly transport such a child to a regional juvenile detention center. The Department of Public Safety, DFYS, and local law enforcement agencies have not resolved the issue of providing temporary secure custody and escort services for this group of children. DFYS has proposed an increment in the FY91 budget request to fund contract guard hire and transportation services for those children from rural communities who are already in DFYS custody and in need of secure services. Unarmed guards will supervise these children following arrest and escort them as soon as possible to a regional juvenile detention facility. A mechanism to provide similar services for children who have not already been committed to DFYS custody is yet to be developed. Such a mechanism will require a coordinated agreement

between DFYS, Department of Public Safety, and local law enforcement agencies.

Incentive Grants - Unlike many of the other 49 states, juvenile corrections in Alaska is the responsibility of a single state agency rather than a local government responsibility. Local governments in Alaska have been reluctant to assume responsibility to provide care for children other than in a jail or lockup. Most communities look to state government for both the solution and the funding. The solutions proposed by DFYS may not address the unique needs of every community. DFYS has proposed a FY91 general fund increment to establish incentive grants to assist up to seven communities in developing their own unique, appropriate and practical solutions to this problem.

Public and Targeted Education Campaign - Few Alaskans are aware of the pervasive problem of jailing Alaska's children. Many members of the juvenile justice system do not understand the legal implications of jailing children or the potential harm from that practice. Developing a more wide-spread awareness of the problem is critical to its eventual solution. In the summer of 1989, DFYS sponsored a workshop on jail removal issues which was attended by 12 local law enforcement representatives as well as attendant care shelter grantees, DFYS staff, and members of the State Juvenile Justice Advisory Committee. That workshop included a presentation of the JJDP Act, sessions on the legal liabilities of jailing children presented by a children's rights attorney, and information concerning available alternatives. Following the workshop, several local law enforcement agencies discontinued the practice of detaining children in their local jails.

DFYS is currently contracting with a media consultant to design a multi-media education campaign for presentation throughout Alaska. Products of the campaign will separately target juvenile justice system participants, community leaders, and the general public. Members of the Criminal Justice Working Group will be invited to review the draft materials and offer suggestions prior to completion of the final products. The presentation by the media consultant is scheduled in Juneau for mid-November 1989.

Regulation in Monitoring of Adult Facilities Which Detain Children - The Department of Health and Social Services has statutory authority to inspect and regulate all facilities where

juveniles are detained, including municipal jails and local lockups. That authority has never been exercised. During the next 12 to 18 months the Division of Family and Youth Services plans to develop a set of proposed regulations which will address record keeping and conditions of confinement at non-state operated facilities which securely confine children. During the drafting process DFYS will work closely with the Department of Public Safety, Department of Corrections and local government entities which operate jails and lockups.

Statutory Change - While strongly recommended by the federal Office of Juvenile Justice and Delinquency Prevention, the Department of Health and Social Services and the Division of Family and Youth Services have been reluctant to propose changes to the Alaska Statutes which would prohibit the confinement of any child in an adult facility. Until a variety of alternatives are available throughout Alaska, such a prohibition would be impractical to enforce. While no such legislation has been proposed, DFYS would support a change to the jurisdictional section of Title 47 which would place alcohol offenses committed by minors under the jurisdiction of the district court and eliminate the penalty of incarceration. Such a change would not only give local communities more control to address the problem of juvenile drinking behavior but would also improve compliance with the JJDP Act.

Policy Issues - Successfully resolving the inappropriate confinement of children is beyond the capability of a single state agency such as the Division of Family and Youth Services. Other state agencies as well as local communities must share in the resolution.

Is state government solely responsible for providing detention services to children? What is the role and responsibility of local government in providing safe secure services for children in crisis? Several communities such as Wrangell and Petersburg have stepped forward to develop local alternatives with the combination of local and state funding. Other communities such as Kodiak and Kotzebue have discontinued placing children in the local jail but have not accepted any local responsibility to create and support alternatives. Without state level policy guidance, local communities will continue to arrive at different conclusions. *Should we seek to develop a high-level state policy consensus decision on the issue?*

As various local communities around the state begin to close their jails to the admission of children the question is being raised as to what agency is responsible for the temporary secure custody and transportation of children following arrest. This is a longstanding, unresolved issue. Currently, local law enforcement agencies and local staff of the Department of Public Safety and the Division of Family and Youth Services are floundering for an immediate solution. The Division of Family and Youth Services recommends that discussions be initiated to resolve this issue with the development of an interagency policy consensus.

On April 14, 1989, Governor Steve Cowper issued an executive proclamation acknowledging the dangers of confining children in adult jails and pledging support of executive branch agencies in bringing this practice to a halt.

We urge the Criminal Justice Working Group to take a lead role in this endeavor.

STATE OF ALASKA

Executive Proclamation

by

Steve Cowper, Governor

Confining children in adult jails is not in the best interest of Alaska's children or the public. In 1986 as many as 427 children were detained in adult jails and lockups throughout the state. Alaska statutes prohibit confinement of children in adult jails and lockups unless they are assigned to separate quarters so that they not view or communicate with adult prisoners.

The practice of jailing children with adults often leads to depression or suicide attempts. The risk of those children experiencing emotional, physical and sexual abuse is also increased.

The federal Juvenile Justice Delinquency Prevention Act mandates that states improve their juvenile justice systems by:

1. eliminating the practice of detaining children charged with status offenses;
2. separating children from adults by sight and sound when both are detained in the same jail, lockup, or other correctional facility;
3. identifying and monitoring all facilities which detain children;
4. eliminating the practice of detaining children in any adult jail, lockup, or correctional facility.

NOW, THEREFORE, I, Steve Cowper, Governor of the State of Alaska, do hereby proclaim my support for the Department of Health and Social Services to work with the Departments of Corrections and Public Safety, the public, and municipalities to develop regulations which reduce detention of children in adult facilities, ensure safe and appropriate conditions for children who are detained, and provide for collection and maintenance of accurate records on each youth admitted, detained and released.

DATED: April 14, 1989

Done by —

Steve Cowper, Governor, who has also authorized the seal of the State of Alaska to be affixed to this proclamation.

January 1991

NEWS FROM STATE TO STATE

ALASKA

Struggling to Meet Waiver State Criteria

Alaska is scrambling to reduce violations of the Act enough so they can *apply* for 1991 Waiver State Status.

"We have been a waiver state for two years, so we only have one year of eligibility left. If we don't get our third year of waiver state funds, our alternative programs tp jail removal could lose funding, and we will no longer be participating in the Grant Program." Says Donna Schultz, Alaska's JJ Specialist.

Alaska's problem is its latest monitoring report which shows 249 violations, of which 106 are states offenders. Why are so many status offenders being held? Schultz explains, "We have a lot of alcohol related status offenses in extremely remote areas. Lack of road systems and the necessity to transport kids great distances by air in adverse conditions to regional detention facilities are major obstacles. We have a genuinely difficult time keeping "minor consuming" offenders out of the town jail or lockup due to lack of other resources."

Using two years of waiver state funds, Alaska has set up thirteen (13) non-secure attendant care facilities. "We have come a long way," says Schultz, "but we could lose it all because of these extremely distances and remote areas." For more information contact JJ Specialist Donna Schultz at (907) 465-2112.

Paid Your Coalition Dues Yet?

As of press time (January 11, 1991) the following states have paid their 1991 dues: Arizona, Connecticut, Illinois, Maine, Maryland, and Wisconsin.

Bills were sent to state JJ Specialists with courtesy copies to State Chairs on December 10, 1990.

National Coalition of
State Juvenile Justice Advisory Groups
1211 Connecticut Avenue, NW, Suite 414
Washington, DC 20036

Dated Material Enclosed

STATE FY91
BUDGET NARRATIVE
JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT - (JJDP)

Budget Category	Federal $'s	Non-Federal $ State Match	Total
1. Jail Removal	$261,983	-0-	$261,983
2. P&A	24,375	24,375	48,750
3. SAG	16,250	-0-	16,250
4. Indian Pass Through	22,392	-0-	22,392
	$325,000	$ 24,375	$349,375

1. Jail Removal:

Non-Secure Attendant Care Shelter Programs

The following shelters are funded by sub-grants:

Location	Operator	Grant Amount $
Juneau	Juneau Youth Services, Inc.	20,000
Ketchikan	Ketchikan Youth Services	24,200
Sitka	Youth Advocates of Sitka	17,000
Petersburg	City of Petersburg	9,000
Wrangell	City of Wrangell	9,000
Kenai/Homer/Seward	Kenai Community Center	33,480
Kodiak	Kodiak Island Borough	17,000
Valdez	City of Valdez	9,000
Barrow	North Slope Borough	25,000
Kotzebue	Maniilaq Association	25,000
Fairbanks	Fairbanks Native Association	13,000
* Cordova	City of Cordova	4,045
Dillingham	City of Dillingham	13,000
		218,725

* Pending Award

Children who have been taken into custody by local law enforcement officials are supervised by trained adults on a one-to-one basis until released or transported to a Youth Detention Facility. A variety of safe locations are used for temporary housing. The services are provided on-call rather than full-time and require no permanent full-time staff.

$43,258 Contractual services/contractor UAA, Justice Center for data collection, site visits, data analysis and preparation of annual adult jails and lock up monitoring report required as condition of eligibility for federal grant.

2. Planning and Administration (P&A):

	Federal	State Match	Total
Personnel -	15,900	24,375	40,275
Equipment -	700	-0-	700
Travel -	6,775	-0-	6,775
Contractual -	1,000	-0-	1,000
Total:	24,375	24,375	48,750

Planning and Administration activities include: grant application and reporting, developing and implementing compliance strategies, developing RFP's, coordinating proposal evaluations, monitoring sub grantees, technical assistance and training for attendant care shelter operators, public education, law enforcement training, and staff support of the State Advisory Committee.

The primary project staff are an associate coordinator and a project assistant. The grant allocation for planning and administration is fixed by federal regulation.

3. State Advisory Group (SAG) - $16,250:

Travel $13,750 Supplies $1,000 Contractual $1,500

The 15 member group required as a condition of grant eligibility necessitates travel cost in airfare and perdeim to attend annual meetings. Travel within the State of Alaska is extremely expensive and SAG members reside in all regions of the state. The grant allocation for planning and administration is fixed by federal regulation.

Sample 3 day SAG meeting in Anchorage

SAG Travel Budget - $13,750

Round Trip airfares (coach to Anchorage from:

Fairbanks	$240 x 2 =	$ 480.00
Barrow	736 x 2 =	1472.00
Bethel	344 x 2 =	688.00
Juneau	383 x 3 =	1152.00
Ketchikan	490 x 1 =	490.00
TOTAL		$3938.00

3 days = $240.00 per diem each member
10 members x $240 = $2400.00

Airfare: $3938.00
Per Diem: 2400.00
TOTAL: $6338.00 for each 3 day meeting in Anchorage

Total travel budget:	$13,750.00	
Anchorage meeting (2):	12,676.00	
Balance:	$ 1,074.00	(for other travel)

Supplies: $1,000 - postage, stationery

Contractual: $1,500 - telephone, equipment and meeting room rental

The advisory group has recently chosen to limit face-to-face meetings requiring travel and will emphasis more frequent but less costly teleconference meetings.

4. Indian Pass Through - Total $22,392. (See request for waiver).

Pass through grants will be made to Alaska Native Organizations providing Village Public Safety Officer (VPSO) and tribal police services. Village public safety services are provided by ten (10) Alaska native non-profit organizations and tribal police services are provided by one entity serving Alaska's only recognized reservation. The pass-through sub-grants will total $22,392. Each of the eleven (11) organizations would receive a $1,000 base, plus a proportion of the remaining pass-through funds, based on village youth population of the villages served by the organization. The native organizations which receive these pass-through sub-grants may use the funds to improve juvenile justice for native youth including alternatives to placing native youth in rural adult lockups.

The Indian pass-through allocation is mandated by the JJDP act. The amount of pass-through is regulated by a federal formula based on the population of Alaska Native youth. Alaska is currently waiting for federal approval of the pass through plan.

1989 Jail Removal Violations:
Offender Type by Facility Type and Location

	Status Offender /Nonoffender	Adjudicated Criminal Types	Accused Criminals Held > 6 hours	Total
ADULT JAILS				
Barrow	21	3	14	38
Cordova	9	1	2 (1)	12
Craig	2	1	2	5
Dillingham	17	0	2	19
Homer	12 (13)	3	7	22
Kodiak	1	2	0	3
Kotzebue	1	5	9	15
Naknek	0	0	1	1
Petersburg	3	0	1	4
Seward	3	5	10	18
Sitka	0	5	3	8
Valdez	9	0	6	15
Wrangell	1	0	11 (6)	12
subtotal:	79	25	68	172
DOC				
Ketchikan	1	1	9	11
Mat-Su	0	14	5	19
subtotal	1	15	14	30
ADULT LOCKUPS				
Anaktuvuk	2 (1)	0	0	2
Angoon	0	0	1	1
Chevak	3 (2)	0	0	3
Selawik	7 (3)	0	0	7
Fort Yukon	0	0	7 (3)	7
Galena	2 (1)	0	2 (1)	4
Glennallen	5 (2)	0	1	6
Hoonah	2 (1)	0	0	2
King Cove	0	0	4 (1)	4
Point Hope	0	0	2 (1)	2
St. Mary's	2 (1)	0	0	2
Tok	3 (4)	0	4	7
subtotal	26	0	21	47
grand total	106	40	103	249

* Numbers in parentheses are actual (unweighted) violations. Weighing formulas are necessary to account for facilities which fail to submit admission date.

There are a total of 73 identified adult lockups, 51 of which either failed to submit juvenile admission data or admitted no juveniles in 1989.

Note: This display represents violations only. It does not depict the total number of juveniles confined in adult secure facilities.

ALASKA CHAPTER
NATIONAL ASSOCIATION OF
SOCIAL WORKERS

8923 Tanis Drive
Juneau, Alaska 99801
(907) 789-7099

Executive Director
William Diebels, LCSW

March 5, 1991

Senator Arliss Sturgulewski
P.O. Box V
Juneau, AK 99811

Dear Senator Sturgulewski:

Senate Bill 55, relating to the detention and incarceration of minors, has a two-fold purpose: 1) to end, with minor exceptions, the practice of confining children in adult jails, lock-ups, and other correctional facilities intended for adult prisoners; 2) to conform to state law and the mandates as set forth in the Juvenile Justice and Delinquency Prevention Act fo 1974. The language of the bill is consistent with the requirements of the JJDP Act.

We support the objectives of this bill. The bill would provide incentive to communities to develop alternatives to the practice of holding children in adult jails. It would also demonstrate to the Office of Juvenile Justice and Delinquency Prevention (OJJDP) our State's commitment to comply with the mandate of juvenile jail removal. If the OJJDP is assured of our commitment, it will continue to provide Alaska with $325,000 annually which will be used to maintain and develop alternatives to jailing children in adult facilities, such as attendant care shelters.

It is in the interests of the children of Alaska that we submit the enclosed position paper to you, in support of SB 55.

Sincerely,

William Diebels, LCSW
Executive Director

National Association of Social Workers
Alaska Chapter

Position Paper
Senate Bill 55

I. THE NEED FOR SB 55

In Alaska each year, hundreds of children are illegally detained in adult jails and lock-ups. This practice, which violates federal law and the civil rights of children, is harmful to the physical and emotional well-being of the children. Children in adult jails commit suicide eight times as often as children in juvenile detention centers. Children have been beaten, raped, and murdered in local jails. Children in jails are routinely and illegally exposed to frequent contact with adult inmates. These children rarely receive schooling, exercise, recreation, or the special care needed to deal with emotional and family problems.

Since 1988, the Alaska Division of Family and Youth Services has received grant monies from the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to use toward compliance with the juvenile jail removal mandate. In 1987, Alaska reported 864 jail and lock-up removal violations (in adult facilities). Since receiving the grant monies, that number in 1988 was cut in half (409 violations). The Division of Family and Youth Services used the monies to develop alternatives throughout the State, namely, attendant care shelters (based on a successful alternative model used in Michigan). In 1989, the number of violations was again cut in half (249). We attribute this progress to a combination of the attendant care shelters and to education and training which has been provided to communities and their professionals (judges, law officers, etc.). DFYS assists communities, through small shelter grants and through technical assistance to develop alternatives.

II. WHY SB IS CURRENTLY NEEDED

In 1990, the number of violations remained around 200, a number which is unsatisfactory to not only the OJJDP, but to anyone who cares about Alaska's children. We believe that, as far as voluntary compliance, the State has gone as far as it can go. Now is the time to send the message to communities that the practice of jailing children in adult facilities is illegal and it is wrong. This is also the last year that the OJJDP will provide Alaska with monies to develop alternatives if we do not convince them that we are committed to juvenile jail removal.

III. WHAT IF OUR OJJDP MONIES ARE DISCONTINUED?

If Alaska does not receive $325,000 each year from OJJDP, we will not have the funds to maintain and develop our attendant care shelter facilities. Our years of work developing alternative will be lost, the shelters will stop, and we will be back where we started in 1987. Alaska will not have the funds to continue our education and training of communities and professionals, and to provide technical assistance to develop alternatives to adult jails. An increasing number of children will be exposed to the dangers of adult jails. As their civil rights are violated in this manner, the State and communities will run an increasing risk of civil suits, as children are raped, abused, and murdered by adult inmates, or as the children commit suicide.

IV. THE IMPACT OF SB 55

SB 55, if passed, will have a zero fiscal impact. If not passed, failure to convince OJJDP of Alaska's commitment to removing children from adult jails will result in $325,000 less each year. SB 55 will encourage communities to take advantage of assistance from DFYS in developing healthy alternatives for their children. As the numbers of children detained in adult facilities decreases, children will be safer, healthier, and treated more appropriately.

JAILING OF CHILDREN IN ALASKA - AN UNSOLVED PROBLEM
(Senate HESS Hearing, February 26, 1991)
Testimony in Support of Senate Bill 55

Thank you for the opportunity to speak this morning. My name is Marianne Mills and I am representing the Alaska Juvenile Justice Advisory Committee. The mission of the Committee is to advise the Governor and the Division of Family and Youth Services in an effort to strengthen and improve the child welfare and juvenile justice system in the state of Alaska. The most immediate challenge of the Committee is helping the State to end the destructive practice of detaining children in adult jails and lock-ups.

In Alaska, there is a historical and pervasive practice of confining children under conditions which violate both state and federal law, increasing the risk of harm and potentially violating the civil rights of children. Children in adult jails commit suicide eight times as often as children placed in separate juvenile detention centers. When a child is housed in an adult jail, rural lock-up or adult correctional facility, their risk of becoming depressed, suicidal, or chance of experiencing emotional, physical and sexual abuse increases significantly. Jail staff are seldom trained to handle the emotional and family problems of children in crisis. A child often leaves the jail damaged, angry, and educated in the ways of adult prisoners.

A number of recent cases have been brought before other state and federal courts on the jailing of children. In several of those cases the court has determined than an aggrieved individual has a private right to civil rights action for deprivation caused by a violation of the Juvenile Justice and Delinquency Prevention Act. Litigation against one or more municipal jail or rural lock-up and the State for failure to comply with the requirements of the JJDP Act is currently being considered by groups such as Alaska Legal Services Corporation and the American Civil Liberties Union.

WHAT HAS BEEN DONE ABOUT THIS PROBLEM?

Alaska has developed a network of secure regional juvenile detention facilities constructed and operated with state general funds. Five facilities are now in operation. They are located in Juneau, Fairbanks, Nome, Bethel, and Anchorage. These facilities were costly to build and are expensive to operate. It is not likely this network of juvenile detention facilities will be expanded in the foreseeable future.

Despite significant expenditures to build and operate separate juvenile detention centers, many Alaskan children continue to be jailed in adult facilities. While the

majority of the incidents have regularly taken place in only ten or twelve communities, there are over ninety communities with a jail or lock-up which may occasionally detain a juvenile. In many cases transporting the juvenile to a regional juvenile detention facility is not practical for the arresting law enforcement agency. In other cases, the detention of juveniles is a short term convenience but not a necessity to protect either the child or the public.

Construction of costly juvenile detention centers in every Alaska community with a history of jailing children is not a realistic solution to this problem. If Alaska is to stop putting its children in jails, other alternatives must be created. Beginning in 1988, the Division of Family and Youth Services began to develop and implement some creative and moderately priced solutions. Analysis of the data on juvenile confinement in adult facilities revealed that most children who are jailed could be safely placed in alternative facilities, if they were available. The attendant care shelter concept has been the most successful alternative used by other states. A child placed in an attendant care shelter is supervised on a one-to-one basis by a trained adult attendant until the child can be released to a parent or guardian, taken to court, or transported to a regional juvenile detention facility. Attendant care shelter sites are only operated on an as-needed basis with a roster of available on-call attendants. The site itself may be an administrative office, a room in a public building, a foster home, or an apartment, with access to a restroom and minimal accommodations.

Since 1988, twelve non-secure attendant care shelter sites have been established to serve the following 15 communities: Barrow, Juneau, Ketchikan, Kotzebue, Homer, Kenai, Kodiak, Petersburg, Seward, Sitka, Valdez, Wrangell, Fairbanks. These programs are funded by pass-thru grants using JJDP Act grant revenue. The average cost per program is $20,000 per year. The programs are operated by local governments, by non-profit social service agencies, and by native associations. DFYS expects to be able to fund programs in Cordova and Dillingham in the near future.

Few Alaskans have been aware of the pervasive problem of jailing Alaska's children. Many members of the juvenile justice system do not understand the legal implications of jailing children or the potential harm from that practice. Developing a more wide-spread awareness of the problem is critical to its eventual solution. In addition to establishing attendant care shelters, DFYS has sponsored workshops on juvenile jail removal attended by law enforcement representatives, attendant care shelter grantees, DFYS staff, and members of the Alaska Juvenile Justice Advisory Committee. Following the workshops, several local law enforcement agencies discontinued the

practice of detaining children in their local jails.

In addition to the workshops, DFYS, with the help of the advisory committee, has been educating Alaskan communities on the problem since 1989. The multi-media campaign separately targets juvenile justice system participants, community leaders, and the general public. The information encourages communities to contact DFYS for ways to get involved in developing alternatives to the practice of using adult jails for children.

WHAT PROGRESS HAS BEEN MADE IN ENDING THE PRACTICE?

