ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 8672

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--North Carolina reported that the number of accused status offenders and nonoffenders held 24 hours or more, excluding weekends and holidays, declined from 532 to 158 between 1978 and 1980. In 1975, the State prohibited the commitment of status offenders in training schools and launched a community-based alternative program to reduce the number of juveniles sent to training schools, jails, and secure detention centers. In 1979, changes in the juvenile code limited secure detention of status offenders to juveniles who either needed hospitalization or were runaways and established 24 hours as the maximum time allowed for their detention. 1/ Although about 27 percent of our sampled juveniles in North Carolina were status or nonoffenders, only three were held, without counting nonjudicial days, for a period exceeding 24 hours.

QUESTIONABLE DETENTIONS
STILL OCCURRED

If the States and localities are to provide effective service to both juveniles and the community, only juveniles for whom secure detention is appropriate should be so placed. OJJDP's policy advocates reducing the use of secure detention for all but the most serious or violent juvenile offenders. NAC standards stress a combination of the seriousness of the current charge and the past history of the juvenile as appropriate criteria for securely detaining a juvenile.

We used the FBI's uniform crime reporting classifications for serious (Part I) 2/ or nonserious (Part II) offenses to determine why juveniles in our sample were detained. We believed that this would be a conservative approach, since some of the crimes listed as Part I are not considered as serious by some States. For example, Oregon considers shoplifting of property valued under $200 as a misdemeanor and some Virginia statistics show breaking or entering as a less serious crime.

Of the 876 detentions in our sample, we were able to analyze the type of offense involved for 715. 3/ Of these, 140 were for

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1/Out-of-State runaways can be detained up to 90 days.

2/Part I crimes are the Crime Index offenses consisting of criminal homicide, forcible rape, robbery, aggravated assault, burglary-breaking or entering, larceny-theft, motor vehicle theft and arson.

3/We excluded from this analysis 161 cases because (1) we could not determine an offense, (2) the juvenile was in detention for acting out in a treatment setting but not committing a new offense, or (3) the juvenile had violated probation which could have been for any delinquent offense, status offense, or nonoffense.

nonserious crimes and an additional 136 were for status offenses and nonoffenses. The percentage of these juveniles detained for reasons other than serious crimes was 39 percent and ranged from 22 percent to 51 percent in the States we reviewed. This included over 36 percent of the sampled juveniles in one State that were accused of status offenses or were not accused of any offense at all. These results cannot be compared to the statistics in State monitoring reports because we included nonserious offenses and all status offenses, regardless of length of stay.

Appendix II shows the charges for the detainees in our sample. If the juvenile was charged with more than one offense, we counted only the most serious one.

Some States and localities also provided additional information which indicated that a large portion of securely detained juveniles were not charged with serious crimes. For example, statistics supplied by one State showed that about 80 percent of the juveniles in detention centers in fiscal year 1980 had not been charged with a serious offense. Another State's statistics showed that about 33 percent of all 1979 and 1980 juvenile detainees were charged with status offenses, not with serious or nonserious delinquent offenses.

Most detained females were not charged with serious offenses

Female juveniles in our sample were detained for reasons other than serious crimes in a much higher proportion than male juveniles. Although females made up only 24 percent of the 715 cases we examined, 56 percent of the detained status offenders were females. The following table shows, for each State, the percentages of male and female juveniles in our sample that were detained for reasons other than a serious crime.

State	Male	Female
	-----(percent)---	
Massachusetts	16	40
New Hampshire	26	44
North Carolina	31	67
Oregon	36	82
Virginia	30	84
Total for sample	29	70

State records also showed that females were detained for less serious reasons. For example, one State's statistics showed that about 91 percent of the detained females were charged with offenses other than serious crimes. One of the largest counties in another State predicted, on the basis of past practices, that 80 percent of its detained status offenders would be females. State and local juvenile justice officials gave various reasons

for these practices, including the lack of nonsecure alternatives for females and the tendency of females to run away or commit other status offenses (as compared to the tendency of males to commit a crime).

JUVENILES DETAINED FOR LONG PERIODS OF TIME

NAC standards emphasize the importance of processing cases expeditiously and assert that detention should be brief and play a minor role in the juvenile justice process. State officials said that lengthy detention stays multiply the negative effects on the child and community by increasing the child's frustrations and community's costs.

The 876 juveniles in our sample were held in secure detention for periods ranging from a few hours to 612 days with 181 stays lasting over 30 days. We selected a 30-day benchmark for discussion purposes because this time period was (1) the one most often used as an outside detention limit in the studies we reviewed and (2) recommended by juvenile justice officials we contacted as an appropriate limit to distinguish between temporary and long term detention. The following table shows the number and percent of detention stays over 30 days, in the States we visited.