In 1987, Alaska reported over 800 jail and lock-up removal violations (in other words, the number of children who were confined in adult facilities). In 1988, Alaska began receiving $325,000 each year from the Office of Juvenile Justice and Delinquency Prevention to use toward stopping the practice of locking children in adult jails. Since DFYS began using the grant monies to develop alternatives, the number of violations was cut in half--only 409 children were jailed, compared to 864 the previous year. DFYS assisted additional communities in developing attendant care shelter programs. In 1989, the number of violations was again cut in half (249 children). However, in 1990, the number of violations remains at about the same level. Although the number of violations dropped from 800 to 200, the fact that 200 children are held illegally in adult jails is still unsatisfactory to not only the Office of Juvenile Justice and Delinquency Prevention, but to anyone who care about Alaska's children.

WHAT SHOULD BE DONE NEXT TO ELIMINATE THE PROBLEM?

Successfully resolving the inappropriate confinement of children is beyond the capability of a single state agency such as the Division of Family and Youth Services. Other state agencies as well as local communities must share in the resolution. Several communities such as Wrangell and Petersburg have stepped forward to develop local alternatives with the combination of local and OJJDP monies. The attendant care shelter model is extremely successful and DFYS is available and more than willing to provide technical assistance to communities. It seems that, as far as voluntary compliance with the juvenile jail removal mandate, the State has gone as far as it can go. We must send a strong message to communities that they need to develop alternatives now to end the practice of jailing children, their children. Senate Bill 55, introduced by Senator Duncan, will do just that. The Bill clearly mandates that a minor may not be incarcerated in an adult correctional facility. It includes minor exceptions to this rule which make the act feasible while remaining consistent with the requirements of the Juvenile Justice and Delinquency Prevention Act.

WHY WE NEED SB 55 NOW

The Office of Juvenile Justice and Delinquency Prevention has given the State of Alaska until September of this year to prove that it is committed to ending the practice of jailing children in adult facilities. Senate Bill 55, if passed, would clearly demonstrate to the OJJDP Alaska's committment. In turn, we will continue to receive $325,000 each year to assist us in maintaining and developing attendant care shelters and other alternatives. IF WE DO NOT PASS SB 55 AND ARE CUT OFF FROM THE OJJDP MONIES, WE WILL NO LONGER BE ABLE TO FUND THESE ALTERNATIVES. OUR YEARS OF WORK AND PROGRESS WILL BE LOST AND AN INCREASING NUMBER OF CHILDREN WILL BE LOCKED UP IN ADULT JAILS. The shelters will close, the training and technical assistance to communities will stop. As children are raped, abused, murdered, or as they commit suicide, the State and the communities will run an increasing risk of civil suits.

Senate Bill 55 presents us with a win-win scenario. It will allow the State to finally end the destructive practice of jailing children in adult facilities. It will bring in $325,000 to the State each year to assist in developing alternatives. It will cost the State absolutely nothing if Senate Bill 55 passes. If it does not pass, we will lose $325,000 each year and the progress we've made in combatting the problem. Senate Bill 55 will encourage communities to develop alternatives which fit them best. With assistance from DFYS, they will implement programs which will protect their children. As the numbers of children detained in adult facilities decreases, children will be safer and treated with the care and discipline which they desperately need. For the lives of Alaskan children, please give your support to Senate Bill 55. Thank you for your time.

Marianne Mills, Member
Alaska Juvenile Justice Advisory Committee
Home Telephone: 586-3204

2806 John Street #2
Juneau, Alaska 99801
(907) 586-3204

Senator Arliss Sturgulewski
Alaska State Capital, Room 427
Juneau, Alaska

February 8, 1991

Dear Senator Sturgulewsi:

On behalf of the Alaska Juvenile Justice Advisory Committee (AJJAC), I am asking your support of Senate Bill 55, relating to the detention and incarceration of minors. The purpose of the act is to end the practice of holding children in adult correctional facilities, jails, and lock-ups. As one of the Governor's Boards and Commissions, the AJJAC's mission is to be a catalyst in the prevention and reduction of child abuse and neglect and juvenile delinquency in Alaska.

The most pressing problem faced by the AJJAC is the routine jailing of children in adult facilities. This practice violates the mandates of the federal Juvenile Justice and Delinquency Prevention Act as well as the civil rights of the children. If we do not comply with the juvenile jail removal mandate (keeping children out of adult facilities), our State and its taxpayers are subject to civil law suits, losing our Federal Formula Grant monies ($325,000 per year), and paying back past Federal grant monies.

But more importantly, the lives of Alaskan children are at stake. Children in adult jails commit suicide eight times as often as children in juvenile detention centers. Children have been beaten, raped, and murdered in local jails. Children in jails are routinely and illegally exposed to frequent contact with adult inmates. These children rarely receive schooling, exercise, recreation, or the special care needed to deal with emotional and family problems.

We need your help. The members of the Alaska Juvenile Justice Advisory Committee look forward to working with you toward the improvement of conditions for Alaska's children. We hope you will urge the passage of Senate Bill 55, on behalf of all Alaskans as well as the children. Thank you for your time and thoughtful consideration of this pressing issue.

Sincerely,

Marianne Mills

Marianne Mills
Member
Alaska Juvenile Justice
Advisory Committee

2806 John St. #2
Juneau, AK 99801
(daytime)586-6231

Senator Jim Duncan
P.O. Box V
Juneau, AK 99811

November 20, 1990

Dear Senator Duncan:

Each year in Alaska, hundreds of children are illegally confined in adult jails or lock-up facilities. In addition to the threat of mental and physical harm to the children, this practice is in violation of the federal Juvenile Justice and Delinquency Prevention Act. Until compliance with the "jail removal" mandate of the Act is achieved, the State of Alaska risks losing federal formula grant monies ($325,000 each year), the repayment of past grant monies, and litigation for violating the civil rights of children.

In a recent candidate questionnaire designed by the Alaska Juvenile Justice Advisory Committee (AJJAC), most respondents stated a clear opposition to the practice of holding juvenile offenders in adult jails. Your response indicated that you feel the practice is inappropriate and you suggested attendant care shelters as a viable alternative. The members of the AJJAC are in agreement with you and would like your assistance through the drafting of a "juvenile jail removal" bill.

To bring Alaska into compliance with the JJDP Act, I would like to ask that the existing statute (AS 47.10.130) be amended to read:

"No minor under the age of 18 years of age will be incarcerated in an adult jail or correctional facility except that:

a)the detention of accused delinquent minors for up to six hours pending transportation to a juvenile detention facility may be permitted; or

b)the detention of minors upon waiver of jurisdiction who are being prosecuted as an adult under AS 47.10.060 may be permitted.

Minors detained under this section will be assigned to separate quarters so that the minor cannot at any time communicate with or view adult prisoners convicted of, under arrest for, or charged with a crime. When a minor is detained, the minor's parent, guardian, or custodian shall be notified immediately."

AS 47.10.190 will also need to be amended to read:

"When the court commits a minor to the custody of the

department, the department shall arrange to place the juvenile in a detention home, facility, or other suitable place which the department designates for that purpose. A juvenile detained in a jail or similar institution under the provisions of AS 47.10.130 (as amended) shall be provided services for admission, health, hygiene, housing, food, recreation, and visitation that are separate in sight and sound contact from all adult offenders."

Thank you very much for your consideration of my request. Toward the well-being of Alaska's children, financial and legal status, I look forward to the introduction of a bill to put an end to the destructive practice of jailing juvenile offenders. Please feel free to contact me if you should need any assistance in this matter.

Sincerely,

Marianne Mills, MSW, MBA

Marianne Mills, MSW, MBA
AJJAC Member

SB 55

Marianne Mills

JAILING OF CHILDREN IN ALASKA:
THERE ARE ALTERNATIVES!

**As recently as 1987, over eight hundred (800) children continued to be detained in municipal adult jails and rural lockups throughout Alaska. Most of these juveniles were detained following their arrest for minor crimes and status offenses.Analysis of the data on juvenile confinement in adult facilities revealed that most children who are jailed could be safely placed in alternative facilities, if they were available. The attendant care shelter concept has been the most successful alternative used by other states.

**Since 1988, non-secure attendant care shelter sites have been established to serve 15 communities throughout Alaska. Since 1987, the number of children illegally detained has dropped from over 800 to around 250. The majority of the incidents occurred regularly in only ten or twelve communities and most of these communities have since established attendant care shelter programs.

**There are over ninety (90) communities with a jail or lockup which may occasionally detain a juvenile. In most of these communities, only one or two juveniles (on the average) are detained each year. Alternatives need to be available for those rare circumstances. A variety of alternatives, many cheaper to run and easier to implement than the attendant care shelters, are able to meet the need. Each community needs to develop its own unique, appropriate and practical solution to the problem.

**The six-hour requirement (as the maximum time for detaining a child in an adult jail) is irrelevant if the community has an alternative to use; the community which decides to establish an alternative will not be concerned with the six-hour limit--they will not detain children in adult jails for even six minutes! Instead of taking the child to an adult jail, the child can stay in a shelter, with a foster parent, in a safe home, or any other easy-to-implement arrangement which the community determines will fit them best.

Submitted 3/8/91 by the Alaska Juvenile Justice Advisory Committee

Alaska State Legislature

SENATOR
ARLISS STURGULEWSKI

311 C STREET, SUITE 550
ANCHORAGE, ALASKA 99503
(907) 561-7615

While in Juneau
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3818

Senate

March 13, 1991

Mary Stachelrodt
HC01 Box 6217A
Palmer, Alaska 99645

Dear Mary:

Thank you for your message in support on SB 55 relating to incarceration of minors in adult institutions. As chairman of the Senate Health, Education and Social Services Committee, I scheduled SB 55 for a committee hearing on March 8. Senate Bill 55 passed out of the HESS committee with a unanimous "do pass" recommendation by committee members.

Senate Bill 55 is now in the Senate Judiciary Committee. I would encourage you to let the members of that committee know of your support for the bill. The members are Senators Halford, Chairman, Rodey, Adams, Collins and Frank.

Again, thank you for contacting me regarding this legislation.

Sincerely yours,

Arliss Sturgulewski
Alaska State Senator

PUBLIC OPINION MESSAGE

DEAR: SENATOR STURGULEWSKI

NAME: COLLEEN RAY
TITLE:
ADDRESS: 1101 W. 7TH AVENUE
CITY: ANCHORAGE ZIP: 99501
PHONE: 274-8664
BILL NO: SB 55
SUBJECT: INCARCERATION OF MINORS IN ADULT INST.
MESSAGE: I WANT YOU TO SUPPORT SB 55 TO IMPROVE THE JUVENILE JUSTICE SYSTEM BY PREVENTING THE LOCK-UP OF JUVENILES IN ADULT JAILS. /CMR

POMID: 03155332
DATE: 91/02/25
TIME: 15:53:32
LIONAME: ANCHORAGE LIO

COPIES: SENATORS

FISCHER
COTTEN
HOFFMAN
MENARD

HESS
3/11
4 DP
In Judiciary

PUBLIC OPINION MESSAGE

DEAR: SENATOR STURGULEWSKI

NAME: MARY STACHELRODT, VICE CHAIR
TITLE: ALASKA JUVENILE JUSTICE ADVISORY CMTE
ADDRESS: HC01 BOX 6217A
CITY: PALMER ZIP: 99645
PHONE: 745-8152
BILL NO: SB 55
SUBJECT: INCARCERATION OF MINORS IN ADULT INST.
MESSAGE: I URGE YOUR SUPPORT FOR THE PASSAGE OF THIS BILL. IT WILL HELP TO EN THE DESTRUCTIVE PRACTICE OF LOCKING YOUTH IN ADULT JAILS. IT IS NOT ONLY ILLEGAL BUT IS DETRIMENTAL TO YOUTH'S PHYSICAL AND EMOTIONAL HEALTH AND WELL-BEING. FOR ALL OF ALASKA'S CHILDREN, PLEASE SUPPORT SB55.

POMID: 14154948
DATE: 91/02/25
TIME: 15:49:48
LIONAME: MAT-SU LIO

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PUBLIC OPINION MESSAGE

DEAR: SENATOR STURGULEWSKI

NAME: CHRISTINE SMITH
TITLE:
ADDRESS: 1506 3RD AVE.
CITY: FAIRBANKS ZIP: 99701
PHONE: N/R-
BILL NO: SB 55
SUBJECT: DETENTION AND INCARCERATION OF MINORS
MESSAGE: PLEASE SUPPORT SENATE BILL 55. THE BILL WILL IMPROVE THE STATE'S JUVENILE JUSTICE SYSTEM BY ENDING THE DESTRUCTIVE PRACTICE OF LOCKING UP CHILDREN IN ADULT JAILS. THE PRACTICE IS NOT ONLY ILLEGAL, IT THREATENS THE LIVES OF ALAS KAN CHILDREN, BOTH MENTALLY AND PHYSICALLY. THANK YOUEOM/MW

POMID: 07135901
DATE: 91/02/25
TIME: 13:59:01
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PUBLIC OPINION MESSAGE

DEAR: SENATOR STURGULEWSKI

NAME: ROBERTA CARNAHAN
TITLE:
ADDRESS: 2223 JACK STREET
CITY: FAIRBANKS ZIP: 99709
PHONE: 452-7917
BILL NO: SB 55
SUBJECT: INCARCERATION OF MINORS IN ADULT INST.
MESSAGE: I AM GOING TO ASK YOU TO SUPPORT SB 55 RELATING TO THE DETENTION AND INCARCERATION OF MINORS. THIS BILL WILL DRAMATICALLY IMPROVE THE STATE'S JUVENILE JUSTICE SYSTEM BY ENDING THE PRACTICE OF LOCKING UP YOUTH IN ADULT JAILS. THIS PRACTICE IS NOT ONLY ILLEGAL BUT IT IS DETRIMENTAL TO THE YOUTH'S PHYSICAL AND EMOTIONAL WELL-BEING. FOR ALASKA'S CHILDREN - PLEASE SUPPORT SB 55. EOM/MJO

POMID: 07152715
DATE: 91/02/25
TIME: 15:27:15
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DEPARTMENT OF JUSTICE

OFFICE OF JUVENILE JUSTICE AND
DELINQUENCY PREVENTION

28 CFR PART 31

FORMULA GRANTS FOR JUVENILE JUSTICE

FEDERAL REGISTER JUNE 20, 1985,
AS AMENDED AUGUST 8, 1989

Typed from copy:
Federal Register, June 20, 1985
as amended August 8, 1989

PART 31--FORMULA GRANTS

Subpart A--General Provisions

Subpart B--Eligible Applicants

Subpart C--General Requirements

Subpart D--Juvenile Justice Act Requirements

Subpart E--General Conditions and Assurances

Authority: Juvenile Justice and Delinquency Prevention Act of 1974, as amended (42 U.S.C. 5601 et seq.).

Subpart A--General Provisions

§31.1 General.

This part defines eligibility and sets forth requirements for application for and administration of formula grants to State governments authorized by Part B, Subpart I, of the Juvenile Justice and Delinquency Prevention Act.

§31.2 Statutory authority.

The Statute establishing the Office of Juvenile Justice and Delinquency Prevention and giving authority to make grants for juvenile justice and delinquency prevention improvement programs is the *Juvenile Justice and Delinquency Prevention Act of 1974*, as amended (42 U.S.C. 5601 et seq.).

Typed from copy:
Federal Register, June 20, 1985
as amended August 8, 1989

§31.1 Submission date.

Formula Grant Applications for each Fiscal Year should be submitted to OJJDP by August 1st (60 days prior to the beginning of the fiscal year) or within 60 days after the States are officially notified of the fiscal year formula grant allocations.

Subpart B--Eligible Applicants

§31.100 Eligibility.

All States as defined by section 103(7) of the JJDP Act.

§31.101 Designation of State agency.

The Chief Executive of each State which chooses to apply for a formula grant shall establish or designate a State agency as the sole agency for supervising the preparation and administration of the plan. The plan must demonstrate compliance with administrative and supervisory board membership requirements established by the OJJDP Administrator pursuant to Section 291(c) of the JJDP Act. States must have available for review a copy of the State law or executive order establishing the State agency and its authority.

§31.102 State agency structure.

The State agency may be a discrete unit of State government or a division or other component of an existing State crime commission, planning agency or other appropriate unit of State government. Details of organization and structure are matters of State discretion, provided that the agency: (a) is a definable entity in the executive branch with the requisite authority to carry out the responsibilities imposed by the JJDP Act; (b) has a supervisory board (i.e., a board of directors, commission, committee, council, or other policy board) which has responsibility for supervising the preparation and administration of the plan and its implementation; and (c) has sufficient staff and staff capability to carry out the board's policies and the agency's duties and responsibilities to administer the program, develop the plan, process applications, administer grants awarded under the plan, monitor and evaluate programs and projects, provide administration/support services, and perform such accountability functions as are necessary to the administration of Federal funds, such as grant close-out and audit of subgrant and contract funds.

§31.103 Membership of Supervisory Board.

The State advisory group appointed under section 223(a)(3) may operate as the supervisory board for the State agency, at the discretion of the Governor. Where, however, a State has continuously maintained a broad-based law enforcement and criminal justice supervisory board (council) meeting all the requirements of section 402(b)(2) of the Justice System Improvement Act of 1979, and wishes to maintain such a board, such composition shall continue to be acceptable provided that the board's membership includes the chairman and at least two additional citizen members of the State advisory group. For purposes of this requirement a citizen member is defined as any person who is not a full-time government employee or elected official. Any executive committee of such a board must include the same proportion of juvenile justice advisory group members as are included in the total board membership. Any other proposed supervisory board membership is subject to case by case review and approval of the OJJDP Administrator and will require, at a minimum, "balanced representation" of juvenile justice interests.

Subpart C--General Requirements

§31.200 General.

This subpart sets forth general requirements applicable to formula grant recipients under the JJDP Act of 1974, as amended. Applicants must assure compliance or submit necessary information on these requirements.

§31.201 Audit.

The State must assure that it adheres to the audit requirements enumerated in the "Financial and Administrative Guide for Grants", Guide Manual 7100.1 (current edition). Chapter 8 of the Manual contains a comprehensive statement of audit policies and requirements relative to grantees and subgrantees.

§31.202 Civil Rights.

(a) To carry out the State's Federal civil rights responsibilities the plan must:

(1) Designate a civil rights contact person who has lead responsibility in insuring that all applicable civil rights requirements, assurances, and conditions are met and who shall act as liaison in all civil rights matters with OJJDP and the OJP Office of Civil Rights Compliance (OCRC); and

(2) Provide the Council's Equal Employment Opportunity Program (EEOP), if required to maintain one under 28 CFR 42.301, *et seq.*, where the application is for $500,000 or more.

(b) The application must provide assurance that the State will:

(1) Require that every applicant required to formulate an EEOP in accordance with 28 CFR 42.201 et seq., submit a certification to the State that it has a current EEOP on file, which meets the requirement therein;

(2) Require that every criminal or juvenile justice agency applying for a grant of $500,000 or more submit a copy of its EEOP (if required to maintain one under 28 CFR 42.301, et seq.) to OCRC at the time it submits its application to the State;

(3) Inform the public and subgrantees of affected persons' rights to file a complaint of discrimination with OCRC for investigation;

(4) Cooperate with OCRC during compliance reviews of recipients located within the State; and

(5) Comply, and that its subgrantees and contractors will comply with the requirement that, in the event that a Federal or State court or administrative agency makes a finding of discrimination of the basis of race, color, religion, national origin, or sex (after a due process hearing) against a State or a subgrantee or contractor, the affected recipient or contractor will forward a copy of the finding to OCRC.

§31.203 Open meetings and public access to records.

The State must assure that the State agency and its supervisory board established pursuant to section 291(c)(1) and the State advisory group established pursuant to section 223(a)(3) will follow applicable State open meeting and public access laws and regulations in the conduct of meetings and the maintenance of records relating to their functions.

Subpart D--Juvenile Justice Act Requirements

§31.300 General.

This subpart sets forth specific JJDP Act requirements for application and receipt of formula grants.

§31.301 Funding.

(a) *Allocation to States.* Each state receives a base allocation of $325,000, and each territory receives a base allocation of $75,000 when the title II appropriation is less than $75 million (other than part D). When the title II appropriation equals or exceeds $75 million (other than part D),

each state receives a base allocation of $400,000, and each territory receives a base allocation of $100,000. To the extent necessary, each state and territory's base allocation will be reduced proportionately to ensure that no state receives less than it was allocated in Fiscal Year 1988.

(b) *Funds for Local Use.* At least two-thirds of the formula grant application to the state (other than the section 222(d) State Advisory Group set aside) must be used for programs by local government, local private agencies, and eligible Indian tribes, unless the State applies for and is granted a waiver by the OJJDP. The proportion of pass-through funds to be made available to eligible Indian tribes shall be based upon that proportion of the state youth population under 18 years of age who reside in geographical areas where the tribes perform law enforcement functions. Pursuant to section 223(a)(5)(C) of the JJDP Act, each of the standards set forth in paragraphs (b)(1)(i) through (iii) of this section must be met in order to establish the eligibility of Indian tribes to receive pass through funds:

(1) (i) The tribal entity must be recognized by the Secretary of the Interior as an Indian tribe that performs law enforcement functions as defined in paragraph (b)(2) of this section.

(ii) The tribal entity must agree to attempt to comply with the requirements of section 223(a)(12)(A), (13), and (14) of the JJDP Act; and

(iii) The tribal entity must identify the juvenile justice needs to be served by these funds within the geographical area where the tribe performs law enforcement functions.

(2) "Law enforcement functions" are deemed to include those activities pertaining to the custody of children, including, but not limited to, police efforts to prevent, control, or reduce crime and delinquency or to apprehend criminal and delinquent offenders, and/or activities of adult and juvenile corrections, probation, or parole authorities.

(3) To carry out this requirement, OJJDP will annually provide each state with the most recent Bureau of Census statistics on the number of persons under age 18 living within the state, and the number of persons under age 18 who reside in geographical areas where Indian tribes perform law enforcement functions.

(4) Pass-through funds available to tribal entities under section 223(a)(5)(C) shall be made available within states to Indian tribes, combinations of Indian tribes, or to an organization or organizations designated by such tribe(s), that meet the standards set forth in paragraphs (b)(1)(i)-(iii) of this section. Where the relative number of persons under age 18 within a geographic area where an Indian tribe performs law enforcement functions is too small to warrant an individual subgrant to subgrants, the state may, after consultation with the eligible tribe(s), make pass-through funds available to a combination of eligible tribes within the state, or to an organization or organizations designated by and representing a group of qualifying tribes, or target the funds on the larger tribal jurisdictions within the state.

(5) Consistent with section 223(a)(4) of the JJDP Act, the state must provide for consultation with Indian tribes or a combination of eligible tribes within the state, or an organization or organizations designated by qualifying tribes, in the development of a state plan which adequately takes into account the juvenile justice needs and requests of those Indian tribes within the state.

(c) *Match.* Formula grants under the JJDP Act shall be 100% of approved costs, with the exception of planning and administration funds, which require a 100% cash match (dollar for dollar), and construction projects funded under section 294(a)(2) which also require a 100% cash match.

(d) *Funds for Administration.* Not more than 7.5% of the total annual formula grant award may be utilized to develop the annual juvenile justice plan and pay for administrative expenses, including project monitoring evaluation. These funds are to be matched on a dollar for dollar basis. The State shall make available needed funds for planning and administration to units of local

government or combinations on an equitable basis. Each annual application must identify uses of such funds.

(e) *Nonparticipating States.* Pursuant to section 223(d), the OJJDP Administrator shall endeavor to make the fund allotment under section 222(a), of a State which chooses not to participate or loses its eligibility to participate in the formula grant program, directly available to local public and private nonprofit agencies within the nonparticipating State. The funds may be used only for the purpose(s) of achieving deinstitutionalization of status offenders and nonoffenders, separation of juveniles from incarcerated adults, and/or removal of juveniles from adult jails and lockups. Absent the demonstration of compelling circumstances justifying the reallocation of formula grant funds back to the State to which the funds were initially allocated, or the pendency of administrative hearing proceedings under section 223(d), formula grant funds will be reallocated on October 1 following the fiscal year for which the funds were appropriated. Reallocated funds will be competitively awarded to eligible recipients pursuant to program announcements published in the **Federal Register**.

§31.302 Applicant State agency.

(a) Pursuant to section 223(a)(1), section 223(a)(2) and section 291(c) of the JJDP Act, the State must assure that the State agency approved under Section 291(c) has been designated as the sole agency for supervising the preparation and administration of the plan and has the authority to implement the plan.

(b) *Advisory Group.* Pursuant to section 223(a)(3) of the JJDP Act, the Chief Executive:

(1) Shall establish an advisory group pursuant to section 223(a)(3) of the JJDP Act. The State shall provide a list of all current advisory group members, indicating their respective dates of appointment and how each member meets the membership requirements specified in this section of the Act.

(2) Should consider, in meeting the statutory membership requirements of section 223(a)(3)(A) to (E), appointing at least one member who represents each of the following: A law enforcement officer such as a police officer; a juvenile or family court judge; a probation officer; a corrections official; a prosecutor; a representative from an organization, such as a parents group, concerned with teenage drug and alcohol abuse; and a high school principal.

(c) The State shall assure that it complies with the Advisory Group financial support requirement of section 222(d) and the composition and function requirements of section 223(a)(3) of the JJDP Act.

§31.303 Substantive Requirements.

(a) *Assurances.* The State must certify through the provision of assurances that it has complied and will comply (as appropriate) with section 223(a)(4), (5), (6), (7), (8)(C), (9), (10), (11), (16), (17), (18), (19), (20), and (21), and section 229 and 291(d), in formulating and implementing the state plan. The Formula Grant Application Kit can be used as a reference in providing these assurances.

(b) *Serious Juvenile Offender Emphasis.* Pursuant to sections 101(a)(8) and 223(a)(10) of the JJDP Act, the Office encourages States that have identified serious and violent juvenile offenders as a priority problem to allocate formula grant funds to programs designed for serious and violent juvenile offenders at a level consistent with the extent of the problem as identified through the State planning process. Particular attention should be given to improving prosecution, sentencing procedures, providing resources necessary for informed dispositions, providing for effective rehabilitation, and facilitating the coordination of services between the juvenile justice and criminal justice systems.

(c) *Deinstitutionalization of Status Offender and Non-Offenders.* Pursuant to section 223(a)(12)(A) of the JJDP Act, the State shall:

(1) Describe its plan, procedure, and timetable covering the three-year planning cycle, for assuring that the requirements of this section are met. Refer to §31.303(f)(3) for the rules related to the valid court order exception to this Act requirement.

(2) Describe the barriers the State faces in achieving full compliance with the provisions of this requirement.

(3) For those States that have achieved "substantial compliance", as outlined in section 223(c) of the Act, document the unequivocal commitment to achieving full compliance.

(4) Those States which, based upon the most recently submitted monitoring report, have been found to be in full compliance with section 223(a)(12)(A) may, in lieu of addressing paragraphs (c)(1), (2), and (3) of this section, provide an assurance that adequate plans and resources are available to maintain full compliance.

(5) Submit the report required under section 223(a)(12)(B) of the Act as part of the annual monitoring report required by section 223(a)(15) of the Act.

(d) *Contact with Incarcerated Adults.*

(1) Pursuant to section 223(a)(13) of the JJDP Act the State shall:

(i) Describe its plan and procedure, covering the three-year planning cycle, for assuring that the requirements of this section are met. The term *regular contact* is defined as sight and sound contact with incarcerated adults, including inmate trustees. This prohibition seeks as complete a separation as possible and permits no more than haphazard or accidental contact between juveniles and incarcerated adults. In addition, include a timetable for compliance and justify any deviation from a previously approved timetable.

(ii) In those isolated instances where juvenile criminal-type offenders remain confined in adult facilities or facilities in which adults are confined, the State must set forth the procedures for assuring no regular sight and sound contact between such juveniles and adults.

(iii) Describe the barriers which may hinder the separation of alleged or adjudicated criminal-type offenders, status offenders and non-offenders from incarcerated adults in any particular jail, lockup, detention or correctional facility.

(iv) Those States which, based upon the most recently submitted monitoring report, have been found to be in compliance with section 223(a)(13) may, in lieu of addressing paragraphs (d)(i), (ii), and (iii) of this section, provide an assurance that adequate plans and resources are available to maintain compliance.

(v) Assure that adjudicated offenders are not reclassified administratively and transferred to an adult (criminal) correctional authority to avoid the intent of segregating adults and juveniles in correctional facilities. This does not prohibit or restrict waiver of juveniles to criminal court for prosecution, according to State law. It does, however, preclude a State from administratively transferring a juvenile offender to an adult correctional authority or a transfer within a mixed juvenile and adult facility for placement with adult criminals either before or after a juvenile reaches the statutory age of majority. It also precludes a State from transferring adult offenders to juvenile correctional authority for placement.

(2) *Implementation.* The requirement of this provision is to be planned and implemented immediately by each State in light of identified constraints on immediate implementation. Immediate compliance is required where no constraints exist. Where constraints exist, the designated date of compliance in the latest approved plan is the compliance deadline. Those States not in compliance must show annual progress toward achieving compliance until compliance is reached.

(e) *Removal of Juveniles From Adult Jails and Lockups.* Pursuant to section 223(a)(14) of the JJDP Act, the State shall:

(1) Describe its plan, procedure, and timetable for assuring that requirements of this section will be met beginning after December 8, 1985. Refer to §31.303(f)(4) to determine the regulatory exception to this requirement.

(2) Describe the barriers which the State faces in removing all juveniles from adult jails and lockups. This requirement excepts only those juveniles formally waived or transferred to criminal court and against whom criminal felony charges have been filed, or juveniles over whom a criminal court has original or concurrent jurisdiction and such court's jurisdiction has been invoked through the filing of criminal felony charges.

(3) (i) Determine whether or not a facility in which juveniles are detained or confined is an adult jail or lockup. In circumstances where the juvenile and adult facilities are located in the same building or on the same grounds, each of the following four requirements initially set forth in the January 17, 1984 **Federal Register** (49 FR 2054-2055) must be met in order to ensure the requisite separateness of the two facilities. The requirements are:

(A) Total separation between juvenile and adult facility spatial areas such that there could be no haphazard or accidental contact between juvenile and adult residents in the respective facilities.

(B) Total separation in all juvenile and adult program activities within the facilities, including recreation, education, counseling, health care, dining, sleeping, and general living activities.

(C) Separate juvenile and adult staff, including management, security staff, and direct care staff such as recreation, education, and counseling. Specialized services staff, such as cooks, bookkeepers, and medical professionals who are not normally in contact with detainees or whose infrequent contacts occur under conditions of separation of juvenile and adults, can serve both.

(D) In States that have established State standards or licensing requirements for secure juvenile detention facilities, the juvenile facility meets the standards and is licensed as appropriate.

(ii) The State must initially determine that the four requirements are fully met. Upon such determination, the State must submit to OJJDP a request to concur with the State finding that a separate juvenile facility exists. To enable OJJDP to assess the separateness of the two facilities, sufficient documentation must accompany the request to demonstrate that each requirement is met.

(4) For those States that have achieved "substantial compliance" with section 223(a)(14) as specified in section 223(c) of the Act, document the unequivocal commitment to achieving full compliance.

(5) Those States which, based upon the most recently submitted monitoring report, have been found to be in full compliance with section 223(a)(14) may, in lieu of addressing paragraphs

(e)(1), (2), and (4) of this Section, provide an assurance that adequate plans and resources are available to maintain full compliance.

(f) *Monitoring of Jails, Detention Facilities and Correctional Facilities.*

(1) Pursuant to section 223(a)(15) of the JJDP Act, and except as provided by paragraph (f)(7) of this section, the State shall:

(i) Describe its plan, procedure, and timetable for annually monitoring jails, lockups, detention facilities, correctional facilities and non-secure facilities. The plan must at a minimum describe in detail each of the following tasks including the identification of the specific agency(s) responsible for each task.

(A) *Identification of Monitoring Universe:* This refers to the identification of all residential facilities which might hold juveniles pursuant to public authority and thus must be classified to determine if it should be included in the monitoring effort. This includes those facilities owned or operated by public and private agencies.

(B) *Classification of the Monitoring Universe:* This is the classification of all facilities to determine which ones should be considered as a secure detention or correctional facility, adult correctional institution, jail, lockup, or other type of secure or nonsecure facility.

(C) *Inspection of facilities:* Inspection of facilities is necessary to ensure an accurate assessment of each facility's classification and record keeping. The inspection must include: (1) A review of the physical accommodations to determine whether it is a secure or non-secure facility or whether adequate sight and sound separation between juvenile and adult offenders exists *and* (2) a review of the record keeping system to determine whether sufficient data are maintained to determine compliance with section 223(a)(12), (13) and/or (14).

(D) *Data Collection and Data Verification:* This is the actual collection and reporting of data to determine whether the facility is in compliance with the applicable requirement(s) of section 223(a)(12), (13) and/or (14) The length of the reporting period should be 12 months of data, but in no case less than 6 months. If the data is self-reported by the facility or is collected and reported by an agency other than the State agency designated pursuant to section 223(a)(1) of the JJDP Act, the plan must describe a statistically valid procedure used to verify the reported data.

(ii) Provide a description of the barriers which the State faces in implementing and maintaining a monitoring system to report the level of compliance with section 223(a)(12), (13), and (14) and how it plans to overcome such barriers.

(iii) Describe procedures established for receiving, investigating, and reporting complaints of violation of section 223(a)(12), (13), and (14). This should include both legislative and administrative procedures and sanctions.

(2) For the purpose of monitoring for compliance with section 223(a)(12)(A) of the Act a secure detention or correctional facility is any secure public or private facility used for the lawful custody of *accused* or adjudicated juvenile offenders or non-offenders, *or* used for the lawful custody of accused or convicted adult criminal offenders.

(3) *Valid Court Order.* For the purpose of determining whether a valid court order exists and a juvenile has been found to be in violation of that valid order all of the following conditions must be present prior to secure incarceration:

(i) The juvenile must have been brought into a court of competent jurisdiction and made subject to an order issued pursuant to proper authority. The order must be one which regulates future conduct of the juvenile.

(ii) The court must have entered a judgment and/or remedy in accord with established legal principles based on the facts after a hearing which observes proper procedures.

(iii) The juvenile in question must have received adequate and fair warning of the consequences of violation of the order at the time it was issued and such warning must be provided to the juvenile and to the juvenile's attorney and/or legal guardian in writing and be reflected in the court record and proceedings.

(iv) All judicial proceedings related to an alleged violation of a valid court order must be held before a court of competent jurisdiction. A juvenile accused of violating a valid court order may be held in secure detention beyond the 24-hour grace period permitted for a noncriminal juvenile offender under OJJDP monitoring policy, for protective purposes as prescribed by State law, or to assure the juvenile's appearance at the violation hearing, as provided by State law, if there has been a judicial determination based on a hearing during the 24-hour grace period that there is probable cause to believe the juvenile violated the court order. In such case the juveniles may be held pending a violation hearing for such period of time as is provided by State law, but in no event should detention prior to a violation hearing exceed 72 hours exclusive of nonjudicial days. A juvenile found in a violation hearing to have violated a court order may be held in a secure detention or correctional facility.

(v) Prior to and during the violation hearing the following full due process rights must be provided:

(A) The right to have the charges against the juvenile in writing served upon him a reasonable time before the hearing;

(B) The right to a hearing before a court;

(C) The right to an explanation of the nature and consequences of the proceeding;

(D) The right to legal counsel, and the right to have such counsel appointed by the court if indigent;

(E) The right to confront witnesses;

(F) The right to present witnesses;

(G) The right to have a transcript or record of the proceedings;

(H) The right of appeal to an appropriate court.

(vi) In entering any order that directs or authorizes disposition of placement in a secure facility, the judge presiding over an initial probable cause hearing or violation hearing must determine that all the elements of a valid court order (paragraphs (f)(3)(i), (ii) and (iii) of this section) and the applicable due process rights (paragraph (f)(3)(v) of this section) were afforded the juvenile and, in the case of a violation hearing, the judge must determine that there is no less restrictive alternative appropriate to the needs of the juvenile and the community.

(vii) A non-offender such as a dependent or neglected child cannot be placed in secure detention or correctional facilities for violating a valid court order.

(4) *Removal Exception (Section 223(a)(14))*. The following conditions must be met in order for an accused juvenile criminal-type offender, awaiting an initial court appearance, to be detained up to 24 hours (excluding weekends and holidays) in an adult jail or lockup:

(i) The State must have an enforceable State law requiring an initial court appearance within 24 hours after being taken into custody (excluding weekends and holidays);

(ii) The geographic area having jurisdiction over the juvenile is outside a metropolitan statistical area pursuant to the Bureau of Census' current designation;

(iii) A determination must be made that there is no existing acceptable alternative placement for the juvenile pursuant to criteria developed by the State and approved by OJJDP;

(iv) The adult jail or lockup must have been certified by the State to provide for the sight and sound separation of juveniles and incarcerated adults; and

(v) The State must provide documentation that the conditions in paragraphs (f)(4)(i) through (iv) of this Section have been met and received prior approval from OJJDP. In addition, OJJDP strongly recommends that jails and lockups which incarcerate juveniles pursuant to this exception be required to provide continuous visual supervision of juveniles incarcerated pursuant to this exception.

(vi) Pursuant to section 223(a)(14) of the JJDP Act, the non-MSA (low population density) exception to the jail and lockup removal requirement described in paragraphs (f)(4)(i) through (v) of this section shall remain in effect through 1993.

(5) *Reporting Requirement*. The State shall report annually to the Administrator of OJJDP on the results of monitoring for section 223(a)(12), (13), and (14) of the JJDP Act. The reporting period should provide 12 months of data, but shall not be less than 6 months. Three copies of the report shall be submitted to the Administrator of OJJDP no later than December 31 of each year.

(i) To demonstrate the extent of compliance with section 223(a)(12)(A) of the JJDP Act, the report must at least include the following information for both the baseline and the current reporting periods.

(A) Dates of baseline and current reporting period.

(B) Total number of public and private secure detention and correctional facilities AND the number inspected on-site.

(C) Total number of accused status offenders and non-offenders held in any secure detention or correctional facility as defined in §31.303(f)(2) for longer than 24 hours (not including weekends and holidays), excluding those held pursuant to the valid court order provision as defined in paragraph (f)(3) of this section.

(D) Total number of adjudicated status offenders and non-offenders held in any secure detention or correctional facility as defined in §31.303(f)(2), excluding those held pursuant to the valid court order provision as defined in paragraph (f)(3) of this section.

(E) Total number of status offenders held in any secure detention or correctional facility pursuant to a judicial determination that the juvenile violated a valid court order as defined in paragraph (f)(3) of this section.

(ii) To demonstrate the extent to which the provisions of section 223(a)(12)(B) of the JJDP Act are being met, the report must include the total number of accused and adjudicated status offenders and non-offenders placed in facilities that are:

(A) Not near their home community;

(B) Not the least restrictive appropriate alternative; and

(C) Not community-based.

(iii) To demonstrate the progress toward and extent of compliance with section 223(a)(13) of the JJDP Act, the report must at least include the following information for both the baseline and the current reporting periods.

(A) Designated date for achieving full compliance.

(B) The total number of facilities used to detain or confine both juvenile offenders and adult criminal offenders during the past 12 months AND the number inspected on-site.

(C) The total number of facilities used for secure detention and confinement of both juvenile offenders and adult criminal offenders which did not provide adequate separation.

(D) The total number of juvenile offenders and non-offenders NOT adequately separated in facilities used for the secure detention and confinement of both juveniles and adults.

(iv) To demonstrate the progress toward and extent of compliance with section 223(a)(14) of the JJDP Act the report must at least include the following information for the baseline and current reporting periods:

(A) Dates of baseline and current reporting period.

(B) Total number of adult jails in the State AND the number inspected on-site.

(C) Total number of adult lockups in the State AND the number inspected on-site.

(D) Total number of adult jails holding juveniles during the past twelve months.

(E) Total number of adult lockups holding juveniles during the past twelve months.

(F) Total number of adult jails and lockups in areas meeting the "removal exception" as noted in paragraph (f)(4) of this section, including a list of such facilities and the county or jurisdiction in which it is located.

(G) Total number of juvenile criminal-type offenders held in adult jails in excess of six hours.

(H) Total number of juvenile criminal-type offenders held in adult lockups in excess of six hours.

(I) Total number of accused and adjudicated status offenders and non-offenders held in any adult jail or lockup.

(J) Total number of juveniles accused of a criminal-type offense who were held in excess of six hours but less than 24 hours in adult jails and lockups in areas meeting the "removal exception" as noted in paragraph (f)(4) of this section.

(6) *Compliance.* The State must demonstrate the extent to which the requirements of section 223(a)(12)(A), (13), and (14) of the Act are met. Should the State fail to demonstrate compliance with the requirements of this Section within designated time frames, eligibility for formula grant funding shall terminate. The compliance levels are:

(i) *Substantial compliance* with section 223(a)(12)(A) requires within three years of initial plan submission achievement of a 75% reduction in the aggregate number of status offenders and non-offenders held in secure detention or correctional facilities or removal of 100% of such offenders from secure correctional facilities only. In addition, the State must make an unequivocal commitment, through appropriate executive or legislative action, to achieving full compliance within two additional years. *Full compliance* is achieved when a State has removed 100% of such juveniles from secure detention and correctional facilities or can demonstrate full compliance with *de minimis* exceptions pursuant to the policy criteria contained in the Federal Register of January 9, 1981 (46 FR 2566-2569).

(ii) *Compliance* with section 223(a)(13) has been achieved when a State can demonstrate that:

(A) The last submitted monitoring report, covering a full 12 months of data, demonstrates that no juveniles were incarcerated in circumstances that were in violation of section 223(a)(13); or

(B) (1) State law, regulation, court rule, or other established executive or judicial policy clearly prohibits the incarceration of all juvenile offenders in circumstances that would be in violation of section 223(a)(13);

(2) All instances of noncompliance reported in the last submitted monitoring report were in violation of, or departures from, the State law, rule, or policy referred to in paragraph (f)(6)(ii)(B)(1) of this section;

(3) The instances of noncompliance do not indicate a pattern or practice but rather constitute isolated instances; and

(4) Existing mechanisms for the enforcement of the State law, rule, or policy referred to in paragraph (f)(6)(ii)(B)(1) of this section are such that the instances of noncompliance are unlikely to recur in the future.

(iii) (A) Substantial compliance with section 223(a)(14) requires:

(1) The achievement of a 75% reduction in the number of juveniles held in adult jails and lockups after December 8, 1985; or

(2) That a state demonstrate it has met each of the standards set forth in paragraphs (f)(6)(iii)(A)(2)(i)-(iv) of this section:

(i) Removed all status and nonoffender juveniles from adult jails and lockups. Compliance with this standard requires that the last submitted monitoring report demonstrate that no status offender (including those accused of or adjudicated for violating a valid court order) or nonoffender juveniles were securely detained in adult jails or lockups for any length of time; or, that all status offenders and nonoffenders securely detained in adult jails and

lockups for any length of time were held in violation of an enforceable state law and did not constitute a pattern or practice within the state;

(ii) Made meaningful progress in removing othe juveniles from adult jails and lockups. Compliance with this standard requires the state to document a significant reduction in the number of jurisdictions securely detaining juvenile criminal-type offenders in violation of section 223(a)(14) of the JJDP Act; or, a significant reduction in the number of facilities securely detaining such juveniles; or, a significant reduction in the number of juvenile criminal-type offenders securely detained in violation of section 223(a)(14) of the JJDP Act; or, a significant reduction in the average length of time each juvenile criminal-type offender is securely detained in an adult jail or lockup; or, that state legislation has recently been enacted and taken effect and which the state demonstrates will significantly impact the secure detention of juvenile criminal-type offenders in adult jails and lockups;

(iii) Diligently carried out the state's jail and lockup removal plan approved by OJJDP. Compliance with this standard requires that actions have been undertaken to achieve the state's jail and lockup removal goals and objectives within approved timelines, and that the State Advisory Group, required by section 223(a)(3) of the JJDP Act, has maintained an appropriate involvement in developing and/or implementing the state's plan;

(iv) Historically expended and continues to expend an appropriate and significant share of its Formula Grant funds to comply with Section 223(a)(14). Compliance with this standard requires that, based on an average from two (2) Formula Grant Awards, a minimum of 40 percent of the program funds was expended to support jail and lockup removal programs; or that the state provides a justification which supports the conclusion that a lesser amount constituted an appropriate and significant share because the state's existent jail and lockup removal barriers did not require a larger expenditure of Formula Grant Program funds; and

(3) The state has made an unequivocal commitment, through appropriate executive or legislative action, to achieving full compliance within a reasonable time but in no event may such time extend beyond December 8, 1988.

(B) Full compliance is achieved when a state demonstrates that the last submitted monitoring report, covering 12 months of actual data, demonstrates that no juveniles were held in adult jails or lockups in circumstances that were in violation of section 223(a)(14).