State	Detained over 30 days		Longest length of stay
	No.	Percent	Days
Massachusetts	66	34	a/612
New Hampshire	18	21	77
North Carolina	10	8	143
Oregon	2	1	38
Virginia	85	49	151
Total	181	21	

a/This juvenile was charged with 14 offenses, including armed robbery and rape and was released on his 18th birthday.

Virginia's statistics showed that about 15 percent of the juveniles detained in 1980 were held for periods longer than 30 days. Our sample showed a higher percentage of juveniles with long lengths of stay because (1) Virginia's statistics cover the whole year whereas we only took a one month sample and (2) State and local statistics included several short detentions for juveniles who attended court hearings and then returned to detention and for juveniles transferred from one secure detention facility to another. Conversely, we counted the entire detention stay when all the "detentions" were for the same offense.

During our visits, State and local officials attested to the negative effects of long detention stays. According to the officials, one of the major problems associated with long stays involved the concept of "lost time"--time spent in secure detention that does not reduce the time subsequently spent in treatment programs. Juveniles realize this and become frustrated and anxious for quick resolution of their cases. The officials said that this frustration is often heightened because for many juveniles, parents, friends, and court counselors rarely visit or phone.

Detention officials said that these frustrations often lead to behavior problems, like fighting and other disruptions, and may lead to additional delinquent behavior. One case which they used to illustrate the importance of the lost time concept involved two juveniles who were arrested for the same offense. Because one had a record of prior offenses, he was quickly committed to a training school. The second juvenile was a first-time offender and remained in detention during a lengthy search for a suitable nonsecure placement. The search became so lengthy that the first juvenile was released from the training school at about the same time that an alternative placement was found for the second juvenile. We were told that the second juvenile became so frustrated when he learned of this that he deliberately committed another crime just to get committed to a training school, which had more definite time periods for release.

Several State officials also viewed long stays as being needless. For example, one official told of a juvenile who was being considered for transfer to adult court. The juvenile was scheduled for a psychological evaluation immediately prior to the quarterly grand jury meeting that heard transfer cases. However, the juvenile's court counselor reportedly forgot to take the juvenile to the scheduled testing. Consequently, the juvenile had to spend another 90 days in detention waiting for the next regularly scheduled grand jury meeting. Other officials questioned the need to hold juveniles for long periods in secure detention while they are being processed into nonsecure treatment programs.

In commenting on a draft of this report, the former Governor of Massachusetts said that some juvenile cases are not processed as expeditiously as possible thereby resulting in long detention stays. He said the Massachusetts Department of Youth Services has filed legislation seeking to establish stringent speedy trial requirements in order to reduce delays. The Governor also suggested speedy trial legislation as a partial remedy for delay in the handling of juvenile cases.

JUVENILES COMMITTED FOR TREATMENT WERE HELD IN DETENTION FACILITIES WHERE TREATMENT WAS NOT PROVIDED

Out of the 876 sampled juveniles in detention facilities, 237 had been adjudicated and committed for treatment. NAC standards allow postadjudicated juveniles to be held in detention while they await disposition or transfer to a treatment program. They state that, when postdispositional juveniles are accused of a new offense, the matter should be handled as a new delinquency offense.

One State's statistics showed that about 80 percent of the juveniles held in secure detention facilities during the last half of 1980 were already committed for treatment. About a third of these and 8 percent of our total sample from that State were awaiting placement in a treatment program or appealing their initial commitment. Another third and another 28 percent of our sample were in secure detention because they were accused of a new offense that may have occurred before or after the original commitment.

A State official who decides whether juveniles in this State will be securely detained told us that although these latter juveniles were technically awaiting a court ruling on the new charges, it was not useful to withhold treatment from them because (1) the court had already determined them to be in need of, and entitled to, treatment and (2) ultimately they will be returned to treatment regardless of the outcome of the new hearing. Another official said these juveniles could be placed in treatment programs, including secure programs, rather than detention facilities where services were limited. State officials gave several reasons for placing these juveniles in secure detention, including

--the established practice of the State agency;

--a lack of nonsecure treatment options; and

--a decision to "cool off," or calm the juvenile.

The other committed juveniles that were in secure detention had not worked out in treatment or nonsecure detention programs because they (1) had run away from the programs, (2) were considered management problems, or (3) displayed mental health problems or violent behavior. Thirty-three of the 195 detentions in our sample for this State were in these categories. Even though the NAC standard allows these juveniles to be placed in secure facilities, the standard recommends that

this be done only after a court has approved it. None of the sampled juveniles were brought before a judge for this purpose and their average detention stay was 19.5 days.