(C) Full compliance with de minimis exceptions is achieved when a state demonstrates that it has met the standard set forth in either of paragraphs (f)(6)(iii)(C)(1) or (2) of this section:

(1) *Substantive De Minimis Standard.* To comply with this standard the state must demonstrate that each of the following requirements have been met:

(i) State law, court rule, or other statewide executive or judicial policy clearly prohibits the detention or confinement of all juveniles in circumstances that would be in violation of section 223(a)(14);

(ii) All instances of noncompliance reported in the last submitted monitoring report were in violation of or departures from, the state law, rule, or policy referred to in paragraph (f)(6)(iii)(C)(1)(i) of this section;

(iii) The instances of noncompliance do not indicate a pattern or practice but rather constitute isolated instances;

(iv) Existing mechanisms for the enforcement of the state law, rule or policy referred to in paragraph (f)(6)(iii)(C)(1)(i) of this section are such that the instances of noncompliance are unlikely to recur in the future; and

(v) An acceptable plan has been developed to eliminate the noncompliant incidents and to monitor the existing mechanism referred to in paragraph (f)(6)(iii)(C)(1)(iv) of this section.

(2) *Numerical De Minimis Standard.* To comply with this standard the state must demonstrate that each of the following requirements under paragraphs (f)(6)(iii)(C)(2)(i) and (ii) of this section have been met:

(i) The incidents of noncompliance reported in the state's last submitted monitoring report do not exceed an annual rate of 9 per 100,000 juvenile population of the state;

(ii) An acceptable plan has been developed to eliminate the noncompliant incidents through the enactment or enforcement of state law, rule, or statewide executive or judicial policy, education, the provision of alternatives, or other effective means.

(iii) Exception. When the annual rate for a state exceeds 9 incidents of noncompliance per 100,000 juvenile population, the state will be considered ineligible for a finding of full compliance with de minimis exceptions under the numerical de minimis standard unless the state has recently enacted changes in state law which have gone into effect and which the state demonstrates can reasonably be expected to have a substantial, significant and positive impact on the state's achieving full (100%) compliance or full compliance with de minimis exceptions by the end of the monitoring period immediately following the monitoring period under consideration.

(iv) Progress. Beginning with the monitoring report due by December 31, 1990, any state whose prior full compliance status is based on having met the numerical de minimis standard set forth in paragraph (f)(6)(iii)(C)(2)(i) of §31.303, must annually demonstrate, in its request for a finding of full compliance with de minimis exceptions, continued and meaningful progress toward achieving full (100%) compliance in order to maintain eligibility for a continued finding of full compliance with de minimis exceptions.

(v) Request Submission. Determinations of full compliance and full compliance with de minimis exceptions are made annually by OJJDP following submission of the monitoring report due by December 31 of each calendar year. Any state reporting less than full (100%) compliance in any annual monitoring report may request a finding of full compliance with de minimis exceptions under paragraph (f)(6)(iii)(C)(1) or (2) of this section. The request may be submitted in conjunction with the monitoring report, as soon thereafter as all information required for a determination is available, or be included in the annual state plan and application for the state's Formula Grant Award.

(D) *Waiver.*

(1) Failure to achieve substantial compliance as defined in this section shall terminate any state's eligibility for Formula Grant funds unless the Administrator

of OJJDP waives termination of the state's eligibility. In order to be eligible for a waiver of termination, a state must submit a waiver request which demonstrates that it meets the standards set forth in paragraph (f)(6)(iii)(D)(1)(i)-(v) of this section:

(I) Agrees to expend all of its Formula Grant Award except planning and administration, advisory group set aside, and Indian tribe pass-through funds, to achieve compliance with section 223(a)(14); and

(II) Diligently carried out the state's jail and lockup removal plan as set forth in paragraph (I)(6)(iii)(A)(2)(iii) of this section; and

(III) Submitted an acceptable plan, based on an assessment of current jail and lockup removal barriers within the state, to eliminate noncompliant incidents; and

(IV) Achieved compliance with section 223(a)(15) of the JJDP Act; and

(V) Demonstrates a commitment, through appropriate executive or legislative action, to achieving full compliance.

(2) Failure to achieve full compliance as defined in this section shall terminate any state's eligibility for Formula Grant funds unless the Administrator of OJJDP waives termination of the state's eligibility. In order to be eligible for this waiver of termination, a state must request a waiver and demonstrate that it meets the standards set forth in paragraphs (f)(6)(iii)(D)(2)(i)-(vii) of this section:

(I) Agrees to expend all of its Formula Grant Award except planning and administration, advisory group set aside, and Indian tribe pass-through funds, to achieve compliance with section 223(a)(14); and

(II) Removed all status and nonoffender juveniles from adult jails and lockups as set forth in paragraph (f)(6)(iii)(A)(2)(i) of this section; and

(III) Made meaningful progress in removing other juveniles from adult jails and lockups as set forth in paragraphs (f)(6)(iii)(A)(2)(ii) of this section; and

(IV) Diligently carried out the state's jail and lockup removal plan as set forth in paragraph (f)(6)(iii)(A)(2)(iii) of this section; and

(V) Submitted an acceptable plan, based on a assessment of current jail and lockup removal barriers within the state, to eliminate noncompliant incidents; and

(VI) Achieved compliance with section 223(a)(15) of the JJDP Act; and

(VII) Demonstrates a commitment, through appropriate executive or legislative action, to achieving full compliance.

(E) Waiver Maximum. A state may receive a waiver of termination of eligibility from the Administrator under paragraph (f)(6)(iii)(D)(1) and (2) of this section for a combined maximum of three Formula Grant Awards. No additional waivers will be granted.

(7) *Monitoring Report Exceptions.* States which have been determined by the OJJDP Administrator to have achieved full compliance with section 223(a)(12)(A) and compliance with section 223(a)(13) of the JJDP and which wish to be exempted from the annual

monitoring report requirements must submit a written request to the OJJDP Administrator which demonstrates that:

(i) The State provides for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to enable an annual determination of State compliance with section 223(a)(12)(A), (13), and (14) of the JJDP Act;

(ii) State legislation has been enacted which conforms to the requirements of section 223(a)(12)(A) and (13) of the JJDP Act; and

(iii) The enforcement of the legislation is statutorily or administratively prescribed, specifically providing that:

(A) Authority for enforcement of the statute is assigned;

(B) Time frames for monitoring compliance with the statute are specified; and

(C) Adequate sanctions and penalties that will result in enforcement of statute and procedures for remedying violations are set forth.

(g) *Juvenile Crime Analysis.* Pursuant to section 223(a)(8)(A) and (B), the state must conduct an analysis of juvenile crime problems, including juvenile gangs that commit crimes, and juvenile justice and delinquency prevention needs within the state, including those geographical areas in which an Indian tribe performs law enforcement functions.

(1) *Analysis.* The analysis must be provided in the multiyear application. A suggested format for the analysis is provided in the Formula Grant Application Kit.

(2) *Product.* The product of the analysis is a series of brief written problem statements set forth in the application that define and describe the priority problems.

(3) *Programs.* Applications are to include descriptions of programs to be supported with JJDP Act formula grant funds. A suggested format for these programs is included in the application kit.

(4) *Performance Indicators.* A list of performance indicators must be developed and set forth for each program. These indicators show what data will be collected at the program level to measure whether objectives and performance goals have been achieved and should related to the measures used in the problem statement and statement of program objectives.

(h) *Annual Performance Report.* Pursuant to section 223(a) and section 223(a)(22) the State plan shall provide for submission of an annual performance report. The State shall report on its progress in the implementation of the approved programs, described in the three-year plan. The performance indicators will serve as the objective criteria for a meaningful assessment of progress toward achievement of measurable goals. The annual performance report shall describe progress made in addressing the problems of serious juvenile crime, as documented in the juvenile crime analysis pursuant to section 223(a)(8)(A).

(i) *Technical Assistance.* States shall include, within their plan, a description of technical assistance needs. Specific direction regarding the development and inclusion of all technical assistance needs and priorities will be provided in the "Application Kit for Formula Grants under the JJDPA."

(j) *Minority Detention and Confinement.* Pursuant to section 223(a)(23) of the JJDP Act, states must address efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population, viz., youth at risk for secure confinement. It is important for states to approach this

In a comprehensive manner. Compliance with this provision is achieved when a state has met the requirements set forth in paragraphs (j)(1)-(3) of this section:

(1) Provide documentation in the State Plan Juvenile Crime Analysis to indicate whether minority juveniles are disproportionately detained or confined in secure detention or correctional facilities, jails, or lockups in relation to their proportion of the at risk youth population;

(2) Where documentation is unavailable, or demonstrates that minorities are disproportionately detained or confined in relation to their proportion in the at risk youth population, states must provide a strategy for addressing the disproportionate representation of minority juveniles in the juvenile justice system, including but not limited to:

(i) Assessing the differences in arrest, diversion, and adjudication rates, court dispositions other than incarceration, and the rates and periods of commitment to secure facilities of minority youth and non-minority youth in the juvenile justice system;

(ii) Increasing the availability and improving the quality of diversion programs for minorities who come in contact with the juvenile justice system such as police diversion programs;

(iii) Providing support for prevention programs in communities with a high percentage of minority residents with emphasis upon support for community-based organizations that serve minority youth;

(iv) Providing support for reintegration programs designed to facilitate reintegration and reduce recidivism of minority youths;

(v) Initiate or improve the usefulness of relevant information systems and disseminate information regarding minorities in the juvenile justice system.

(3) Each state is required to submit a supplement to the 1988 Multi-Year Plan for addressing the extent of disproportionate representation of minorities in the juvenile justice system. This supplement, which will be submitted as a component of the 1989 Formula Grant Application and Multi-Year Plan Update, must include the state's assessment of disproportionate minority representation, and a workplan for addressing this issue programmatically. Where data is insufficient to make a complete assessment, the workplan must include provisions for improving the information collection systems. The workplan, once approved by OJJDP, is to be implemented as a component of the state's 1990 Formula Grant Plan.

(4) For purposes of this plan requirement, minority populations are defined as members of the following groups: Asian Pacific Islanders; Blacks; Hispanics; and, American Indians.

(k) Pursuant to section 223(a)(24) of the JJDP Act, states shall agree to other terms and conditions as the Administrator may reasonably prescribe to assure the effectiveness of programs assisted under the Formula Grant.

§31.304 Definitions.

(a) *Private agency.* A private non-profit agency, organization or institution is:

(1) Any corporation, foundation, trust, association, cooperative, or accredited institution of higher education not under public supervision or control; and

(2) Any other agency, organization or institution which operates primarily for scientific, education, service, charitable, or similar public purposes, but which is not under public supervision or control, and no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or individual, and which has been held by IRS to be tax-exempt under the provisions of section 501(c)(3) of the 1954 Internal Revenue Code.

(b) *Secure.* As used to define a detention or correctional facility this term includes residential facilities which include construction fixtures designed to physically restrict the movements and activities of persons in custody such as locked rooms and buildings, fences, or other physical structures. It does not include facilities where physical restriction of movement or activity is provided solely through facility staff.

(c) *Facility.* A place, an institution, a building or part thereof, set of buildings or an area whether or not enclosing a building or set of buildings which is used for the lawful custody and treatment of juveniles and may be owned and/or operated by public and private agencies.

(d) *Juvenile who is accused of having committed an offense.* A juvenile with respect to whom a petition has been filed in the juvenile court or other action has occurred alleging that such juvenile is a juvenile offender, i.e., a criminal-type offender or a status offender, and no final adjudication has been made by the juvenile court.

(e) *Juvenile who has been adjudicated as having committed an offense.* A juvenile with respect to whom the juvenile court has determined that such juvenile is a juvenile offender, i.e., a criminal-type offender or a status offender.

(f) *Juvenile offender.* An individual subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations by defined as State law, i.e., a criminal-type offender or a status offender.

(g) *Criminal-type offender.* A juvenile offender who has been charged with or adjudicated for conduct which would, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(h) *Status offender.* A juvenile offender who has been charged with or adjudicated for conduct which would not, under the law of the jurisdiction in which the offense was committed, be a crime if committed by an adult.

(i) *Non-offender.* A juvenile who is subject to the jurisdiction of the juvenile court, usually under abuse, dependency, or neglect statutes for reasons other than legally prohibited conduct of the juvenile.

(j) *Lawful custody.* The exercise of care, supervision and control over a juvenile offender or non-offender pursuant to the provisions of the law or of a judicial order or decree.

(k) *Other individual accused of having committed a criminal offense.* An individual, adult or juvenile, who has been charged with committing a criminal offense in a court exercising criminal jurisdiction.

(l) *Other individual convicted of a criminal offense.* An individual, adult or juvenile, who has been convicted of a criminal offense in court exercising criminal jurisdiction.

(m) *Adult jail.* A locked facility, administered by State, county or local law enforcement and correctional agencies, the purpose of which is to detain adults charged with violating criminal law, pending trial. Also considered as adult jails are those facilities used to hold convicted adult criminal offenders sentenced for less than one year.

(n) *Adult lockup.* Similar to an adult jail except that an adult lockup is generally a municipal or police facility of a temporary nature which does not hold persons after they have been formally charged.

(o) *Valid Court Order.* The term means a court order given by a juvenile court judge to a juvenile who has been brought before the court and made subject to a court order. The use of the word

"valid" permits the incarceration of juveniles for violation of a valid court order only if they received their full due process rights as guaranteed by the Constitution of the United States.

(p) *Local Private Agency.* For the purposes of the pass-through requirement of section 223(a)(5), a local private agency is defined as a private non-profit agency or organization that provides program services within an identifiable unit or a combination of units of general local government.

Subpart E--General Conditions and Assurances

§31.400 Compliance with statute.

The applicant State must assure and certify that the State and its subgrantees and contractors will comply with applicable provisions of the Omnibus Crime Control and Safe Streets Act of 1968, Pub. L. 90-351, as amended, and with the provisions of the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. 93-415, as amended, and the provisions of the current edition of OJP Financial and Administrative Guide for Grants, M7100.1.

§31.401 Compliance with other Federal laws, orders, circulars.

The applicant State must further assure and certify that the State and its subgrantees and contractors will adhere to other applicable Federal laws, orders and OMB circulars. These general Federal laws and regulations are described in greater detail in the Financial and Administrative Guide for Grants, M7100.1, and the Formula Grant Application Kit.

§31.402 Application on file.

Any Federal funds awarded pursuant to an application must be distributed and expended pursuant to and in accordance with the programs contained in the applicant State's current approved application. Any departures therefrom, other than to the extent permitted by current program and fiscal regulations and guidelines, must be submitted for advance approval by the Administrator of OJJDP.

§31.403 Non-discrimination.

The State assures that it will comply, and that subgrantees and contractors will comply, with all applicable Federal non-discrimination requirements, including:

(a) Section 809(c) of the Omnibus Crime Control and Safe Streets Act as 1968, as amended, and made applicable by Section 292(b) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended;

(b) Title VI of the Civil Rights Act of 1964;

(c) Section 504 of the Rehabilitation Act of 1973, as amended;

(d) Title IX of the Education Amendments of 1972;

(e) The Age Discrimination Act of 1975; and

(f) The Department of Justice Non-discrimination Regulations, 28 CFR Part 42, Subparts, C, D, E, and G.

Administrator, Office of Juvenile Justice and Delinquency Prevention

[COMMITTEE PRINT]

COMPILATION

OF THE

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

AND

RELATED PROVISIONS OF LAW

As Amended Through December 31, 1989

PREPARED FOR THE

SUBCOMMITTEE ON HUMAN RESOURCES

OF THE

COMMITTEE ON EDUCATION AND LABOR

OF THE

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

JUNE 21, 1990

Serial No. 101-Q

U.S. GOVERNMENT PRINTING OFFICE

96-666 WASHINGTON : 1990

For sale by the Superintendent of Documents, Congressional Sales Office
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JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

APPENDIX

ANTI-DRUG ABUSE ACT OF 1988

JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974 [1]

(Public Law 93-415; 88 Stat. 1109)

AN ACT To provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Juvenile Justice and Delinquency Prevention Act of 1974".

(*42 U.S.C. 5601 note*)

TITLE I—FINDINGS AND DECLARATION OF PURPOSE

FINDINGS

SEC. 101. (a) The Congress hereby finds that—

(1) juveniles accounted for almost half the arrests for serious crimes in the United States in 1974 and for less than one-third of such arrests in 1983;

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

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

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

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

(6) State and local communities which experience directly the devastating failures of the juvenile justice system do not presently have sufficient technical expertise or adequate re-

[1] This Compilation reflects amendments made to the Juvenile Justice and Delinquency Prevention Act of 1974 by the Fiscal Year Adjustment Act (Public Law 94-273; 90 Stat. 375), the Crime Control Act of 1976 (Public Law 94-503; 90 Stat. 2407), the Juvenile Justice Amendments of 1977 (Public Law 95-115; 91 Stat. 1048), the Juvenile Justice Amendments of 1980 (Public Law 96-509; 94 Stat. 2750), the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984 (Public Law 98-473; 98 Stat. 2107), and Subtitle F of Title VII of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4434).

sources to deal comprehensively with the problems of juvenile delinquency;

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

(8) the juvenile justice system should give additional attention to the problem of juveniles who commit serious crimes, with particular attention given to the areas of sentencing, providing resources necessary for informed dispositions, and rehabilitation.

(b) Congress finds further that the high incidence of delinquency in the United States today results in enormous annual cost and immeasurable loss of human life, personal security, and wasted human resources and that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent delinquency.

(42 U.S.C. 5601)

PURPOSE

SEC. 102. (a) It is the purpose of this Act—

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

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

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

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

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

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

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

(8) to assist State and local governments in removing juveniles from jails and lockups for adults.

(b) It is therefore the further declared policy of Congress to provide the necessary resources, leadership, and coordination (1) to develop and implement effective methods of preventing and reducing juvenile delinquency, including methods with a special focus on maintaining and strengthening the family unit so that juveniles may be retained in their homes; (2) to develop and conduct effective

programs to prevent delinquency, to divert juveniles from the traditional juvenile justice system and to provide critically needed alternatives to institutionalization; (3) to improve the quality of juvenile justice in the United States; and (4) to increase the capacity of State and local governments and public and private agencies to conduct effective juvenile justice and delinquency prevention and rehabilitation programs and to provide research, evaluation, and training services in the field of juvenile delinquency prevention.

(42 U.S.C. 5602)

DEFINITIONS

SEC. 103. For purposes of this Act—

(1) the term "community based" facility, program, or service means a small, open group home or other suitable place located near the juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, special education, counseling, alcoholism treatment, drug treatment, and other rehabilitative services;

(2) the term "Federal juvenile delinquency program" means any juvenile delinquency program which is conducted, directly, or indirectly, or is assisted by any Federal department or agency, including any program funded under this Act;

(3) the term "juvenile delinquency program" means any program or activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, education, training, and research, including drug and alcohol abuse programs; the improvement of the juvenile justice system; and any program or activity to help prevent juvenile delinquency;

(4)(A) the term "Bureau of Justice Assistance" means the bureau established by section 401 of the Omnibus Crime Control and Safe Streets Act of 1968; [1]

(B) the term "Office of Justice Programs" means the office established by section 101 of the Omnibus Crime Control and Safe Streets Act of 1968; [2]

(C) the term "National Institute of Justice" means the institute established by section 202(a) of the Omnibus Crime Control and Safe Streets Act of 1968; [3] and

(D) the term "Bureau of Justice Statistics" means the bureau established by section 302(a) of the Omnibus Crime Control and Safe Streets Act of 1968; [4]

(5) the term "Administrator" means the agency head designated by section 201(b);

(6) the term "law enforcement and criminal justice" means any activity pertaining to crime prevention, control, or reduction or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or

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[1] (42 U.S.C. 3741).
[2] (42 U.S.C. 3711).
[3] (42 U.S.C. 3721).
[4] (42 U.S.C. 3732).

to apprehend criminals, activities of courts having criminal jurisdiction and related agencies (including prosecutorial and defender services), activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction;

(7) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

(8) the term "unit of general local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government performing law enforcement functions in and for the District of Columbia and funds appropriated by the Congress for the activities of such agency may be used to provide the non-Federal share of the cost of programs or projects funded under this title;

(9) the term "combination" as applied to States or units of general local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a juvenile justice and delinquency prevention plan;

(10) the term "construction" means acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for buildings);

(11) the term "public agency" means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing;

(12) the term "secure detention facility" means any public or private residential facility which—

(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and

(B) is used for the temporary placement of any juvenile who is accused of having committed an offense, of any nonoffender, or of any other individual accused of having committed a criminal offense;

(13) the term "secure correctional facility" means any public or private residential facility which—

(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and

(B) is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense, any nonoffender, or any other individual convicted of a criminal offense;

(14) the term "serious crime" means criminal homicide, forcible rape or other sex offenses punishable as a felony, mayhem,

kidnapping, aggravated assault, robbery, larceny or theft punishable as a felony, motor vehicle theft, burglary or breaking and entering, extortion accompanied by threats of violence, and arson punishable as a felony;

(15) the term "treatment" includes but is not limited to medical, educational, special education, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public, including services designed to benefit addicts and other users by eliminating their dependence on alcohol or other addictive or nonaddictive drugs or by controlling their dependence and susceptibility to addiction or use;

(16) the term "valid court order" means a court order given by a juvenile court judge to a juvenile who has been brought before the court and made subject to a court order. The use of the word "valid" permits the incarceration of juveniles for violation of a valid court order only if they received their full due process rights as guaranteed by the Constitution of the United States;

(17) the term "Council" means the Coordinating Council on Juvenile Justice and Delinquency Prevention established in section 206(a)(1); and

(18) the term "Indian tribe" means—

(A) a federally recognized Indian tribe; or

(B) an Alaskan Native organization.

(42 U.S.C. 5603)

TITLE II—JUVENILE JUSTICE AND DELINQUENCY PREVENTION

PART A—JUVENILE JUSTICE AND DELINQUENCY PREVENTION OFFICE

ESTABLISHMENT OF OFFICE

SEC. 201. (a) There is hereby established an Office of Juvenile Justice and Delinquency Prevention (hereinafter in this division referred to as the "Office") within the Department of Justice under the general authority of the Attorney General.