In another State, the juvenile detention and treatment cottages were all located on the same grounds. Because of a limited number of cottages, juveniles in detention and juveniles committed for treatment were commingled in all the secure cottages. For example, only one cottage was available for all females whether they were in detention or commitment status. Likewise, the secure detention and treatment cottages for males housed both committed and detained juveniles when needed. Committed juveniles were housed in the secure detention cottage every day in March 1981, including 22 days where there were more committed than detained juveniles.

Cottage officials said they were opposed to the practice of commingling detained and committed juveniles, because commingling

--mixes detained "light" offenders with committed heavy offenders and the light offenders idolize the older, tougher juveniles;

--mixes juveniles considered innocent under the law (detainees) with delinquents;

--allows detained juveniles to gain negative impressions from already committed juveniles about treatment programs which they may be committed to after adjudication; and

--detracts from efforts to treat committed juveniles.

They explained that detained juveniles in the treatment cottage spend most of their day confined in a small, partitioned area known as the "sound room" where newly committed juveniles and those that have caused problems are restricted.

STANDARDS FOR JUVENILE DETENTION FACILITIES WERE NOT MET

Many facilities used to detain juveniles, especially the jails, did not provide the physical conditions or the services called for by NAC standards which we used as a consistent basis for comparing detention practices in all the States. We reviewed facility records and used information from personal observations and interviews to concentrate on such basic conditions as cleanliness, ventilation, and lighting, and such services as educational, recreational, and medical. NAC standards state that confinement of a juvenile in an adult jail is undesirable and potentially destructive and recommends that juvenile detention facilities not be located even on the same grounds as an adult institution. To

make consistent comparisons between juvenile detention centers and the juvenile sections of jails, we compared conditions in jails to the standards for juvenile facilities.

Detention centers

The conditions and services provided in, or contracted for by, the 12 juvenile detention centers we visited exceeded NAC standards in some respects but fell short in others. Although the centers usually did not totally neglect any major service and appeared to strive to provide the detained youths with safe and sanitary living facilities, the following conditions were found in one or more of the centers.

--Only one of the detention centers provided physicals by physicians within 24 hours of admission as recommended by NAC standards. Eight centers provided physicals by physicians or nurses within the first week after admission and/or maintained medical clinics with registered nurses on the facility premises. Officials at the other centers said they provided medical services only in emergencies, when the juvenile requested medical care, or when the staff believed someone needed medical attention. As evidence of the need for medical services, one State medical team's assessment of the health needs of juveniles held in a detention center from August 1979 through July 1980 showed that 87 percent had medical problems that were not being addressed. On the average, there were two problems per child, ranging from dental problems to duodenal ulcers.

--Educational services were not consistently provided at the only detention center in one of the States, even though the standards required an educational program. An official in that State said that courses were provided during the school year in progress at the time of our visit but were not provided during the prior year.

--Four detention centers did not assess the educational level of juveniles when they were admitted and none attempted to tailor their programs to ensure that the juveniles kept up with their regular school studies. Although such programs are recommended by NAC standards, several reasons were given for not having them, including short lengths of stay, difficulty in coordinating programs with various jurisdictions and individual schools, and negative attitudes of juveniles toward a formal academic setting.

--The detention centers drew their populations from several jurisdictions. As a result, some juveniles were not located within the community from which they came, as recommended by NAC standards.

--Although the standards limit the maximum population of detention centers to 20, the population capacities at five centers exceeded this figure. Included were centers with capacities of 52, 60, and 35.

--NAC standards provide that mail should not be read or censored unless there is clear and convincing evidence that it poses a threat to the safety and security of the center's operations. One facility's policy was to read all incoming and outgoing mail.

--One detention center's case workers said they checked the juveniles' rooms every hour during the night, and the juveniles had to get a case worker's attention if they wanted to use the toilet. NAC standards recommend that each juvenile have ready access to a toilet.

--NAC standards recommend 2 hours of recreation on school days and 3 hours on nonschool days, not including such activities as watching television. The physical layout of two of the older facilities restricted recreational opportunities. For example, during the winter one facility offered only weightlifting.

Jails

None of the 22 jails we visited provided all the physical conditions and services recommended by national standards for juveniles. Several jailers and sheriffs said they did not want to hold juveniles and were not equipped to do so.

Recognizing that jails do not provide adequate facilities and services for juveniles, the Congress amended the Juvenile Justice and Delinquency Prevention Act to require that, in order to receive formula grants, States must comply with a plan for removing juveniles from adult jails and institutions by December 8, 1985, or by December 8, 1987, if in "substantial compliance" by 1985. Most of the States we visited were considering ways to remove juveniles from jails and some had taken legislative actions. North Carolina has required complete removal by July 1983 and Oregon's legislature requested information from the State Juvenile Services Commission on legislative changes needed to accomplish complete removal. In the interim, most of the States required some type of inspection or certification process before jails could hold juveniles.