(b) The Office shall be headed by an Administrator (hereinafter in this title referred to as the "Administrator") appointed by the President, by and with the advice and consent of the Senate, from among individuals who have had experience in juvenile justice programs. The Administrator is authorized to prescribe regulations consistent with this Act to award, administer, modify, extend, terminate, monitor, evaluate, reject, or deny all grants and contracts from, and applications for, funds made available under this title. The Administrator shall report to the Attorney General through the Assistant Attorney General who heads the Office of Justice Programs under part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968.[1]

(c) There shall be in the Office a Deputy Administrator who shall be appointed by the Attorney General. The Deputy Administrator

[1] (42 U.S.C. 3711-3712)

shall perform such functions as the Administrator may from time to time assign or delegate and shall act as the Administrator during the absence or disability of the Administrator.
(42 U.S.C. 5611)

PERSONNEL, SPECIAL PERSONNEL, EXPERTS, AND CONSULTANTS

SEC. 202. (a) The Administrator is authorized to select, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in the Administrator and to prescribe their functions.

(b) The Administrator is authorized to select, appoint, and employ not to exceed three officers and to fix their compensation at rates not to exceed the rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5 of the United States Code.

(c) Upon the request of the Administrator, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to the Administrator to assist the Administrator in carrying out the functions of the Administrator under this Act.

(d) The Administrator may obtain services as authorized by section 3109 of title 5 of the United States Code, at rates not to exceed the rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5 of the United States Code.
(42 U.S.C. 5612)

VOLUNTARY SERVICE

SEC. 203. The Administrator is authorized to accept and employ, in carrying out the provisions of this Act, voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).
(42 U.S.C. 5613)

CONCENTRATION OF FEDERAL EFFORTS

SEC. 204. (a) The Administrator shall implement overall policy and develop objectives and priorities for all Federal juvenile delinquency programs and activities relating to prevention, diversion, training, treatment, rehabilitation, evaluation, research, and improvement of the juvenile justice system in the United States. In carrying out the functions of the Administrator, the Administrator shall consult with the Council.

(b) In carrying out the purposes of this Act, the Administrator shall—

(1) advise the President through the Attorney General as to all matters relating to federally assisted juvenile deliquency programs and Federal policies regarding juvenile delinquency;

(2) assist operating agencies which have direct responsibilities for the prevention and treatment of juvenile delinquency in the development and promulgation of regulations, guidelines, requirements, criteria, standards, procedures, and budget requests in accordance with the policies, priorities, and objectives the Administrator establishes;

(3) conduct and support evaluations and studies of the performance and results achieved by Federal juvenile delinquency programs and activities and of the prospective performance and results that might be achieved by alternative programs and activities supplementary to or in lieu of those currently being administered;

(4) implement Federal juvenile delinquency programs and activities among Federal departments and agencies and between Federal juvenile delinquency programs and activities and other Federal programs and activities which the Administrator determines may have an important bearing on the success of the entire Federal juvenile delinquency effort;

(5)(A) develop for each fiscal year, and publish annually in the Federal Register for public comment, a proposed comprehensive plan describing the particular activities which the Administrator intends to carry out under parts C and D in such fiscal year, specifying in detail those activities designed to satisfy the requirements of parts C and D; and

(B) taking into consideration comments received during the 45-day period beginning on the date the proposed plan is published, develop and publish a final plan, before December 31 of such fiscal year, describing the particular activities which the Administrator intends to carry out under parts C and D in such fiscal year, specifying in detail those activities designed to satisfy the requirements of parts C and D; and

(6) provide for the auditing of monitoring systems required under section 223(a)(15) to review the adequacy of such systems.

(c) The Administrator may require, through appropriate authority, Federal departments and agencies engaged in any activity involving any Federal juvenile delinquency program to provide the Administrator with such information and reports, and to conduct such studies and surveys, as the Administrator may deem to be necessary to carry out the purposes of this part.

(d) The Administrator may delegate any of the functions of the Administrator under this title, to any officer or employee of the Office.

(e) The Administrator is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

(f) The Administrator is authorized to transfer funds appropriated under this section to any agency of the Federal Government to develop or demonstrate new methods in juvenile delinquency prevention and rehabilitation and to supplement existing delinquency prevention and rehabilitation programs which the Administrator finds to be exceptionally effective or for which the Administrator finds there exists exceptional need.

(g) The Administrator is authorized to make grants to, or enter into contracts with, any public or private agency, organization, institution, or individual to carry out the purposes of this title.

(h) All functions of the Administrator under this title shall be coordinated as appropriate with the functions of the Secretary of Health and Human Services under title III of this Act.

(i)(1) The Administrator shall require through appropriate authority each Federal agency which administers a Federal juvenile delinquency program to submit annually to the Council a juvenile delinquency development statement. Such statement shall be in addition to any information, report, study, or survey which the Administrator may require under subsection (c).

(2) Each juvenile delinquency development statement submitted to the Administrator under paragraph (1) shall contain such information, data, and analyses as the Administrator may require. Such analyses shall include an analysis of the extent to which the juvenile delinquency program of the Federal agency submitting such development statement conforms with and furthers Federal juvenile delinquency prevention and treatment goals and policies.

(3) The Administrator shall review and comment upon each juvenile delinquency development statement transmitted to the Administrator under paragraph (1). Such development statement, together with the comments of the Administrator, shall be included by the Federal agency involved in every recommendation or request made by such agency for Federal legislation which significantly affects juvenile delinquency prevention and treatment.

(42 U.S.C. 5614)

JOINT FUNDING

SEC. 205. Notwithstanding any other provision of law, where funds are made available by more than one Federal agency to be used by any agency, organization, institution, or individual to carry out a Federal juvenile delinquency program or activity, any one of the Federal agencies providing funds may be requested by the Administrator to act for all in administering the funds advanced whenever the Administrator finds the program or activity to be exceptionally effective or for which the Administrator finds exceptional need. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and the Administrator may order any such agency to waive any technical grant or contract requirement (as defined in such regulations) which is inconsistent with the similar requirement of the administering agency or which the administering agency does not impose.

(42 U.S.C. 5615)

COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 206. (a)(1) There is hereby established, as an independent organization in the executive branch of the Federal Government a Coordinating Council on Juvenile Justice and Delinquency Prevention composed of the Attorney General, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the Director of the Office of Community Services, the Director of the Office of Drug Abuse Policy, the Director of the ACTION Agency,

the Director of the Bureau of Prisons, the Commissioner of the Bureau of Indian Affairs, the Director for the Office of Special Education and Rehabilitation Services, the Commissioner for the Administration for Children, Youth, and Families, and the Director of the Youth Development Bureau, or their respective designees, Assistant Attorney General who heads the Office of Justice Programs, Director of the Bureau of Justice Assistance, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of the National Institute of Justice, and representatives of such other agencies as the President shall designate.

(2) Any individual designated under this section shall be selected from individuals who exercise significant decisionmaking authority in the Federal agency involved.

(b) The Attorney General shall serve as Chairman of the Council. The Administrator of the Office of Juvenile Justice and Delinquency Prevention shall serve as Vice Chairman of the Council. The Vice Chairman shall act as Chairman in the absence of the Chairman.

(c) The function of the Council shall be to coordinate all Federal juvenile delinquency programs and all Federal programs relating to missing and exploited children. The Council shall make recommendations to the President and to the Congress at least annually with respect to the coordination of overall policy and development of objectives and priorities for all Federal juvenile delinquency programs and activities. The Council shall review the programs and practices of Federal agencies and report on the degree to which Federal agency funds are used for purposes which are consistent or inconsistent with the mandates of paragraphs (12)(A), (13), and (14) of section 223(a) of this title. The Council shall review, and make recommendations with respect to, any joint funding proposal undertaken by the Office of Juvenile Justice and Delinquency Prevention and any agency represented on the Council. The Council shall review the reasons why Federal agencies take juveniles into custody and shall make recommendations regarding how to improve Federal practices and facilities for holding juveniles in custody.

(d) The Council shall meet at least quarterly.

(e) The Administrator shall, with the approval of the Council, appoint such personnel or staff support as the Administrator considers necessary to carry out the purposes of this title.

(f) Members of the Council who are employed by the Federal Government full time shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Council.

(g) Of sums available to carry out this part, not more than $200,000 shall be available to carry out this section.

(42 U.S.C. 5616)

ANNUAL REPORT

SEC. 207. Not later than 180 days after the end of a fiscal year, the Administrator shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report that contains the following with respect to such fiscal year:

(1) A detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, and the trends demonstrated by the data required by subparagraphs (A), (B), and (C). Such summary and analysis shall set out the information required by subparagraphs (A), (B), (C), and (D) separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

(A) the types of offenses with which the juveniles are charged;

(B) the race and gender of the juveniles;

(C) the ages of the juveniles;

(D) the types of facilities used to hold the juveniles in custody, including secure detention facilities, secure correctional facilities, jails, and lockups; and

(E) the number of juveniles who died while in custody and the circumstances under which they died.

(2) A description of the activities for which funds are expended under this part, including the objectives, priorities, accomplishments, and recommendations of the Council.

(3) A description, based on the most recent data available, of the extent to which each State complies with section 223 and with the plan submitted under such section by the State for such fiscal year.

(4) A summary of each program or activity for which assistance is provided under part C or D, an evaluation of the results of such program or activity, and a determination of the feasibility and advisability of replacing such program or activity in other locations.

(5) A description of selected exemplary delinquency prevention programs for which assistance is provided under this title, with particular attention to community-based juvenile delinquency prevention programs that involve and assist families of juveniles.

(42 U.S.C. 5617)

PART B—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

AUTHORITY TO MAKE GRANTS AND CONTRACTS

SEC. 221. (a) The Administrator is authorized to make grants to States and units of general local government or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system.

(b)(1) With not to exceed 2 percent of the funds available in a fiscal year to carry out this part, the Administrator shall make grants to and enter into contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, units of general local governments (and combinations there-

of), and local private agencies to facilitate compliance with section 223 and implementation of the State plan approved under section 223(c).

(2) Grants and contracts may be made under paragraph (1) only to public and private agencies, organizations, and individuals that have existence in providing such technical assistance. In providing such technical assistance, the recipient of a grant or contract under this subsection shall coordinate its activities with the State agency described in section 291(c)(1).

(42 U.S.C. 5631)

ALLOCATION

SEC. 222. (a)(1) Subject to paragraph (2) and in accordance with regulations promulgated under this part, funds shall be allocated annually among the States on the basis of relative population of people under age eighteen.

(2)(A) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title (other than part D) is less than $75,000,000, then the amount allotted to each State for such fiscal year shall be not less than $325,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000 each.

(B) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title (other than part D) equals or exceeds $75,000,000, then the amount allotted to each State for such fiscal year shall be not less than $400,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $100,000 each.

(3) If, as a result of paragraph (2), the amount allotted to a State for a fiscal year would be less than the amount allotted to such State for fiscal year 1988, then the amounts allotted to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allot to such State for the fiscal year the amount allotted to such State for fiscal year 1988.

(b) If any amount so allotted remains unobligated at the end of the fiscal year, such funds shall be reallocated in a manner equitable and consistent with the purpose of this part. Any amount so reallocated shall be in addition to the amounts already allotted and available to the State, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands for the same period.

(c) In accordance with regulations promulgated under this part, a portion of any allotment to any State under this part shall be available to develop a State plan or for other pre-award activities associated with such State plan, and to pay that portion of the expenditures which are necessary for efficient administration, including monitoring and evaluation. Not more than 7½ per centum of the total annual allotment of such State shall be available for such purposes, except that any amount expended or obligated by such

State, or by units of general local government or any combination thereof, from amounts made available under this subsection shall be matched (in an amount equal to any such amount so expended or obligated) by such State, or by such units or combinations, from State or local funds, as the case may be. The State shall make available needed funds for planning and administration to units of general local government or combinations thereof within the State on an equitable basis.

(d) In accordance with regulations promulgated under this part, 5 per centum of the minimum annual allotment to any State under this part shall be available to assist the advisory group established under section 223(a)(3) of this Act.

(42 U.S.C. 5632)

STATE PLANS

SEC. 223. (a) In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes applicable to a 3-year period. Such plan shall be amended annually to include new programs, and the state shall submit annual performance reports to the Administrator which shall describe progress in implementing programs contained in the original plan, and shall describe the status of compliance with State plan requirements. In accordance with regulations which the Administrator shall prescribe, such plan shall—

(1) designate the State agency described in section 291(c)(1) as the sole agency for supervising the preparation and administration of the plan;

(2) contain satisfactory evidence that the state agency designated in accordance with paragraph (1) has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;

(3) provide for an advisory group appointed by the chief executive of the State to carry out the functions specified in subparagraph (F), and to participate in the development and review of the State's juvenile justice plan prior to submission to the supervisory board for final action and (A) which shall consist of not less than 15 and not more than 33 persons who have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice, (B) which shall include locally elected officials, representation of units of local government, law enforcement and juvenile justice agencies such as law enforcement, correction or probation personnel, and juvenile or family court judges, and public agencies concerned with delinquency prevention or treatment such as welfare, social services, mental health, education, special education, or youth services departments, (C) which shall include (i) representatives of private organizations, including those with a special focus on maintaining and strengthening the family unit, those representing parents or parent groups, those concerned with delinquency prevention and treatment and with neglected or dependent children, and those concerned with the quality of juvenile justice, education, or social services for children; (ii) repre-

sentatives of organizations which utilize volunteers to work with delinquents or potential delinquents; (iii) representatives of community based delinquency prevention or treatment programs; (iv) representatives of business groups or businesses employing youth; (v) youth workers involved with alternative youth programs; and (vi) persons with special experience and competence in addressing the problems of the family, school violence and vandalism, and learning disabilities, (D) a majority of whose members (including the chairman) shall not be full-time employees of the Federal, State, or local government, (E) at least one-fifth of whose members shall be under the age of 24 at the time of appointment, and at least 3 of whose members shall have been or shall currently be under the jurisdiction of the juvenile justice system; and (F) which (i) shall, consistent with this title, advise the State agency designated under paragraph (1) and its supervisory board; (ii) shall submit to the Governor and the legislature at least annually recommendations with respect to matters related to its functions, including State compliance with the requirements of paragraphs (12), (13), and (14); (iii) shall have an opportunity for review and comment on all juvenile justice and delinquency prevention grant applications submitted to the State agency designated under paragraph (1), except that any such review and comment shall be made no later than 30 days after the submission of any such application to the advisory group; (iv) may be given a role in monitoring State compliance with the requirements of paragraphs (12), (13), and (14), in advising on State agency designated under paragraph (1) and local criminal justice advisory board composition, and in review of the progress and accomplishments of juvenile justice and delinquency prevention projects funded under the comprehensive State plan; and (v) shall contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system;

(4) provide for the active consultation with and participation of units of general local government or combinations thereof in the development of a State plan which adequately takes into account the needs and requests of local governments, except that nothing in the plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede the State from making grants to, or entering into contracts with, local private agencies or the advisory group;

(5) unless the provisions of this paragraph are waived at the discretion of the Administrator for any State in which the services for delinquent or other youth are organized primarily on a statewide basis, provide that at least 66⅔ per centum of funds received by the State under section 222, other than funds made available to the state advisory group under section 222(d), shall be expended—

(A) through programs of units of general local government or combinations thereof, to the extent such programs are consistent with the State plan;

(B) through programs of local private agencies, to the extent such programs are consistent with the State plan,

except that direct funding of any local private agency by a State shall be permitted only if such agency requests such funding after it has applied for and been denied funding by any unit of general local government or combination thereof; and

(C) to provide funds for programs of Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior) and that agree to attempt to comply with the requirements specified in paragraphs (12)(A), (13), and (14), applicable to the detention and confinement of juveniles, an amount that bears the same ratio to the aggregate amount to be expended through programs referred to in subparagraphs (A) and (B) as the population under 18 years of age in the geographical areas in which such tribes perform such functions bears to the State population under 18 years of age.

(6) provide that the chief executive officer of the unit of general local government shall assign responsibility for the preparation and administration of the local government's part of a State plan, or for the supervision of the preparation and administration of the local government's part of the State plan, to that agency within the local government's structure or to a regional planning agency (hereinafter in this part referred to as the "local agency") which can most effectively carry out the purposes of this part and shall provide for supervision of the programs funded under this part by that local agency;

(7) provide for an equitable distribution of the assistance received under section 222 within the State;

(8) provide for (A) an analysis of juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs within the relevant jurisdiction (including any geographical area in which an Indian tribe performs law enforcement functions), a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs of the jurisdiction; (B) an indication of the manner in which the programs relate to other similar State or local programs which are intended to address the same or similar problems; and (C) a plan for the concentration of State efforts which shall coordinate all State juvenile delinquency programs with respect to overall policy and development of objectives and priorities for all State juvenile delinquency programs and activities, including provision for regular meetings of State officials with responsibility in the area of juvenile justice and delinquency prevention;

(9) provide for the active consultation with and participation of private agencies in the development and execution of the State plan; and provide for coordination and maximum utilization of existing juvenile delinquency programs and other related programs, such as education, special education, health, and welfare within the State;

(10) provide that not less than 75 per centum of the funds available to such State under section 222, other than funds made available to the State advisory group under section 222(d), whether expended directly by the State, by the unit of general local government or combination thereof, or through grants and contracts with public or private agencies, shall be used for advanced techniques in developing, maintaining, and expanding programs and services designed to prevent juvenile delinquency, to divert juveniles from the juvenile justice system, to provide community-based alternatives to confinement in secure detention facilities and secure correctional facilities, to encourage a diversity of alternatives within the juvenile justice system, to establish and adopt juvenile justice standards, and to provide programs for juveniles, including those processed in the criminal justice system, who have committed serious crimes, particularly programs which are designed to improve sentencing procedures, provide resources necessary for informed dispositions, provide for effective rehabilitation, and facilitate the coordination of services between the juvenile justice and criminal justice systems. These advanced techniques include—

(A) community-based programs and services for the prevention and treatment of juvenile delinquency through the development of foster-care and shelter-care homes, group homes, halfway houses, homemaker and home health services, twenty-four hour intake screening, volunteer and crisis home programs, education, special education, day treatment, and home probation, and any other designated community-based diagnostic, treatment, or rehabilitative service;

(B) community-based programs and services to work with parents and other family members to maintain and strengthen the family unit so that the juvenile may be retained in his home;

(C) youth service bureaus and other community-based programs to divert youth from the juvenile court or to support, counsel, or provide work and recreational opportunities for delinquents and other youth to help prevent delinquency;

(D) projects designed to develop and implement programs stressing advocacy activities aimed at improving services for and protecting the rights of youth impacted by the juvenile justice system;

(E) educational programs or supportive services designed to encourage delinquent youth and other youth to remain in elementary and secondary schools or in alternative learning situations, including programs to counsel delinquent youth and other youth regarding the opportunities which education provides;

(F) expanded use of probation and recruitment and training of probation officers, other professional and paraprofessional personnel and volunteers to work effectively with youth and their families;

(G) youth initiated programs and outreach programs designed to assist youth who otherwise would not be reached by traditional youth assistance programs;

(H) statewide programs through the use of subsidies or other financial incentives to units of local government designed to—

(i) remove juveniles from jails and lockups for adults;

(ii) replicate juvenile programs designated as exemplary by the National Institute of Justice;

(iii) establish and adopt, based on the recommendations of the National Advisory Committee for Juvenile Justice and Delinquency Prevention made before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984,[1] standards for the improvement of juvenile justice within the State;

(iv) increase the use of nonsecure community-based facilities and discourage the use of secure incarceration and detention; or

(v) involve parents and other family members in addressing the delinquency-related problems of juveniles;

(I) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist law enforcement and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped juveniles;

(J) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles;

(K) programs and projects designed to provide for the treatment of juveniles' dependence on or abuse of alcohol or other addictive or nonaddictive drugs; and

(L) law-related education programs and projects designed to prevent juvenile delinquency;

(11) provide for the development of an adequate research, training, and evaluation capacity within the State;

(12)(A) provide within three years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult or offenses which do not constitute violations of valid court orders, or such nonoffenders as dependent or neglected children, shall not be placed in secure detention facilities or secure correctional facilities; and

(B) provide that the State shall submit annual reports to the Administrator containing a review of the progress made by the State to achieve the deinstitutionalization of juveniles described in subparagraph (A) and a review of the progress made by the State to provide that such juveniles, if placed in facili-

[1] Division II of chapter VI of title II of Public Law 98-473 (98 Stat. 2107), approved October 12, 1984.

ties, are placed in facilities which (i) are the least restrictive alternatives appropriate to the needs of the child and the community; (ii) are in reasonable proximity to the family and the home communities of such juveniles; and (iii) provide the services described in section 103(1);

(13) provide that juveniles alleged to be or found to be delinquent and youths within the purview of paragraph (12) shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges;

(14) provide that, beginning after the five-year period following December 8, 1980, no juvenile shall be detained or confined in any jail or lockup for adults, except that the Administrator shall, through 1993, promulgate regulations which make exceptions with regard to the detention of juveniles accused of nonstatus offenses who are awaiting an initial court appearance pursuant to an enforceable State law requiring such appearances within twenty-four hours after being taken into custody (excluding weekends and holidays) provided that such exceptions are limited to areas which—

(A) are outside a Standard Metropolitan Statistical Area,

(B) have no existing acceptable alternative placement available, and

(C) are in compliance with the provisions of paragraph (13);

(15) provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to insure that the requirements of paragraph (12)(A), paragraph (13), and paragraph (14) are met, and for annual reporting of the results of such monitoring to the Administrator, except that such reporting requirements shall not apply in the case of a State which is in compliance with the other requirements of this paragraph, which is in compliance with the requirements in paragraph (12)(A) and paragraph (13), and which has enacted legislation which conforms to such requirements and which contains, in the opinion of the Administrator, sufficient enforcement mechanisms to ensure that such legislation will be administered effectively;

(16) provide assurance that assistance will be available on an equitable basis to deal with disadvantaged youth including, but not limited to, females, minority youth, and mentally retarded and emotionally or physically handicapped youth;

(17) provide assurance that consideration will be given to and that assistance will be available for approaches designed to strengthen and maintain the family units of delinquent and other youth to prevent juvenile delinquency. Such approaches should include the involvement of grandparents or other extended family members when possible and appropriate;

(18) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

(19) provide that fair and equitable arrangements shall be made to protect the interests of employees affected by assistance under this Act and shall provide for the terms and conditions of such protective arrangements established pursuant to this section, and such protective arrangements shall, to the maximum extent feasible, include, without being limited to, such provisions as may be necessary for—

(A) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements or otherwise;

(B) the continuation of collective-bargaining rights;

(C) the protection of individual employees against a worsening of their positions with respect to their employment;

(D) assurances of employment to employees of any State or political subdivision thereof who will be affected by any program funded in whole or in part under provisions of this Act; and

(E) training or retraining programs;

(20) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

(21) provide reasonable assurances that Federal funds made available under this part for any period will be so used as to supplement and increase (but not supplant) the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event replace such State, local, and other non-Federal funds;

(22) provide that the State agency designated under paragraph (1) will from time to time, but not less often than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, which it considers necessary;

(23) address efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population; and

(24) contain such other terms and conditions as the Administrator may reasonably prescribe to assure the effectiveness of the programs assisted under this title.