Although the physical conditions and services provided in jails varied by locality, in all jails medical, dental, and educational services were nonexistent or limited. Most jails did not provide for educational assessments or medical exams but did have agreements with local doctors, dentists, and hospitals for emergency care. Two jails in one State, however, provided for screenings or physicals by physician assistants or registered

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nurses and maintained medical clinics accredited by the American Medical Association.

None of the jails provided educational programs for juveniles other than voluntary Graduate Equivalency Diploma programs. No efforts were made to coordinate with the juveniles' local school systems or evaluate their educational needs. Similarly, none of the jails was equipped to provide adequate recreation for juveniles. Only two jails had outdoor and indoor recreation equipment and facilities which officials said the juveniles could use for about an hour per day. At another jail juveniles were allowed to play ping-pong once or twice per week for 1 to 2 hours in a wide hallway. The only other physical recreation available to juveniles at that facility was self-initiated exercise in the cells or other living areas. Nonphysical recreation allowed in the cells included books, playing cards, and checkers. At one jail juveniles were also allowed to watch television.

Available information showed that juvenile cells at 12 jails did not include the minimum 60 square feet per juvenile recommended by NAC standards. For example, at one facility the three cells used were each about 60 square feet in size and contained four bunks. Other physical conditions also did not meet the standards. Substandard conditions included dim lighting, lack of ready access to toilet or wash basin, and lack of varied diet. Following are practices in at least one jail that did not conform to NAC standards.

--Rules and regulations on handling juveniles were not always in writing.

--Juveniles were extremely limited in receiving phone calls and visitors.

--No shower was available in one facility and juveniles had to use a sink to bathe.

Also, the supervision of juveniles in all jails did not meet national standards because the staffs were accustomed to handling and trained to handle primarily adult prisoners. Jail staffs did not include the child care workers, recreation workers, or teachers recommended by the standards.

SOME METHODS USED TO SEPARATE JUVENILES FROM ADULTS WERE INADEQUATE OR CREATED ISOLATION

The States we visited had generally improved their practices of separating juveniles from adults through changes in laws and certification processes. We found, however, incidences of inadequate separation, separation under harsh or isolating conditions, and locations where we could not determine whether compliance was achieved.

Some problems were noted with separation

Oregon

On the basis of State reports and our review, Oregon appears to have substantially resolved its separation problems. The 1980 monitoring report showed that for that fiscal year, 8 jails did not adequately separate 867 juveniles from adults. State law had required separation of juveniles from adults since 1959 but enforcement authority was not added until July 1, 1980. Since then, all eight jails that had not adequately separated juveniles have been inspected, and the official responsible for monitoring jails said that all jails except "possibly" one were in compliance.

We visited jails and lockups that held 2,392 of the 4,486 juveniles held in 1980, including 5 of the 8 jails that had not adequately separated juveniles from adults. One lockup and one jail did not totally separate juvenile and adult prisoners. The lockup contained a juvenile holding cell that was in full view and hearing of adult prisoners, but we were told juveniles were only held for an average of about 2 hours. During our visit to the jail, three juvenile cells contained a male juvenile, an adult male, and an adult female. We easily talked to all three from any location in the cell block. When advised of this situation, the State monitoring official said he would take action to resolve the problem.

Virginia

Virginia reported that the number of separation violations decreased from 5,624 in 1976 to only 129 in 1980. The 1980 monitoring report attributes this decrease to (1) legislative changes that prohibit the jailing of status and nonoffenders and place specific restrictions on jailing delinquents, and (2) the new process of inspecting all jails and certifying those which may hold juveniles.

Even though Virginia developed standards for separation, the fiscal year 1980 monitoring report, inspection reports, and an OJJDP-sponsored study showed that some certified jails did not provide adequate separation. The 1980 monitoring report showed that 13 of 56 jails certified to hold juveniles had separation problems. State inspection reports showed that, in some jails, adult trustee inmates were allowed in the juvenile cell block, juvenile and adult inmates attended school together, and juveniles and adults conversed when moving internally in the jails. Adequate separation existed at the time of our visits to four jails. The physical layout and restricted movement at the jails prevented routine contact between juveniles and adults.

Massachusetts

Massachusetts law prohibits the incarceration of juveniles with adults and OJJDP determined Massachusetts to be in compliance with the separation requirement of the act. We did not identify any situations in the eight lockups we visited where juveniles were commingled with adults. However, local lockups were not included in the compliance determination, and local law enforcement officials told us that juveniles are, at times, incarcerated in adult cells. Documentation was not available to support this nor determine whether adults were in the same or nearby cells.

The practice of detaining juveniles in cells not approved for that purpose does not comply with State standards and was reported at four of the eight lockups we visited. One requirement for certification to hold juveniles is that they be held apart and away from adult prisoners. One police district in a large city locked juveniles in what was termed a "cage" for lengths of confinement described as ranging from a few minutes to a few hours. This "cage" was a 4-foot by 4-foot room which was separated by sight but not sound and was littered with newspapers, contained no furniture, and had a steel mesh door.

New Hampshire

The 1980 monitoring report for New Hampshire showed that total separation was not achieved because one county facility housed both juvenile and adult offenders without adequate separation. The report indicated that noncompliance should have been corrected in January 1981 when a new facility was to open. Officials at the new facility said, however, that committed juveniles are still housed with adults and commingled during delivery of services. On the other hand at 5 of 10 county jails, a sheriff's department, and 4 local lockups, we did not identify any juvenile detained in violation of the separation mandate. Inadequate records, however, precluded us from determining whether separation was in fact achieved at all facilities.

North Carolina

Although North Carolina continued to experience problems in adequately separating juveniles in jails, the State code requires that all juveniles be completely removed from jails by July 1, 1983. We were told that only jails that adequately separate by sight and sound are certified to hold juveniles. The State recently reported, however, that 51 juveniles were held in noncertified jails from July 1980 through June 1981. One of two noncertified jails we visited detained juveniles. One juvenile was detained in a cell that was separated from adults by sight but not sound.

Isolation cells used for separation

Isolation-type cells were used in some local jails and lockups to achieve separation and some services available to adults were limited or not available for juveniles. Examples of these services were training classes, formal religious services, and recreation. In one State, we did not find juveniles in isolation cells, but a 1980 monitoring report noted that juveniles were placed in isolation cells in 13 jails. In another State, isolation-type cells were used for juveniles at three of the five jails we visited. Also, these juveniles remained in their cells, which local officials in one jail called "dungeons" and "more severe" than adult cells, 24 hours per day. Local lockups in another State, especially the newer ones, were described by police officials and our auditors as isolation cells. The juvenile cell at a local lockup in another State resulted in solitary confinement, and officials at three other facilities said they have used solitary confinement cells for juveniles.

CONCLUSIONS

The States we visited have improved their juvenile detention practices in the last few years, but a great deal more could be done. Many major detention problems existing when the Juvenile Justice and Delinquency Prevention Act was passed were still prevalent. States and localities still detained nonserious offenders and status offenders in juvenile detention centers and jails. Detention facilities were also used for many purposes, such as holding juveniles before trial or while waiting for treatment, calming juveniles who misbehaved in nonsecure programs, and as a place for certain juveniles to serve their sentence. Some of these detentions were for long periods of time, while needed services and physical conditions were not always provided.

The juvenile detention centers we visited did not totally neglect any of the services recommended by NAC standards and the staffs appeared to be striving to provide the juveniles with a safe and sanitary stay in detention. However, the jails usually did not meet the standards. Many of the jailers and sheriffs did not want to hold juveniles, and their facilities were not equipped to do so.

Many problems were due to vague and judgmental detention criteria, lack of appropriate alternatives to detention, and the need for better monitoring and enforcement mechanisms to identify and help plan for improvements in detention practices. The next chapter details actions OJJDP could take, within current funding levels, to assist the States in these areas.

AGENCY COMMENTS AND OUR EVALUATION

The Department of Justice commented on a draft of this report by letter dated December 7, 1982. (See app. III.) The Department stated that we accurately described juvenile detention practices in the States we reviewed, but also identified a number of points that it believed required further review and analysis.

It appeared to us that many of the Department's comments were not relevant to the conclusions that we made, and discussion with OJJDP officials after receipt of the comments shed little additional light on the matter. For example, the Department stated that the data discussed on page 6 did not relate appropriately to the objectives of the Juvenile Justice and Delinquency Prevention Act. The Department suggested that we reconsider the use of the data and determine the appropriateness of the conclusions the data appeared to indicate.

The data in question were used as partial support for the statement that States had improved their juvenile detention practices. It was the most recent data available that indicated a national detention rate and we do not understand the basis for the comment. Moreover, work we performed in the States we visited provided further indications of progress in improving secure detention practices. The primary basis for our conclusion is the information we obtained during these visits.

Also, the Department made several references to the 1980 Valid Court Order Amendment (a portion of the Juvenile Justice Amendments of 1980), which permits the secure detention of juveniles found to be in violation of a proper court order. None of the juveniles included in our data were charged with violating a valid court order. Thus, the amendment does not change the results of our sample. Also, it is too soon to assess the impact of the amendment. Data is not available that shows how States have changed their detention practices based on the amendment.