(b) The State agency designated under subsection (a)(1), after receiving and considering the advice and recommendations of the advisory group referred to in subsection (a), shall approve the State plan and any modification thereof prior to submission to the Administrator.

(c)(1) The Administrator shall approve any State plan and any modification thereof that meets the requirements of this section. Failure to achieve compliance with the subsection (a)(12)(A) requirement within the three-year time limitation shall terminate

any State's eligibility for funding under this part unless the Administrator determines that the State is in substantial compliance with the requirement, through achievement of deinstitutionalization of not less than 75 per centum of such juveniles or through removal of 100 percent of such juveniles from secure correctional facilities, and has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time not exceeding two additional years.

(2) Failure to achieve compliance with the requirements of subsection (a)(14) within the 5-year time limitation shall terminate any State's eligibility for funding under this part unless the Administrator—

(A) determines, in the discretion of the Administrator, that such State has—

(i)(I) removed not less than 75 percent of juveniles from jails and lockups for adults; or

(II) achieved substantial compliance with such subsection; and

(ii) made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time, not to exceed 3 additional years; or

(B) waives the termination of the State's eligibility on the condition that the State agrees to expend all of the funds to be received under this part by the State (excluding funds required to be expended to comply with subsections (c) and (d) of section 222 and with section 223(a)(5)(C)), only to achieve compliance with subsection (a)(14).

(3) Except as provided in paragraph (2), failure to achieve compliance with the requirements of subsection (a)(14) after December 8, 1985, shall terminate any State's eligibility for funding under this part unless the Administrator waives the termination of the State's eligibility on the condition that the State agrees to expend all of the funds to be received under this part by the State (excluding funds required to be expended to comply with subsections (c) and (d) of section 222 and with section 223(a)(5)(C)), only to achieve compliance with subsection (a)(14).

(4) For purposes of paragraph (2)(A)(i)(II), a State may demonstrate that it is in substantial compliance with such paragraph by showing that it has—

(A) removed all juvenile status offenders and nonoffenders from jails and lockups for adults;

(B) made meaningful progress in removing other juveniles from jails and lockups for adults;

(C) diligently carried out the State's plan to comply with subsection (a)(14); and

(D) historically expended, and continues to expend, to comply with subsection (a)(14) an appropriate and significant share of the funds received by the State under this part

(d) In the event that any State chooses not to submit a plan, fails to submit a plan, or submits a plan or any modification thereof, which the Administrator, after reasonable notice and opportunity for hearing, in accordance with sections 802, 803, and 804 of title I of the Omnibus Crime Control and Safe Streets Act of 1968,[1] deter-

mines does not meet the requirements of this section, the Administrator shall endeavor to make that State's allotment under the provisions of section 222(a) available to local public and private nonprofit agencies within such State for use in carrying out the purposes of subsection (a)(12)(A), subsection (a)(13), or subsection (a)(14). The Administrator shall make funds which remain available after disbursements are made by the Administrator under the preceding sentence, and any other unobligated funds, available on an equitable basis to those States that have achieved full compliance with the requirements under subsection (a)(12)(A) and subsection (a)(13) within the initial three years of participation or have achieved full compliance within a reasonable time thereafter as provided by subsection (c).

(42 U.S.C. 5633)

PART C—NATIONAL PROGRAMS

Subpart I—National Institute for Juvenile Justice and Delinquency Prevention

ESTABLISHMENT OF NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 241. (a) There is hereby established within the Juvenile Justice and Delinquency Prevention Office a National Institute for Juvenile Justice and Delinquency Prevention.

(b) The National Institute for Juvenile Justice and Delinquency Prevention shall be under the supervision and direction of the Administrator.

(c) The activities of the National Institute for Juvenile Justice and Delinquency Prevention shall be coordinated with the activities of the National Institute of Justice in accordance with the requirements of section 201(b).

(d) It shall be the purpose of the Institute to provide—

(1) a coordinating center for the collection, preparation, and dissemination of useful data regarding the prevention, treatment, and control of juvenile delinquency; and

(2) appropriate training (including training designed to strengthen and maintain the family unit) for representatives of Federal, State, local law enforcement officers, teachers and special education personnel, family counselors, child welfare workers, juvenile judges and judicial personnel, probation personnel, correctional personnel (including volunteer lay personnel), persons associated with law-related education, youth workers, and representatives of private agencies and organizations with specific experience in the prevention, treatment, and control of juvenile delinquency.

(e) In addition to the other powers, express and implied, the Institute may—

(1) request any Federal agency to supply such statistics, data, program reports, and other material as the Institute deems necessary to carry out its functions;

(2) arrange with and reimburse the heads of Federal agencies for the use of personnel or facilities or equipment of such agencies;

(3) confer with and avail itself of the cooperation, services, records, and facilities of State, municipal, or other public or private local agencies;

(4) make grants and enter into contracts with public or private agencies, organizations, or individuals for the partial performance of any functions of the Institute;

(5) compensate consultants and members of technical advisory councils who are not in the regular full-time employ of the United States, at a rate now or hereafter prescribed for GS-18 of the General Schedule by section 5332 of title 5 of the United States Code and while away from home, or regular place of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code for persons in the Government service employed intermittently; and

(6) assist through training, the advisory groups established pursuant to section 223(a)(3) or comparable public or private citizen groups in nonparticipating States in the accomplishment of their objectives consistent with this Act.

(f)(1) The Administrator, acting through the Institute, shall provide technical and financial assistance to an eligible organization composed of member representatives of the State advisory groups appointed under section 223(a)(3) to assist such organization to carry out the functions specified in paragraph (2).

(2) To be eligible to receive such assistance, such organization shall agree to carry out activities that include—

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

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

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

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

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

(g) Any Federal agency which receives a request from the Institute under subsection (e)(1) may cooperate with the Institute and shall, to the maximum extent practicable, consult with and furnish information and advice to the Institute.

(42 U.S.C. 5651)

INFORMATION FUNCTION

SEC. 242. The Administrator, acting through the National Institute for Juvenile Justice and Delinquency Prevention, shall—

(1) on a continuing basis, review reports, data, and standards relating to the juvenile justice system in the United States;

(2) serve as an information bank by collecting systematically and synthesizing the data and knowledge obtained from studies and research by public and private agencies, institutions, or

individuals concerning all aspects of juvenile delinquency, including the prevention and treatment of juvenile delinquency; and

(3) serve as a clearinghouse and information center for the preparation, publication, and dissemination of all information regarding juvenile delinquency, including State and local juvenile delinquency prevention and treatment programs and plans, availability of resources, training and educational programs, statistics, and other pertinent data and information.

(42 U.S.C. 5652)

RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS

SEC. 243. The Administrator, acting through the National Institute for Juvenile Justice and Delinquency Prevention, is authorized to—

(1) conduct, encourage, and coordinate reseach and evaluation into any aspect of juvenile delinquency, particularly with regard to new programs and methods which seek to strengthen and maintain the family unit or which show promise of making a contribution toward the prevention and treatment of juvenile delinquency;

(2) encourage the development of demonstration projects in new, innovative techniques and methods to prevent and treat juvenile delinquency;

(3) provide for the evaluation of all juvenile delinquency programs assisted under this title in order to determine the results and the effectiveness of such programs;

(4) provide for the evaluation of any other Federal, State, or local juvenile delinquency program;

(5) prepare, in cooperation with educational institutions, with Federal, State, and local agencies, and with appropriate individuals and private agencies, such studies as it considers to be necessary with respect to the prevention and treatment of juvenile delinquency and the improvement of the juvenile justice system, including—

(A) recommendations designed to promote effective prevention and treatment, particularly by strengthening and maintaining the family unit;

(B) assessments regarding the role of family violence, sexual abuse or exploitation, media violence, the improper handling of youth placed in one State by another State, the effectiveness of family-centered treatment programs, special education, remedial education, and recreation, and the extent to which youth in the juvenile system are treated differently on the basis of sex, race, or family income and the ramifications of such treatment;

(C) examinations of the treatment of juveniles processed in the criminal justice system; and

(D) recommendations as to effective means for deterring involvement in illegal activities or promoting involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles;

(6) disseminate the results of such evaluations and research and demonstration activities particularly to persons actively working in the field of juvenile delinquency;

(7) disseminate pertinent data and studies to individuals, agencies, and organizations concerned with the prevention and treatment of juvenile delinquency;

(8) develop and support model State legislation consistent with the mandates of this title and the standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984; and

(9) support research relating to reducing the excessive proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups.

(42 U.S.C. 5653)

TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS

SEC. 244. The Administrator, acting through the National Institute for Juvenile Justice and Delinquency Prevention is authorized to—

(1) provide technical assistance and training assistance to Federal, State, and local governments and to courts, public and private agencies, institutions, and individuals in the planning, establishment, funding, operation, and evaluation of juvenile delinquency programs;

(2) develop, conduct, and provide for training programs for the training of professional, paraprofessional, and volunteer personnel, and other persons who are working with or preparing to work with juveniles, juvenile offenders, and their families;

(3) develop, conduct, and provide for seminars, workshops, and training programs in the latest proven effective techniques and methods of preventing and treating juvenile delinquency for law enforcement officers, juvenile judges, and other court personnel, probation officers, correctional personnel, and other Federal, State, and local government personnel who are engaged in work relating to juvenile delinquency; and

(4) develop technical training teams to aid in the development of training programs in the States and to assist State and local agencies which work directly with juveniles and juvenile offenders.

(42 U.S.C. 5654)

ESTABLISHMENT OF TRAINING PROGRAM

SEC. 245. (a) The Administrator shall establish within the Institute a training program designed to train enrollees with respect to methods and techniques for the prevention and treatment of juvenile delinquency. In carrying out this program the Administrator is authorized to make use of available State and local services, equipment, personnel, facilities, and the like.

(b) Enrollees in the training program established under this section shall be drawn from law enforcement and correctional personnel (including volunteer lay personnel), teachers and special education personnel, family counselors, child welfare workers, juvenile judges and judicial personnel, persons associated with law-related education, youth workers, and representatives of private agencies and organizations with specific experience in the prevention and treatment of juvenile delinquency.

(42 U.S.C. 5659) Formerly section 248. Redesignated by sec. 637 of Public Law 98-473 (98 Stat. 2120).

CURRICULUM FOR TRAINING PROGRAM

SEC. 246. The Administrator shall design and supervise a curriculum for the training program established by section 245 which shall utilize an interdisciplinary approach with respect to the prevention of juvenile delinquency, the treatment of juvenile delinquents, and the diversion of youths from the juvenile justice system. Such curriculum shall be appropriate to the needs of the enrollees of the training program.

(42 U.S.C. 5660)

PARTICIPATION IN TRAINING PROGRAM AND STATE ADVISORY GROUP CONFERENCES

SEC. 247. (a) Any person seeking to enroll in the training program established under section 245 shall transmit an application to the Administrator, in such form and according to such procedures as the Administrator may prescribe.

(b) The Administrator shall make the final determination with respect to the admittance of any person to the training program. The Administrator, in making such determination, shall seek to assure that persons admitted to the training program are broadly representative of the categories described in section 245(b).

(c) While participating as a trainee in the program established under section 245 or while participating in any conference held under section 241(f), and while traveling in connection with such participation, each person so participating shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed travel expenses under section 5703 of title 5, United States Code. No consultation fee may be paid to such person for such participation.

(42 U.S.C. 5661)

SPECIAL STUDIES AND REPORTS

SEC. 248. (a) Not later than 1 year after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall begin to conduct a study with respect to the juvenile justice system—

(1) to review—

(A) conditions in detention and correctional facilities for juveniles; and

(B) the extent to which such facilities meet recognized national professional standards; and

(2) to make recommendations to improve conditions in such facilities.

(b)(1) Not later than 1 year after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall begin to conduct a study to determine—

(A) how juveniles who are American Indians and Alaskan Natives and who are accused of committing offenses on and near Indian reservations and Alaskan Native villages, respectively, are treated under the systems of justice administered by Indian tribes and Alaskan Native organizations, respectively, that perform law enforcement functions;

(B) the amount of financial resources (including financial assistance provided by governmental entities) available to Indian tribes and Alaskan Native organizations that perform law enforcement functions, to support community-based alternatives to incarcerating juveniles; and

(C) the extent to which such tribes and organizations comply with the requirements specified in paragraphs (12)(A), (13), and (14) of section 223(a), applicable to the detention and confinement of juveniles.

(2)(A) For purposes of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)), any contact, subcontract, grant, or subgrant made under paragraph (1) shall be deemed to be a contract, subcontract, grant, or subgrant made for the benefit of Indians.

(B) For purposes of section 7(b) of such Act and subparagraph (A) of this paragraph, references to Indians and Indian organizations shall be deemed to include Alaskan Natives and Alaskan Native organizations, respectively.

(c) Not later than 3 years after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall submit a report to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate containing a description, and a summary of the results, of the study conducted under subsection (a) or (b), as the case may be.

(42 U.S.C. 5662)

Subpart II—Special Emphasis Prevention and Treatment Programs

AUTHORITY TO MAKE GRANTS AND CONTRACTS

SEC. 261. (a) The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals provide for each of the following during each fiscal year:

(1) Establishing or maintaining community-based alternatives to traditional forms of institutionalization of juvenile offenders.

(2) Establishing or implementing effective means of diverting juveniles from the traditional juvenile justice and correctional system, including restitution and reconciliation projects which test and validate selected arbitration models, such as neighborhood courts or panels, and increase victim satisfaction while

providing alternatives to incarceration for detained or adjudicated delinquents.

(3) Establishing or supporting programs stressing advocacy activities aimed at improving services to juveniles impacted by the juvenile justice system, including services which encourage the improvmeent of due process available to juveniles in the juvenile justice system, which improve the quality of legal representation of such juveniles, and which provide for the appointment of special advocates by courts for such juveniles.

(4) Developing or supporting model programs to strengthen and maintain the family unit in order to prevent or treat juvenile delinquency.

(5) Establishing or implementing special emphasis prevention and treatment programs relating to juveniles who commit serious crimes (including such crimes committeed in schools), including programs designed to deter involvement in illegal activities or to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles.

(6) Developing or implementing further a coordinated, national law-related education program of—

(A) delinquency prevention in elementary and secondary schools, and other local sites;

(B) training for persons responsible for the implementation of law-related education programs; and

(C) disseminating information regarding model, innovative, law-related education programs to juvenile delinquency programs, including those that are community based, and to law enforcement and criminal justice agencies for activities related to juveniles.

(7) Addressing efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional factilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population.

(b) The Adminstrator is authorized, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, to develop and implement new approaches, techniques, and methods designed to—

(1) improve the capability of public and private agencies and organizations to provide services for delinquents and other juveniles to help prevent juvenile delinquency;

(2) develop and implement, in coordination with the Secretary of Education, model programs and methods to keep students in elementary and secondary schools, to prevent unwarranted and arbitrary suspensions and expulsions, and to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

(3) develop, implement, and support, in conjuction with the Secretary of Labor, other public and private agencies, organizations, business, and industry, programs for the employment of juveniles;

(4) develop and support programs designed to encourage and assist State legislatures to consider and establish policies con-

sistent with this title, both by amending State laws, if necessary, and devoting greater resources to effectuate such policies;

(5) develop and implement programs relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning-disabled and other handicapped juveniles;

(6) develop statewide programs through the use of subsidies or other financial incentives designed to—

(A) remove juveniles from jails and lockups for adults;

(B) replicate juvenile programs designated as exemplary by the National Institute of Justice; or

(C) establish and adopt, based upon the recommendations of the National Advisory Committee for Juvenile Justice and Delinquency Prevention made before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984, standards for the improvement of juvenile justice within each State involved; and

(7) develop and implement programs, relating to the special education needs of delinquent and other juveniles, which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies.

(c) Not less than 30 percent of the funds available for grants and contracts under this section shall be available for grants to and contracts with private nonprofit agencies, organizations, and institutions which have experience in dealing with juveniles.

(d) Assistance provided under this section shall be available on an equitable basis to deal with female, minority, and disadvantaged juveniles, including juveniles who are mentally, emotionally, or physically handicapped.

(e) Not less than 5 percent of the funds available for grants and contracts under this section shall be available for grants and contracts designed to address the special needs and problems of juvenile delinquency in the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(42 U.S.C. 5665)

CONSIDERATIONS FOR APPROVAL OF APPLICATIONS

SEC. 262. (a) Any agency, institution, or individual desiring to receive a grant, or enter into a contract, under this part shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe.

(b) In accordance with guidelines established by the Administrator, each application for assistance under this part shall—

(1) set forth a program for carrying out one or more of the purposes set forth in this part and specifically identify each such purpose such program is designed to carry out;

(2) provide that such program shall be administered by or under the supervision of the applicant;

(3) provide for the proper and efficient administration of such program;

(4) provide for regular evaluation of such program;

(5) certify that the applicant has requested the State planning agency and local agency designated in section 223, if any to review and comment on such application and indicate the responses of such State planning agency and local agency to such request;

(6) attach a copy of the responses of such State planning agency and local agency to such request;

(7) provide that regular reports on such program shall be sent to the Administrator and to such State planning agency and local agency; and

(8) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this title.

(c) In determining whether or not to approve applications for grants and for contracts under this part, the Administrator shall consider—

(1) the relative cost and effectivenes of the proposed program in carrying out this part;

(2) the extent to which such program will incorporate new or innovative techniques;

(3) if a State plan has been approved by the Administrator under section 223(c), the extent to which such program meets the objectives and priorities of the State plan, taking into consideration the location and scope of such program;

(4) the increase in capacity of the public and private agency, institution, or individual involved to provide services to address juvenile delinquency and juvenile delinquency prevention;

(5) the extent to which such program serves communities which have high rates of juvenile unemployment, school dropout, and delinquency; and

(6) the adverse impact that may result from the restriction of eligibility, based upon population, for cities with a population greater than 40,000 located within States which have no city with a population over 250,000.

(d)(1)(A) Programs selected for assistance through grants or contracts under this part (other than section 241(f)) shall be selected through a competitive process to be established by rule by the Administrator. As part of such a process, the Administrator shall announce in the Federal Register—

(i) the availability of funds for such assistance;

(ii) the general criteria applicable to the selection of applicants to receive such assistance; and

(iii) a description of the procedures applicable to submitting and reviewing applications for such assistance.

(B) The competitive process described in subparagraph (A) shall not be required if the Administrator makes a written determination that—

(i)(I) the proposed program is not within the scope of any announcement issued, or expected to be issued, by the Adminis-

trator regarding the availability of funds to carry out programs under this part, but can be supported by a grant or contract in accordance with this part; and

(II) such program is of such outstanding merit, as determined through peer review conducted under paragraph (2), that the award of a grant or contract without competition is justified; or

(ii) the applicant is uniquely qualified to provide proposed training services as provided in section 244 and other qualified sources are not capable of providing such services, and includes in such determination the factual and other bases thereof.

(C) If a program is selected for assistance without competition pursuant to the exception provided in subparagraph (B), the Administrator shall promptly so notify the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate. Such notification shall include copies of the Administrator's determination made under such subparagraph and the peer review determination required by paragraph (2).

(2)(A) Programs selected for assistance through grants or contracts under this part (other than section 241(f)) shall be reviewed before selection, and thereafter as appropriate, through a formal peer review process utilizing experts (other than officers and employees of the Department of Justice) in fields related to the subject matter of the proposed program.

(B) Such process shall be established by the Administrator in consultation with the Directors and other appropriate officials of the National Science Foundation and the National Institute of Mental Health. Before implementation of such process, the Administrator shall submit such process to such Directors, each of whom shall prepare and furnish to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate a final report containing their comments on such process as proposed to be established.

(3) The Administrator, in establishing the process required under paragaphs (1) and (2), shall provide for emergency expedited consideration of the proposed programs if necessary to avoid any delay which would preclude carrying out such programs.

(e) A city shall not be denied assistance under this part solely on the basis of its population.

(f) Notification of grants and contracts made under this part (and the applications submitted for such grants and contracts) shall, upon being made, be transmitted by the Administrator, to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate.

(42 U.S.C. 5665a)

PART D—PREVENTION AND TREATMENT PROGRAMS RELATING TO JUVENILE GANGS AND DRUG ABUSE AND DRUG TRAFFICKING

AUTHORITY TO MAKE GRANTS AND CONTRACTS

SEC. 281. The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, establish and support programs and activities that involve families and communities and that are designed to carry out any of the following purposes:

(1) To reduce the participation of juveniles in drug-related crimes (including drug trafficking and drug use), particularly in elementary and secondary schools.

(2) To develop within the juvenile adjudicatory and correctional systems new and innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses.

(3) To reduce juvenile involvement in gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles.

(4) To promote the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes.

(5) To provide treatment to juveniles who are members of such gangs, including members who are accused of committing a serious crime and members who have been adjudicated as being delinquent.

(6) To support activities to inform juveniles of the availability of treatment and services for which financial assistance is provided under this part.

(7) To facilitate Federal and State cooperation with local school officials to assist juveniles who are likely to participate in the activities of gangs that commit crimes and to establish and support programs that facilitate coordination and cooperation among local education, juvenile justice, employment, and social service agencies, for the purpose of preventing or reducing the participation of juveniles in activities of gangs that commit crimes.

(8) To provide personnel, personnel training, equipment, and supplies in conjunction with programs and activities designed to prevent or reduce the participation of juveniles in unlawful gang activities or unlawful drug activities, to assist in improving the adjudicative and correctional components of the juvenile justice system.

(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system.

(10) To provide drug abuse education, prevention and treatment involving police and juvenile justice officials in demand reduction programs.

(42 U.S.C. 5667)

APPROVAL OF APPLICATIONS

SEC. 282. (a) Any agency, institution, or individual desiring to receive a grant, or to enter into a contract, under this part shall submit an application at such time, in such manner, and contain-

ing or accompanied by such information as the Administrator may prescribe.