CHAPTER 3

THE FEDERAL GOVERNMENT CAN HELP STATES IMPROVE THEIR DETENTION PRACTICES

A major goal of the Juvenile Justice and Delinquency Prevention Act is to reduce the use of secure detention for juveniles. Chapter 2 shows that although States have made progress in improving their overall detention practices, a great deal more is needed before the act's objectives will be achieved. In this regard, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has an opportunity to help States further improve detention practices in several important areas. Specifically, OJJDP could provide the States with technical assistance and information on

--detention criteria and service delivery standards;

--availability and use of appropriate alternatives to secure detention; and

--monitoring and enforcement mechanisms to identify, plan, and implement appropriate reductions in secure detentions.

OJJDP accomplishments in assisting the States to remove status offenders from secure facilities appear noteworthy. The Office also provided assistance concerning the other detention problems discussed in chapter 2. For example, a current project called the jail removal initiative addresses comprehensively for the first time the issue of unnecessary detention. More is needed, however, to resolve these detention problems, including convincing the States to adopt appropriate national standards and to establish appropriate alternatives and improving State monitoring and recordkeeping systems. These improvements are within OJJDP's assistance role as established by the act.

The States we visited have used Federal juvenile justice funding to provide alternatives to secure detention and have revised their juvenile codes to comply with the mandates of the act. According to State officials, however, OJJDP could do a great deal more within existing funding levels to help resolve State detention problems. Officials said the States need personal assistance and advice on practical methods of solving their unique problems. They also said that OJJDP needs to take a proactive role in identifying and helping resolve problems rather than maintain its current reactive role of responding to monitoring reports or requests for assistance. One State specifically mentioned that OJJDP should help it assess its programs and then provide information on successful strategies and techniques used in other States that have similar problems.

In commenting on a draft of this report, the Governors of North Carolina and Oregon said they would welcome increased technical assistance from OJJDP. North Carolina indicated that technical assistance in developing alternatives and monitoring would be particularly helpful. Oregon indicated that assistance to help implement better standards for constructive use of detention is needed.

ADOPTION AND IMPLEMENTATION OF NATIONAL DETENTION STANDARDS COULD HELP IMPROVE DETENTION PRACTICES

State and local detention practices could be improved by adopting and adhering to appropriate national standards. The Congress recognized the importance of standards as a tool for improving practices when it required OJJDP and the National Advisory Committee (NAC) to assist in developing and implementing national standards. Now OJJDP's policy is to promote national standards, especially as they relate to the mandates and major policy thrusts of the Juvenile Justice and Delinquency Prevention Act.

In this regard, OJJDP supported and coordinated the development of national standards by NAC and other national organizations. Although implementation of these standards is voluntary, they are intended to provide direction for change and can be used as a benchmark for measuring progress toward improving the quality of juvenile justice. Several of these standards directly address detention practices. OJJDP has not endorsed any particular set of standards but has placed special attention on NAC standards.

Since NAC and other national standards were developed, OJJDP reported it has (1) disseminated copies of the standards, (2) sponsored the development of an analysis of the standards, (3) published the proceedings of a symposium on issues addressed by the standards, and (4) conducted three symposia on uses of standards for New England States. An OJJDP official told us that these symposia will not be given in other parts of the country. OJJDP also announced a demonstration program whose goals were to support the adoption of national juvenile justice standards in six to eight jurisdictions and promote national awareness of the use of standards for improving the administration of juvenile justice. Because of questions raised by NAC, however, OJJDP decided not to proceed with the program.

States need to use more specific criteria to ensure appropriate detention decisions

Because of concern about the inappropriate use of secure detention, as evidenced in several studies, NAC recommended specific criteria for use in deciding when to detain juveniles in secure facilities. A private grantee's limited field test of these criteria showed that they could be used without significantly increasing the number of juveniles who either commit new crimes or fail to appear for court hearings. However, the States we visited still used less stringent criteria that resulted in inappropriate detention of juveniles.

Historically, State detention criteria have allowed a child to be detained on the basis of risk (1) to the public safety or (2) that the child will flee from the court's jurisdiction. However, several studies conducted in the 1970's showed that detention was used unnecessarily across the country and suggested that these criteria were too broad to be meaningful. For example, a study conducted in 1979 and 1980 for OJJDP estimated that 90 percent of the juveniles charged with an offense did not require secure detention. Another study conducted in 1973 reported on an Ohio county that applied uniform detention criteria. As a result, detentions decreased by 60 percent and only 1 percent of the juveniles failed to appear in court.

Supported by various studies that showed detention practices were generally inappropriate, partially due to exercising broad discretion in detention decisions, NAC recommended pre-trial detention criteria in 1980 designed to limit secure detention to specific situations in which less restrictive alternatives are not sufficient to protect the juvenile, the community, or the jurisdiction of a court. These more specific criteria attempt to strike a balance between protecting a child's pretrial rights and freedoms and protecting the public safety and the court process.

In defining juveniles who may be securely detained prior to trial, NAC criteria state that children should not be securely detained unless they

--are fugitives from another jurisdiction;

--request, in writing, protection under circumstances that present an immediate threat of serious physical injury;

--are charged with murder in the first or second degree; or

--are charged with a serious property crime or a violent crime other than first or second degree murder which, if committed by an adult, would be a felony; and

- --are already detained or on conditional release in connection with another delinquency proceeding,

- --have a demonstrable recent record of willful failures to appear at family court proceedings,

- --have a demonstrable recent record of violent conduct resulting in physical injury to others, or

- --have a demonstrable recent record of [illegible]adjudications for serious property offenses.

Even if these criteria are satisfied, the standards recommend that juveniles not be detained in a secure facility if a less restrictive alternative will reduce the risk of flight, serious harm to property, or physical safety of the juvenile or others.

A study of the effectiveness of using these criteria conducted in 1979 by the Community Research Forum showed that they can be used to decrease secure detentions without causing significantly higher rates of (1) rearrest between the time of initial arrest and final disposition of the case or (2) failure to appear for court hearings.

North Carolina was the only State we visited that had extensively revised its legislated detention criteria with the type of specificity recommended in NAC standards. Prior to a recent juvenile code revision, the State allowed the secure detention of juveniles for two very general reasons: for protection of the community or for the child's best interests. However, a State committee studying this matter noted that these criteria were too broad and recommended more specific criteria because (1) the percentage of juveniles being placed in secure custody varied widely throughout the State, (2) a large number of juveniles seemed to be unnecessarily detained, and (3) too many juveniles were being held in jails.

In deciding that more specific detention criteria were needed, the committee considered a combination of factors, including national standards and provisions of the Juvenile Justice and Delinquency Prevention Act. Drawing from a variety of sources, the State's detention criteria do not strictly duplicate NAC criteria. For example, the State's revised criteria allow secure detention of (1) status and other offenders who have attempted self-injury and are being evaluated for inpatient hospitalization, (2) runaways, and (3) juveniles accused of a single felony offense. Further, any delinquent may be sentenced to secure detention on an overnight or weekend basis.

Instead of using the child's current charge and documented history to indicate when secure detention is allowed, as recommended by NAC criteria, the other States we visited used broad overall criteria and allowed decisionmakers to use any objective or subjective indicators to determine when these criteria were met. This vague and highly judgmental system allowed the detention of almost any juvenile referred to court. The situations in the other four States we visited are described below.

Virginia

Several studies in recent years of Virginia's detention practices have shown a high potential for reducing secure detentions by using more specific detention criteria. For example, when a 1978 study applied NAC criteria to 84 juvenile detentions in 10 judicial districts it found that 55 percent did not meet the NAC criteria. The study also found that the percentage of children detained after a petition was filed against them varied from 6 percent in some judicial districts to 23 percent in others.

Past studies and our review show that other measures to reduce detentions have sometimes not been effective. For example, the State's unified court intake procedures require a detention hearing within 24 hours of arrest, or 72 hours if court is not in session. However, we found that few juveniles were released from detention after the detention hearing. A State study also found that

> "Unless question is raised by legal counsel, the youth or parents, however, some judges do not explore the possibility of release pending adjudication, relying instead on the initial judgment of the intake officer to detain."

The State is currently attempting to improve the detention decisionmaking process. However, current State criteria do not circumscribe specific situations where detention is warranted as do NAC standards.

Due, at least in part, to the lack of specific detention criteria, the local courts we visited had widely varying detention practices and procedures. Some courts relied totally on the judgment of intake officers and provided no criteria to guide detention decisions. Yet one locality gave specific examples of when secure detention was allowed, such as cases where the juvenile

--was charged with an offense indicative of violent aggressive behavior,

--had an extensive criminal record,

--was charged with many current offenses that were violent

or involved theft or destruction of large amounts of property, or

--made statements of intentions to commit further acts of violence or theft.

Oregon

Current Oregon detention criteria do not meet NAC criteria in several important respects. For example, any runaway or nonserious offender may be securely detained. The State allows juveniles to be securely detained if they are accused of only one delinquent offense or if the court believes their current behavior or release may immediately endanger their welfare or the welfare of others.

According to officials in 4 of the 10 county courts we visited, they detained juveniles for all of the above reasons. Three other county courts generally based secure detention decisions on their view of whether release of the youths would endanger their welfare or the welfare of others. The three remaining county courts used the seriousness of the current crime and whether the youth is a runaway, is considered a danger to self or others, or has a past history of delinquent offenses as predominant reasons for detention. Although seven Oregon counties participated in an OJJDP-sponsored program that included development of more specific detention criteria, implementation of the criteria was dependent on future OJJDP funding.