(b) In accordance with guidelines established by the Administrator, each application for assistance under this part shall—

(1) set forth a program or activity for carrying out one or more of the purposes specified in section 221 and specifically identify each such purpose, such program or activity is designed to carry out;

(2) provide that such program or activity shall be administered by or under the supervision of the applicant;

(3) provide for the proper and efficient administration of such program or activity;

(4) provide for regular evaluation of such program or activity;

(5) certify that the applicant has requested the State planning agency and local agency designated in section 223, if any, to review and comment on such application and indicate the responses of such State planning agency and local agency to such request;

(6) attach a copy of the responses of such State planning agency and local agency to such request;

(7) provide that regular reports on such program or activity shall be sent to the Administrator and to such State planning agency and local agency; and

(8) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this title.

(c) In reviewing applications for grants and contracts under this part, the Administrator shall give priority to applications—

(1) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles or the incidence of juvenile drug abuse and drug trafficking, in the geographical area in which the applicants propose to carry out the programs and activities for which such grants and contracts are requested; and

(2) for assistance for programs and activities that have the broad support of organizations operating in such geographical areas, as demonstrated by the applicants.

(42 U.S.C. 5667a)

PART E—GENERAL AND ADMINISTRATIVE PROVISIONS

AUTHORIZATION OF APPROPRIATIONS

SEC. 291. (a)(1) To carry out the purposes of this title (other than part D) there are authorized to be appropriated such sums as may be necessary for fiscal years 1989, 1990, 1991, and 1992. Funds appropriated for any fiscal year may remain available for obligation until expended.

(2)(A) Subject to subparagraph (B), to carry out part D, there are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.

(B) No funds may be appropriated to carry out part D of this title for a fiscal year unless the aggregate amount appropriated to carry out this title (other than part D) for such fiscal year is not less than the aggregate amount appropriated to carry out this title (other than part D) for the preceding fiscal year.

(b) Of such sums as are appropriated to carry out the purposes of this title (other than part D)—

(1) not to exceed 5 percent shall be available to carry out part A;

(2) not less than 70 percent shall be available to carry out part B; and

(3) 25 percent shall be available to carry out part C.

(c) Notwithstanding any other provision of law, the Administrator shall—

(1) establish appropriate administrative and supervisory board membership requirements for a State agency responsible for supervising the preparation and administration of the State plan submitted under section 223 and permit the State advisory group appointed under section 223(a)(3) to operate as the supervisory board for such agency, at the discretion of the Governor; and

(2) approve any appropriate State agency designated by the Governor of the State involved in accordance with paragraph (1).

(d) No funds appropriated to carry out the purposes of this title may be used for any bio-medical or behavior control experimentation on individuals or any research involving such experimentation. For the purpose of this subsection, the term "behavior control" refers to experimentation or research employing methods which involve a substantial risk of physical or psychological harm to the individual subject and which are intended to modify or alter criminal and other anti-social behavior, including aversive conditioning therapy, drug therapy or chemotherapy (except as part of routine clinical care), physical therapy of mental disorders, electroconvulsive therapy, or physical punishment. The term does not apply to a limited class of programs generally recognized as involving no such risk, including methadone maintenance and certain alcohol treatment programs, psychological counseling, parent training, behavior contracting, survival skills training, restitution, or community service, if safeguards are established for the informed consent of subjects (including parents or guardians of minors).

(42 U.S.C. 5671)

ADMINISTRATIVE AUTHORITY

SEC. 292. (a) The Office shall be administered by the Administrator under the general authority of the Attorney General.

(b) Sections 809(c), 811(a), 811(b), 811(c), 812(a), 812(b), and 812(d) of the Omnibus Crime Control and Safe Streets Act of 1968,[1] as so designated by the operation of the amendments made by the Justice Assistance Act of 1984,[2] shall apply with respect to the admin-

[1] (42 U.S.C. 3789 et seq.).

[2] Division II of chapter VI of title II of Public Law 98-473 (98 Stat. 2107), approved October 12, 1984.

istration of and compliance with this Act, except that for purposes of this Act—

(1) any reference to the Office of Justice Programs in such sections shall be deemed to be a reference to the Assistant Attorney General who heads the Office of Justice Programs; and

(2) the term "this title" as it appears in such sections shall be deemed to be a reference to this Act.

(c) Sections 801(a), 801(c), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968,[3] as so designated by the operation of the amendments made by the Justice Assistance Act of 1984,[4] shall apply with respect to the administration of and compliance with this Act, except that for purposes of this Act—

(1) any reference to the Attorney General, the Assistant Attorney General who heads the Office of Justice Programs, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, or the Director of the Bureau of Justice Assistance shall be deemed to be a reference to the Administrator;

(2) any reference to the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics shall be deemed to be a reference to the Office of Juvenile Justice and Delinquency Prevention; and

(3) the term "this title" as it appears in such sections shall be deemed to be a reference to this Act.

(d) The Administrator is authorized, after appropriate consultation with representatives of States and units of local government, to establish such rules, regulations, and procedures as are necessary for the exercise of the functions of the Office and as are consistent with the purpose of this Act.

(42 U.S.C. 5672)

WITHHOLDING

SEC. 293. Whenever the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this title, finds that—

(1) the program or activity for which the grant or contract involved was made has been so changed that it no longer complies with this title; or

(2) in the operation of such program or activity there is failure to comply substantially with any provision of this title;

the Administrator shall initiate such proceedings as are appropriate.

(42 U.S.C. 5673)

USE OF FUNDS

SEC. 294. (a) Funds paid pursuant to this title to any public or private agency, organization, or institution, or to any individual (either directly or through a State planning agency) may be used for—

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[3] (42 U.S.C. 3782 et seq.).
[4] See note 2 above.

(1) planning, developing, or operating the program designed to carry out this title; and

(2) not more than 50 per centum of the cost of the construction of any innovative community-based facility for fewer than 20 persons which, in the judgment of the Administrator, is necessary to carry out this title.

(b) Except as provided in subsection (a), no funds paid to any public or private agency, or institution or to any individual under this title (either directly or through a State agency or local agency) may be used for construction.

(c)(1) Funds paid pursuant to section 223(a)(10)(D) and section 261(a)(3) to any public or private agency, organization, or institution or to any individual shall not be used to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device intended or designed to influence a Member of Congress or any other Federal, State, or local elected official to favor or oppose any Acts, bills, resolutions, or similar legislation, or any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body, except that this paragraph shall not preclude such funds from being used in connection with communications to Federal, State, or local elected officials, upon the request of such officials through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved.

(2) The Administrator shall take such action as may be necessary to ensure that no funds paid under section 223(a)(10)(D) or section 261(a)(3) are used either directly or indirectly in any manner prohibited in this paragraph.

(42 U.S.C. 5674)

PAYMENTS

SEC. 295. (a) Payments under this title, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions as the Administrator may determine.

(b) Except as provided in the second sentence of section 222(c), financial assistance extended under this title shall be 100 per centum of the approved costs of the program or activity involved.

(c)(1) In the case of a grant under this title to an Indian tribe, if the Administrator determines that the tribe does not have sufficient funds available to meet the local share of the cost of any program or activity to be funded under the grant, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary.

(2) If a State does not have an adequate forum to enforce grant provisions imposing any liability on Indian tribes, the Administrator may waive State liability attributable to the liability of such tribes and may pursue such legal remedies as are necessary.

(d) If the Administrator determines, on the basis of information available to the Administrator during any fiscal year, that a por-

tion of the funds granted to an applicant under part C for su fiscal year will not be required by the applicant or will becon available by virtue of the application of the provisions of sectic 802 of the Omnibus Crime Control and Safe Streets Act of 1968, amended from time to time, that portion shall be available for re location in an equitable manner to States which comply with tl requirements in paragraphs (12)(A) and (13) of section 223(a), und section 261(b)(6).

(42 U.S.C. 5675)

CONFIDENTIALITY OF PROGRAM RECORDS

SEC. 296. Except as authorized by law, program records contai ing the identity of individual juveniles gathered for purposes pu suant to this title may not be disclosed without the consent of tl service recipient or legally authorized representative, or as may l necessary to carry out this title. Under no circumstances may pr gram reports or findings available for public dissemination contai the actual names of individual service recipients.

(42 U.S.C. 5676)

TITLE III—RUNAWAY AND HOMELESS YOUTH

SHORT TITLE

SEC. 301. This title may be cited as the "Runaway and Homele Youth Act".

(42 U.S.C. 5701 note)

FINDINGS

SEC. 302. The Congress hereby finds that—

(1) the number of juveniles who leave and remain away fro home without parental permission has increased to alarmin proportions, creating a substantial law enforcement proble for the communities inundated, and significantly endangerin the young people who are without resources and live on th street;

(2) the exact nature of the problem is not well defined b cause national statistics on the size and profile of the runaw youth population are not tabulated;

(3) many such young people, because of their age and situ tion, are urgently in need of temporary shelter and counselin services;

(4) the problem of locating, detaining, and returning ru away children should not be the responsibility of already ove burdened police departments and juvenile justice authoritie and

(5) in view of the interstate nature of the problem, it is th responsibility of the Federal Government to develop accurat reporting of the problem nationally and to develop an effectiv system of temporary care outside the law enforcement stru ture.

(42 U.S.C. 5701)

RULES

SEC. 303. The Secretary of Health and Human Services (hereinafter in this title referred to as the "Secretary") may issue such rules as the Secretary considers necessary or appropriate to carry out the purposes of this title.
(42 U.S.C. 5702)

PART A—RUNAWAY AND HOMELESS YOUTH GRANT PROGRAM

AUTHORITY TO MAKE GRANTS

SEC. 311. (a) The Secretary shall make grants to public and private entities (and combinations of such entities) to establish and operate (including renovation) local runaway and homeless youth centers to provide services to deal primarily with the immediate needs of runaway or otherwise homeless youth, and their families, in a manner which is outside the law enforcement structure and the juvenile justice system.

(b)(1) Subject to paragraph (2) and in accordance with regulations promulgated under this title, funds for grants under subsection (a) shall be allotted annually with respect to the States on the basis of their relative population of individuals who are less than 18 years of age.

(2) Subject to paragraph (3), the amount allotted under paragraph (1) with respect to each State for a fiscal year shall be not less than $75,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $30,000 each.

(3) If, as a result of paragraph (2), the amount allotted under paragraph (1) with respect to a State for a fiscal year would be less than the aggregate amount of grants made under this part to recipients in such State for fiscal year 1988, then the amounts allotted to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allot under paragraph (1) with respect to such State for the fiscal year an amount equal to the aggregate amount of grants made under this part to recipients in such State for fiscal year 1988.

(4) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to private entities that have experience in providing the services described in such subsection.

(c) The Secretary is authorized to provide on-the-job training to local runaway and homeless youth center personnel and coordinated networks of local law enforcement, social service, and welfare personnel to assist such personnel in recognizing and providing for learning disabled and other handicapped juveniles.
(42 U.S.C. 5711)

ELIGIBILITY

SEC. 312. (a) To be eligible for assistance under section 311(a), an applicant shall propose to establish, strengthen, or fund an existing or proposed runaway and homeless youth center, a locally controlled facility providing temporary shelter, and counseling services

to juveniles who have left home without permission of their parents or guardians or to other homeless juveniles.

(b) In order to qualify for assistance under section 311(a), an applicant shall submit a plan to the Secretary including assurances that the applicant—

(1) shall operate a runaway and homeless youth center located in an area which is demonstrably frequented by or easily reachable by runaway and homeless youth;

(2) shall have a maximum capacity of no more than twenty children, with a ratio of staff to children of sufficient proportion to assure adequate supervision and treatment;

(3) shall develop adequate plans for contacting the child's parents or relatives and assuring the safe return of the child according to the best interests of the child, for contacting local government officials pursuant to informal arrangements established with such officials by the runaway and homeless youth center, and for providing for other appropriate alternative living arrangements;

(4) shall develop an adequate plan for assuring proper relations with law enforcement personnel, social service personnel, school system personnel, and welfare personnel, and the return of runaway and homeless youth from correctional institutions;

(5) shall develop an adequate plan for aftercare counseling involving runaway and homeless youth and their families within the State in which the runaway and homeless youth center is located and for assuring, as possible, that aftercare services will be provided to those children who are returned beyond the State in which the runaway and homeless youth center is located;

(6) shall keep adequate statistical records profiling the children and family members which it serves, except that records maintained on individual runaway and homeless youth shall not be disclosed without the consent of the individual youth and parent or legal guardian to anyone other than another agency compiling statistical records or a government agency involved in the disposition of criminal charges against an individual runaway and homeless youth, and reports or other documents based on such statistical records shall not disclose the identity of individual runaway and homeless youth;

(7) shall submit annual reports to the Secretary detailing how the center has been able to meet the goals of its plans and reporting the statistical summaries required by paragraph (6);

(8) shall demonstrate its ability to operate under accounting procedures and fiscal control devices as required by the Secretary;

(9) shall submit a budget estimate with respect to the plan submitted by such center under this subsection; and

(10) shall supply such other information as the Secretary reasonably deems necessary.

(42 U.S.C. 5712)

GRANTS FOR A NATIONAL COMMUNICATION SYSTEM

SEC. 313. (a) With funds reserved under subsection (b), the Secretary shall make grants for a national communication system to assist runaway and homeless youth in communicating with their families and with service providers.

(b) From funds appropriated to carry out this part and after making the allocation required by section 366(a)(2), the Secretary shall reserve—

(1) for fiscal year 1989 not less than $500,000;

(2) for fiscal year 1990 not less than $600,000; and

(3) for each of the fiscal years 1991 and 1992 not less than $750,000;

to carry out subsection (a).

(42 U.S.C. 5712a)

GRANTS FOR TECHNICAL ASSISTANCE AND TRAINING

SEC. 314. The Secretary may make grants to statewide and regional nonprofit organizations (and combinations of such organizations) to provide technical assistance and training to public and private entities (and combinations of such entities) that are eligible to receive grants under section 311(a), for the purpose of assisting such entities to establish and operate runaway and homeless youth centers.

(42 U.S.C. 5712b)

AUTHORITY TO MAKE GRANTS FOR RESEARCH, DEMONSTRATION, AND SERVICE PROJECTS

SEC. 315. (a) The Secretary may make grants to States, localities, and private entities (and combinations of such entities) to carry out research, demonstration, and service projects designed to increase knowledge concerning, and to improve services for, runaway and homeless youth.

(b) In selecting among applications for grants under subsection (a), the Secretary shall give special consideration to proposed projects relating to—

(1) juveniles who repeatedly leave and remain away from their homes;

(2) outreach to runaway and homeless youth;

(3) transportation of runaway and homeless youth in connection with services authorized to be provided under this part;

(4) the special needs of runaway and homeless youth programs in rural areas;

(5) the special needs of foster care home programs for runaway and homeless youth;

(6) transitional living programs for runaway and homeless youth; and

(7) innovative methods of developing resources that enhance the establishment or operation of runaway and homeless youth centers.

(c) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to applicants who provide services directly to runaway and homeless youth.

(42 U.S.C. 5712c)

APPROVAL BY SECRETARY

SEC. 316. An application by a State, locality, or private entity for a grant under section 311(a) may be approved by the Secretary only if it is consistent with the applicable provisions of section 311(a) and meets the requirements set forth in section 312. Priority shall be given to grants smaller than $150,000. In considering grant applications under section 311(a), priority shall be given to organizations which have a demonstrated experience in the provision of service to runaway and homeless youth and their families.

(42 U.S.C. 5713)

GRANTS TO PRIVATE ENTITIES; STAFFING

SEC. 317. Nothing in this part shall be construed to deny grants to private entities which are fully controlled by private boards or persons but which in other respects meet the requirements of this part and agree to be legally responsible for the operation of the runaway and homeless youth center. Nothing in this part shall give the Federal Government control over the staffing and personnel decisions of facilities receiving Federal funds.

(42 U.S.C. 5714)

PART B—TRANSITIONAL LIVING GRANT PROGRAM

PURPOSE AND AUTHORITY FOR PROGRAM

SEC. 321. (a) The Secretary is authorized to make grants and to provide technical assistance to public and nonprofit private entities to establish and operate transitional living youth projects for homeless youth.

(b) For purposes of this part—

(1) the term "homeless youth" means any individual—

(A) who is not less than 16 years of age and not more than 21 years of age;

(B) for whom it is not possible to live in a safe environment with a relative; and

(C) who has no other safe alternative living arrangement; and

(2) the term "transitional living youth project" means a project that provides shelter and services designated to promote a transition to self-sufficient living and to prevent long-term dependency on social services.

(42 U.S.C. 5714-1)

ELIGIBILITY

SEC. 322. (a) To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund a transitional living youth project for homeless youth and shall submit to the Secretary a plan in which such applicant agrees, as part of such project—

(1) to provide, directly or indirectly, shelter (such as group homes, host family homes, and supervised apartments) and services (including information and counseling services in basic life skills, interpersonal skill building, educational advance-

ment, job attainment skills, and mental and physical health care) to homeless youth;

(2) to provide such shelter and such services to individual homeless youth throughout a continuous period not to exceed 540 days;

(3) to provide, directly or indirectly, on-site supervision at each shelter facility that is not a family home;

(4) that such shelter facility used to carry out such project shall have the capacity to accommodate not more than 20 individuals (excluding staff);

(5) to provide a number of staff sufficient to ensure that all homeless youth participating in such project receive adequate supervision and services;

(6) to provide a written transitional living plan to each youth based on an assessment of such youth's needs, designed to help the transition from supervised participation in such project to independent living or another appropriate living arrangement;

(7) to develop an adequate plan to ensure proper referral of homeless youth to social service, law enforcement, educational, vocational, training, welfare, legal service, and health care programs and to help integrate and coordinate such services for youths;

(8) to provide for the establishment of outreach programs designed to attract individuals who are eligible to participate in the project;

(9) to submit to the Secretary an annual report that includes information regarding the activities carried out with funds under this part, the achievements of the project under this part carried out by the applicant and statistical summaries describing the number and the characteristics of the homeless youth who participate in such project in the year for which the report is submitted;

(10) to implement such accounting procedures and fiscal control devices as the Secretary may require;

(11) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under this part;

(12) to keep adequate statistical records profiling homeless youth which it serves and not to disclose the identity of individual homeless youth in reports or other documents based on such statistical records;

(13) not to disclose records maintained on individual homeless youth without the consent of the individual youth and parent or legal guardian to anyone other than an agency compiling statistical records or a government agency involved in the disposition of criminal charges against youth; and

(14) to provide to the Secretary such other information as the Secretary may reasonably require.

(b) In selecting eligible applicants to receive grants under this part, the Secretary shall give priority to entities that have experience in providing to homeless youth shelter and services of the types described in subsection (a)(1).

(42 U.S.C. 5714-2)

PART C—GENERAL PROVISIONS

ASSISTANCE TO POTENTIAL GRANTEES

SEC. 341. The Secretary shall provide informational assistance to potential grantees interested in establishing runaway and homeless youth centers and transitional living youth projects. Such assistance shall consist of information on—

(1) steps necessary to establish a runaway and homeless youth center or transitional living youth project, including information on securing space for such center or such project, obtaining insurance, staffing, and establishing operating procedures;

(2) securing local private or public financial support for the operation of such center or such project, including information on procedures utilized by grantees under this title; and

(3) the need for the establishment of additional runaway and homeless youth centers in the geographical area identified by the potential grantee involved.

(42 U.S.C. 5714a)

LEASE OF SURPLUS FEDERAL FACILITIES FOR USE AS RUNAWAY AND HOMELESS YOUTH CENTERS OR AS TRANSITIONAL LIVING YOUTH SHELTER FACILITIES

SEC. 342. (a) The Secretary may enter into cooperative lease arrangements with States, localities, and nonprofit private agencies to provide for the use of appropriate surplus Federal facilities transferred by the General Services Administration to the Department of Health and Human Services for use as runaway and homeless youth centers or as transitional living youth shelter facilities if the Secretary determines that—

(1) the applicant involved has suitable financial support necessary to operate a runaway and homeless youth center or transitional living youth project, as the case may be, under this title;

(2) the applicant is able to demonstrate the program expertise required to operate such center in compliance with this title, whether or not the applicant is receiving a grant under this part; and

(3) the applicant has consulted with and obtained the approval of the chief executive officer of the unit of general local government in which the facility is located.

(b)(1) Each facility made available under this section shall be made available for a period of not less than 2 years, and no rent or fee shall be charged to the applicant in connection with use of such facility.

(2) Any structural modifications or additions to facilities made available under this section shall become the property of the United States. All such modifications or additions may be made only after receiving the prior written consent of the Secretary or other appropriate officer of the Department of Health and Human Services.

(42 U.S.C. 5714b)

PART D--ADMINISTRATIVE PROVISIONS

REPORTS

SEC. 361. (a) Not later than 180 days after the end of each fiscal year, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate on the status and accomplishments of the runaway and homeless youth centers which are funded under part A, with particular attention to—

(1) their effectiveness in alleviating the problems of runaway and homeless youth;

(2) their ability to reunite children with their families and to encourage the resolution of intrafamily problems through counseling and other services;

(3) their effectiveness in stengthening family relationships and encouraging stable living conditions for children; and

(4) their effectiveness in helping youth decide upon a future course of action.

(b) Not later than 180 days after the end of each fiscal year, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate on the status and accomplishments of the transitional living youth projects which are funded under part B, with particular attention to—

(1) the number and characteristics of homeless youth served by such projects;

(2) describing the types of activities carried out under such projects;

(3) the effectiveness of such projects in alleviating the immediate problems of homeless youth;

(4) the effectiveness of such projects in preparing homeless youth for self sufficiency;

(5) the effectiveness of such projects in helping youth decide upon future education, employment, and independent living; and

(6) the ability of such projects to strengthen family relationships, and encourage the resolution of intra-family problems through counseling and the development of self-sufficient living skills.

(42 U.S.C. 5715)

FEDERAL SHARE

SEC. 362. (a) The Federal share for the renovation of existing structures, the provision of counseling services, staff training, and the general costs of operations of such facility's budget for any fiscal year shall be 90 per centum. The non-Federal share may be in cash or in kind, fairly evaluated by the Secretary including plant, equipment, or services.

(b) Payments under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(42 U.S.C. 5716)

RECORDS

SEC. 363. Records containing the identity of individual youth pursuant to this Act may under no circumstances be disclosed or transferred to any individual or to any public or private agency.
(42 U.S.C. 5731)

ANNUAL PROGRAM PRIORITIES

SEC. 364. (a) The Secretary shall develop for each fiscal year, and publish annually in the Federal Register for public comment a proposed plan specifying the subject priorities the Secretary will follow in making grants under this title for such fiscal year.

(b) Taking into consideration comments received in the 45-day period beginning on the date the proposed plan is published, the Secretary shall develop and publish, before December 31 of such fiscal year, a final plan specifying the priorities referred to in subsection (a).
(42 U.S.C. 5732)

COORDINATION WITH ACTIVITIES

SEC. 365. With respect to matters relating to communicable diseases, the Secretary shall coordinate the activities of health agencies in the Department of Health and Human Services with the activities of the entities that are eligible to receive grants under this title.
(42 U.S.C. 5733)

AUTHORIZATION OF APPROPRIATIONS

SEC. 366. (a)(1) To carry out the purposes of part A of this title there are authorized to be appropriated such sums as may be necessary for fiscal years 1989, 1990, 1991, and 1992.

(2) Not less than 90 percent of the funds appropriated under paragraph (1) for a fiscal year shall be available to carry out section 311(a) in such fiscal year.

(b)(1) Subject to paragraph (2), to carry out the purposes of part B of this title, there are authorized to be appropriated $5,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.

(2) No funds may be appropriated to carry out part B of this title for a fiscal year unless the aggregate amount appropriated for such fiscal year to carry out part A of this title exceeds $26,900,000.

(c) The Secretary (through the Office of Youth Development which shall administer this title) shall consult with the Attorney General (through the Administrator of the Office of Juvenile Justice and Delinquency Prevention) for the purpose of cordinating the development and implementation of programs and activities funded under this title with those related programs and activities funded under title II of this Act and under the Omnibus Crime Control and Safe Streets Act of 1968,[1] as amended.

(d) No funds appropriated to carry out the purposes of this title–

[1] 42 U.S.C. 3701 et seq.

(1) may be used for any program or activity which is not specifically authorized by this title; or

(2) may be combined with funds appropriated under any other Act if the purpose of combining such funds is to make a single discretionary grant or a single discretionary payment unless such funds are separately identified in all grants and contracts and are used for the purposes specified in this title.
(42 U.S.C 5751)

TITLE IV—MISSING CHILDREN

SHORT TITLE

SEC. 401. This title may be cited as the "Missing Children's Assistance Act".

FINDINGS

SEC. 402. The Congress hereby finds that—

(1) each year thousands of children are abducted or removed from the control of a parent having legal custody without such parent's consent, under circumstances which immediately place them in grave danger;

(2) many of these children are never reunited with their families;

(3) often there are no clues to the whereabouts of these children;

(4) many missing children are at great risk of both physical harm and sexual exploitation;

(5) in many cases, parents and local law enforcement officials have neither the resources nor the expertise to mount expanded search efforts;

(6) abducted children are frequently moved from one locality to another, requiring the cooperation and coordination of local, State, and Federal law enforcement efforts;

(7) on frequent occasions, law enforcement authorities quickly exhaust all leads in missing children cases, and require assistance from distant communities where the child may be located; and

(8) Federal assistance is urgently needed to coordinate and assist in this interstate problem.
(42 U.S.C. 5771)

DEFINITIONS

SEC. 403. For the purpose of this title—

(1) the term "missing child" means any individual less than 18 years of age whose whereabouts are unknown to such individual's legal custodian if—

(A) the circumstances surrounding such individual's disappearance indicate that such individual may possibly have been removed by another from the control of such individual's legal custodian without such custodian's consent; or

(B) the circumstances of the case strongly indicate that such individual is likely to be abused or sexually exploited; and

(2) the term "Administrator" means the Administrator of the Office of Juvenile Justice and Delinquency Prevention.

(42 U.S.C. 5772)

DUTIES AND FUNCTIONS OF THE ADMINISTRATOR

SEC. 404. (a) The Administrator shall—

(1) issue such rules as the Administrator considers necessary or appropriate to carry out this title;

(2) make such arrangements as may be necessary and appropriate to facilitate effective coordination among all federally funded programs relating to missing children (including the preparation of an annual comprehensive plan for facilitating such coordination);

(3) provide for the furnishing of information derived from the national toll-free telephone line, established under subsection (b)(1), to appropriate entities;

(4) provide adequate staff and agency resources which are necessary to properly carry out the responsibilities pursuant to this title; and

(5) not later than 180 days after the end of each fiscal year, submit a report to the President, Speaker of the House of Representatives, and the President pro tempore of the Senate—

(A) containing a comprehensive plan for facilitating cooperation and coordination in the succeeding fiscal year among all agencies and organizations with responsibilities related to missing children;

(B) identifying and summarizing effective models of Federal, State, and local coordination and cooperation in locating and recovering missing children;

(C) identifying and summarizing effective program models that provide treatment, counseling, or other aid to parents of missing children or to children who have been the victims of abduction;

(D) describing how the Administrator satisfied the requirements of paragraph (4) in the preceding fiscal year;

(E) describing in detail the number and types of telephone calls received in the preceding fiscal year over the national toll-free telephone line established under subsection (b)(1)(A) and the number and types of communications referred to the national communications system established under section 313;

(F) describing in detail the activities in the preceding fiscal year of the national resource center and clearinghouse established under subsection (b)(2);

(G) describing all the programs for which assistance was provided under section 405 in the preceding fiscal year;

(H) summarizing the results of all research completed in the preceding year for which assistance was provided at any time under this title; and

(I)(i) identifying each clearinghouse with respect to which assistance is provided under section 405(a)(9) in the preceding fiscal year;

(ii) describing the activities carried out by such clearinghouse in such fiscal year;

(iii) specifying the types and amounts of assistance (other than assistance under section 405(a)(9)) received by such clearinghouse in such fiscal year; and

(iv) specifying the number and types of missing children cases handled (and the number of such cases resolved) by such clearinghouse in such fiscal year and summarizing the circumstances of each such cases.

(b) The Administrator, either by making grants to or entering into contracts with public agencies or nonprofit private agencies, shall—

(1)(A) establish and operate a national 24-hour toll-free telephone line by which individuals may report information regarding the location of any missing child, or other child 13 years of age or younger whose whereabouts are unknown to such child's legal custodian, and request information pertaining to procedures necessary to reunite such child with such child's legal custodian; and

(B) coordinating the operation of such telephone line with the operation of the national communications system established under section 313;

(2) establish and operate a national resource center and clearinghouse designed—

(A) to provide to State and local governments, public and private nonprofit agencies, and individuals information regarding—

(i) free or low-cost legal, restaurant, lodging, and transportation services that are available for the benefit of missing children and their families; and

(ii) the existence and nature of programs being carried out by Federal agencies to assist missing children and their families;

(B) to coordinate public and private programs which locate, recover, or reunite missing children with their legal custodians;

(C) to disseminate nationally information about innovative and model missing childrens' programs, services, and legislation; and

(D) to provide technical assistance and training to law enforcement agencies, State and local governments, elements of the criminal justice system, public and private nonprofit agencies, and individuals in the prevention, investigation, prosecution, and treatment of the missing and exploited child case and in locating and recovering missing children; and

(3) periodically conduct national incidence studies to determine for a given year the actual number of children reported missing each year, the number of children who are victims of abduction by strangers, the number of children who are the

victims of parental kidnapings, and the number of children who are recovered each year; and

(4) provide to State and local governments, public and private nonprofit agencies, and individuals information to facilitate the lawful use of school records and birth certificates to identify and locate missing children.

(c) Nothing contained in this title shall be construed to grant to the Administrator any law enforcement responsibility or supervisory authority over any other Federal agency.

(42 U.S.C. 5773)

GRANTS

SEC. 405. (a) The Administrator is authorized to make grants to and enter into contracts with public agencies or nonprofit private organizations, or combinations thereof, for research, demonstration projects, or service programs designed—

(1) to educate parents, children, and community agencies and organizations in ways to prevent the abduction and sexual exploitation of children;

(2) to provide information to assist in the locating and return of missing children;

(3) to aid communities in the collection of materials which would be useful to parents in assisting others in the identification of missing children;

(4) to increase knowledge of and develop effective treatment pertaining to the psychological consequences, on both parents and children, of—

(A) the abduction of a child, both during the period of disappearance and after the child is recovered; and

(B) the sexual exploitation of a missing child;

(5) to collect detailed data from selected States or localities on the actual investigative practices utilized by law enforcement agencies in missing children's cases;

(6) to address the particular needs of missing children by minimizing the negative impact of judicial and law enforcement procedures on children who are victims of abuse or sexual exploitation and by promoting the active participation of children and their families in cases involving abuse or sexual exploitation of children;

(7) to address the needs of missing children (as defined in section 403(1)(A)) and their families following the recovery of such children;

(8) to reduce the likelihood that individuals under 18 years of age will be removed from the control of such individuals' legal custodians without such custodians' consent; and

(9) to establish or operate statewide clearinghouses to assist in locating and recovering missing children.

(b) In considering grant applications under this title, the Administrator shall give priority to applicants who—

(1) have demonstrated or demonstrate ability in—

(A) locating missing children or locating and reuniting missing children with their legal custodians;

(B) providing other services to missing children or their families; or

(C) conducting research relating to missing children; and

(2) with respect to subparagraphs (A) and (B) of paragraph (1), substantially utilize volunteer assistance.

The Administrator shall give first priority to applicants qualifying under subparagraphs (A) and (B) of paragraph (1).

(c) In order to receive assistance under this title for a fiscal year, applicants shall give assurance that they will expend, to the greatest extent practicable, for such fiscal year an amount of funds (without regard to any funds received under any Federal law) that is not less than the amount of funds they received in the preceding fiscal year from State, local, and private sources.

(42 U.S.C. 5775)

CRITERIA FOR GRANTS

SEC. 406. (a) In carrying out the programs authorized by this title, the Administrator shall establish—

(1) annual research, demonstration, and service program priorities for making grants and contracts pursuant to section 405; and

(2) criteria based on merit for making such grants and contracts.

Not less than 60 days before establishing such priorities and criteria, the Administrator shall publish in the Federal Register for public comment a statement of such proposed priorities and criteria.

(b) No grant or contract exceeding $50,000 shall be made under this title unless the grantee or contractor has been selected by a competitive process which includes public announcement of the availability of funds for such grant or contract, general criteria for the selection of recipients or contractors, and a description of the application process and application review process.

(c) Multiple grants or contracts to the same grantee or contractor within any 1 year to support activities having the same general purpose shall be deemed to be a single grant for the purpose of this subsection, but multiple grants or contracts to the same grantee or contractor to support clearly distinct activities shall be considered separate grants or contractors.

(42 U.S.C. 5776)

AUTHORIZATION OF APPROPRIATIONS

SEC. 407. To carry out the provisions of this title, there are authorized to be appropriated such sums as may be necessary for fiscal years 1989, 1990, 1991, and 1992.

(42 U.S.C. 5777)

SPECIAL STUDY AND REPORT

SEC. 408. (a) Not later than 1 year after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall begin to conduct a study to determine the obstacles that prevent or impede individuals who have legal custody of children from recovering such children from

parents who have removed such children from such individuals in violation of law.

(b) N.t later than 3 years after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988 the Secretary shall submit a report to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate containing a description, and a summary of the results, of the study conducted under subsection (a).

(42 U.S.C. 5778)

APPENDIX

ANTI-DRUG ABUSE ACT OF 1988

(Public Law 100-690; 102 Stat. 4181 et seq.)

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TITLE III—DRUG ABUSE EDUCATION AN PREVENTION

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Subtitle B—Drug Abuse Education and Prevention

CHAPTER 1—DRUG EDUCATION AND PREVENTION RELATING TO YOUTH GANGS

SEC. 3501. ESTABLISHMENT OF DRUG ABUSE EDUCATION AND PREVI TION PROGRAM RELATING TO YOUTH GANGS.

The Secretary of Health and Human Services, through the A ministration on Children, Youth, and Families, shall make gra to, and enter into contracts with, public and nonprofit priva agencies, organizations (including community based organizatio with demonstrated experience in this field), institutions, and in viduals, to carry out projects and activities—

(1) to prevent and to reduce the participation of youth in t activities of gangs that engage in illicit drug-related activiti

(2) to promote the involvement of youth in lawful activiti in communities in which such gangs commit drug-relat crimes,

(3) to prevent the abuse of drugs by youth, to educate you about such abuse, and to refer for treatment and rehabilitati members of such gangs who abuse drugs,

(4) to support activities of local police departments and oth local law enforcement agencies to conduct educational ou reach activities in communities in which gangs commit dru related crimes,

(5) to inform gang members and their families of the ava ability of treatment and rehabilitation services for drug abus

(6) to facilitate Federal and State cooperation with loc school officials to assist youth who are likely to participate gangs that commit drug-related crimes,

(7) to facilitate coordination and cooperation among—

(A) local education, juvenile justice, employment and social service agencies, and

(B) drug abuse referral, treatment, and rehabilitation programs,

for the purpose of preventing or reducing the participation of youth in activities of gangs that commit drug-related crimes, and

(8) to provide technical assistance to eligible organizations in planning and implementing drug abuse education, prevention, rehabilitation, and referral programs for youth who are members of gangs that commit drug-related crimes.

(42 U.S.C. 11801)

SEC. 3502. APPLICATION FOR GRANTS AND CONTRACTS.

(a) SUBMISSION OF APPLICATIONS.—Any agency, organization, institution, or individual desiring to receive a grant, or to enter into contract, under section 3501 shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require by rule.

(b) CONTENTS OF APPLICATION.—Each application for assistance under this chapter shall—

(1) set forth a project or activity for carrying out one or more of the purposes specified in section 3501 and specifically identify each such purpose such project or activity is designed to carry out,

(2) provide that such project or activity shall be administered by or under the supervision of the applicant,

(3) provide for the proper and efficient administration of such project or activity,

(4) provide for regular evaluation of the operation of such project or activity,

(5) provide that regular reports on such project or activity shall be submitted to the Secretary, and

(6) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this chapter.

(42 U.S.C. 11802)

SEC. 3503. APPROVAL OF APPLICATIONS.

In selecting among applications submitted under section 3502(a), the Secretary shall give priority to applicants who propose to carry out projects and activities—

(1) for the purposes specified in section 3501 in geographical areas in which frequent and severe drug-related crimes are committed by gangs whose membership is composed primarily of youth, and

(2) that the applicant demonstrates have the broad support of community based organizations in such geographical areas.

(42 U.S.C. 11803)

SEC. 3504. COORDINATION WITH JUVENILE JUSTICE PROGRAMS.

The Secretary shall coordinate the program established by section 3501 with the programs and activities carried out under the Juvenile Justice and Delinquency Prevention Act of 1974 and with

the programs and activities of the Attorney General, to ensure tha all such programs and activities are complementary and not dupli cative.

(42 U.S.C. 11804)

SEC. 3505. AUTHORIZATION OF APPROPRIATIONS.

To carry out this chapter, there are authorized to be appropri ated $15,000,000 for the fiscal year 1989 and such sums as may b necessary for each of the fiscal years 1990 and 1991.

(42 U.S.C. 11805)

CHAPTER 2—PROGRAM FOR RUNAWAY AND HOMELESS YOUTH

SEC. 3511. ESTABLISHMENT OF PROGRAM.

(a) The Secretary shall make grants to public and private non profit agencies, organizations, and institutions to carry out re search, demonstration, and services projects designed—

(1) to provide individual, family, and group counseling t runaway youth and their families and to homeless youth fo the purpose of preventing or reducing the illicit use of drugs b such youth,

(2) to develop and support peer counseling programs for run away and homeless youth related to the illicit use of drugs,

(3) to develop and support community education activities re lated to illicit use of drugs by runaway and homeless youth, in cluding outreach to youth individually,

(4) to provide to runaway and homeless youth in rural areas assistance (including the development of community support groups) related to the illicit use of drugs,

(5) to provide to individuals involved in providing services to runaway and homeless youth, information and training regard ing issues related to the illicit use of drugs by runaway and homeless youth,

(6) to support research on the illicit drug use by runaway and homeless youth, and the effects on such youth of drug abuse by family members, and any correlation between such use and attempts at suicide, and

(7) to improve the availability and coordination of local serv ices related to drug abuse, for runaway and homeless youth.

(b) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies and or ganizations that have experience in providing services to runaway and homeless youth.

(c) LIMITATION.—Grants under this section may be made for a period not to exceed 3 years.

(42 U.S.C. 11821)

SEC. 3512. ANNUAL REPORT.

Not later than 180 days after the end of a fiscal year for which funds are appropriated to carry out this chapter, the Secretary shall submit to the President, the Speaker of the House of Repre sentatives, and the President pro tempore of the Senate a report that contains—

(1) a description of the types of projects and activities for which grants were made under this chapter for such fiscal year,

(2) a description of the number and characteristics of the youth and families served by such projects and activities, and

(3) a description of exemplary projects and activities for which grants were made under this chapter for such fiscal year.

(42 U.S.C. 11822)

SEC. 3513. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Subject to subsection (b), to carry out this chapter, there are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

(b) LIMITATION.—No funds are authorized to be appropriated for a fiscal year to carry out this chapter unless the aggregate amount appropriated to carry out title III of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5701–5751) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

(42 U.S.C. 11823)

SEC. 3514. APPLICATIONS.

(a) SUBMISSION OF APPLICATION.—Any State, unit of local government (or combination of units of local government), agency, organization, institution, or individual desiring to receive a grant, or enter into a contract, under this chapter shall submit an application at such time, in such manner, and containing or accompanied by such information as may be prescribed by the Federal officer who is authorized to make such grant or enter into such contract (hereinafter in this chapter referred to as the "appropriate Federal officer").

(b) CONTENTS OF APPLICATION.—In accordance with guidelines established by the appropriate Federal officer, each application for assistance under this chapter shall—

(1) set forth a project or activity for carrying out one or more of the purposes for which such grant or contract is authorized to be made and expressly identify each such purpose such project or activity is designed to carry out,

(2) provide that such project or activity shall be administered by or under the supervision of the applicant,

(3) provide for the proper and efficient administration of such project or activity,

(4) provide for regular evaluation of such project or activity,

(5) provide that regular reports on such project or activity shall be sent to the appropriate Federal officer, and

(6) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this chapter.

(42 U.S.C. 11824)

SEC. 3515. REVIEW OF APPLICATIONS.

(a) CONSIDERATION OF FACTORS.—In reviewing applications submitted under this chapter, the appropriate Federal officer shall consider—

(1) the relative cost and effectiveness of the proposed project or activity in carrying out purposes for which the requested grant or contract is authorized to be made,

(2) the extent to which such project or activity will incorporate new or innovative techniques,

(3) the increase in capacity of the State or the public or non profit private agency, organization, institution, or individual involved to provide services to address the illicit use of drug by runaway and homeless youth,

(4) the extent to which such project or activity serves communities which have high rates of illicit drug use by juvenile (including runaway and homeless youth),

(5) the extent to which such project or activity will provide services in geographical areas where similar services are unavailable or in short supply, and

(6) the extent to which such project or activity will increase the level of services, or coordinate other services, in the community available to eligible youth.

(b) COMPETITIVE PROCESS.—(1) Applications submitted under this chapter shall be selected for approval through a competitive process to be established by rule by the appropriate Federal officer. As part of such a process, such officer shall publish a notice in the Federal Register—

(A) announcing the availability of funds to carry out this part,

(B) stating the general criteria applicable to the selection of applicants to receive such funds, and

(C) describing the procedures applicable to submitting and reviewing applications for such funds.

(2) As part of such process, each application referred to in subsection (a) shall be subject to peer review by individuals (excluding officers and employees of the Department of Justice and the Department of Health and Human Services) who have expertise in the subject matter related to the project or activity proposed in such application.

(c) EXPEDITED REVIEW.—The appropriate Federal officer shall expedite the consideration of an application referred to in subsection (a) if the applicant demonstrates, to the satisfaction of such officer, that the failure to expedite such consideration would prevent the effective implementation of the project or activity set forth in such application.

(42 U.S.C. 11825)

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Subtitle C—Miscellaneous

SEC. 3601. DEFINITIONS.

Unless otherwise defined by an Act amended by this title, for purposes of this title and the amendments made by this title—

(1) the term "community based" has the meaning given it in section 103(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(1)),

(2) the term "controlled substance" has the meaning given it in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)),

(8) the term "controlled substance analogue" has the meaning given it in section 102(32) of the Controlled Substances Act (21 U.S.C. 802(32)),

(4) the term "drug" means—

(A) a beverage containing alcohol,

(B) a controlled substance, or

(C) a controlled substance analogue,

(5) the term "Director" means the Director of the ACTION Agency,

(6) the term "illicit" means unlawful or injurious,

(7) the term "institution of higher education" has the meaning given it in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)),

(8) the term "public agency" has the meaning given it in section 103(11) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(11)),

(9) the term "Secretary" means—

(A) the Secretary of Education for purposes of subtitle A (other than section 3201),

(B) the Secretary of Agriculture for purposes of the amendments made by section 3201, and

(C) the Secretary of Health and Human Services for purposes of subtitle B,

(10) the term "State" has the meaning given it in section 103(7) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(7)),

(11) the term "treatment" has the meaning given it in section 103(15) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(15)), and

(12) the term "unit of general local government" has the meaning given it in section 103(8) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(8)).

(42 U.S.C. 11851)

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TITLE VII—DEATH PENALTY AND OTHER CRIMINAL AND LAW ENFORCEMENT MATTERS

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Subtitle F—Juvenile Justice and Delinquency Prevention

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CHAPTER 4—MISCELLANEOUS

SEC. 7295. INVESTIGATION AND REPORT BY THE COMPTROLLER GENERAL.

(a) INVESTIGATION.—Not later than 180 days after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Comptroller General of the United States shall begin to conduct an investigation of the extent to which—

(1) valid court orders, and

(2) court orders other than valid court orders,

are used in the 5-year period ending on December 31, 1988, to place juveniles in secure detention facilities, in secure correctional facilities, and in jails and lockups for adults.

(b) REPORT.—(1) Not later than 3 years after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Comptroller General shall submit a report to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate containing a description, and a summary of the results of the investigation conducted under subsection (a).

(2) In such report, the Comptroller shall specify separately with respect to secure detention facilities, secure correctional facilities, and jails and lockups for adults—

(A) the frequency with which juveniles were confined,

(B) the length of confinement of juveniles, and

(C) the types of conduct of juveniles for which confinement was imposed,

as a result of the enforcement of court orders of the 2 types described in paragraphs (1) and (2) of subsection (a).

(c) DEFINITIONS.—For purposes of this section—

(1) the term "juvenile" means an individual who is less than 18 years of age,

(2) the term "secure correctional facility" has the meaning given it in section 103(13) of the Juvenile Justice and Delinquency Prevention Act of 1974 (41 U.S.C. 5603(13)),

(3) the term "secure detention facility" has the meaning given it in section 103(12) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(12)), and

(4) the term "valid court order" has the meaning given it in section 103(16) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(16)).

(42 U.S.C. 5617 note)

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