New Hampshire

New Hampshire recently passed laws that require written detention orders by the courts to document reasons for detention. However, the three allowable reasons are very broad and therefore decisionmakers must rely heavily on their experience and judgment in deciding whether secure detention is warranted. The New Hampshire Crime Commission had developed secure detention criteria similar to NAC criteria, but they had not been adopted by the State at the time of our review.

Local practices sometimes did not conform with requirements in the legislation. In our review of 86 detention stays involving 81 juveniles to determine the reasons for detention, 61 cases had written detention orders and 25 involved administrative decisions by correction officials. Of the 61, 10 did not conform to the legislation's requirement regarding the documentation of reasons for detention. Four of these detention orders did not state any reason for detention, and the others gave reasons other than the three listed in the legislation.

Massachusetts

Massachusetts uses a three-tier detention system involving the police, judges, and regional coordinators for the Department of Youth Services. However, none of the three tiers has secure

detention criteria that parallel NAC standards. In the first tier, the police may temporarily detain a child in a local police lockup until the arraignment hearing if the court is not in session and if

--the parents or guardians cannot be located,

--the court has issued an arrest warrant, or

--the police or court probation officer considers the juvenile to be a danger to himself/herself or the public.

The second tier of the system consists of the court arraignment. At the arraignment hearing, judges decide whether to

--send the juvenile home on personal recognizance or surety,

--levy bail, or

--remand the child directly to the Department of Youth Services in lieu of bail.

The third tier occurs if the juvenile is remanded to the Department of Youth Services or if bail is not met. At that time youth services regional coordinators must decide whether to detain a juvenile in a secure or nonsecure setting. Sometimes even "nonsecure settings" use locked doors and supervision to restrict the juvenile's freedom. The regional coordinators do not have any written standards for selecting the appropriate security level of the detention placement. Rather, a specific number of secure and nonsecure slots has been allocated to each region. In their selection, regional coordinators said they consider such things as seriousness of the offense, past problems in dealing with some of the juveniles, and court influences, but they consider the availability of allocated slots in secure and nonsecure settings as most important.

In commenting on a draft of this report, the former Governor said he agreed that States should work to develop more specific secure detention criteria. He said the Department of Youth Services has filed legislation, based on the NAC standard, designed to establish guidelines for judges to use in recommending secure detention placement to the Department.

ADDITIONAL ALTERNATIVES NEEDED TO REDUCE SECURE DETENTIONS

The need to provide appropriate nonsecure detention alternatives, such as shelter care, emergency group homes, and foster care programs, was supported by almost everyone we contacted.

Providing alternatives is a major goal of the Juvenile Justice and Delinquency Prevention Act. The organizations that established national standards also advocate that the least restrictive means be used to protect the children and the community. Further, State and national studies, as well as our review, show that alternative programs can reduce secure detentions.

Providing additional alternatives to secure detention could help alleviate the problem of questionable detentions. However, to be highly effective these alternatives must be

--used in conjunction with specific detention criteria;

--properly planned, which includes identifying the type, location, and capacity of each alternative; and

--properly coordinated with local detention decision makers.

Some States we visited had conducted surveys to identify the need for alternatives to secure detention but had not conducted comprehensive needs assessments specifying number, type, capacity, and location of needed detention alternatives. The States had funded some alternatives with OJJDP or State funds, but many communities still experienced major problems in providing additional alternatives or encountered utilization problems with the alternatives that were available. Some of these problems resulted in additional or extended detention stays.

Many programs for juveniles have reported that they successfully served as alternatives to secure detention. University of Chicago researchers recently studied 14 local alternative programs for OJJDP and reached several significant conclusions that provide a perspective of the alternatives issue. The study concluded that:

--Upwards of 90 percent of the juveniles in alternative programs did not commit new offenses or run away.

--Various program formats were about equally successful in keeping juveniles out of trouble and available to the courts.

--Residential programs, such as group homes and foster homes, were successful for both delinquents and status offenders.

Problems in providing and coordinating the use of alternatives to secure detention

Generally, the lack of alternatives was cited as a major reason for secure detention of juveniles in all the States we visited. Oregon officials in 9 of 10 jurisdictions complained about inadequate alternatives. Officials in seven Oregon counties were waiting to implement more specific detention criteria until appropriate alternatives were developed. Virginia officials said that only 2 alternatives were available to serve a 20-county area. North Carolina officials said that rural areas generally lacked alternatives. In New Hampshire and Massachusetts, the lack of alternatives was especially acute for females. For example, in New Hamsphire officials said many of the females in our sample had been detained because of a lack of alternatives. Similarly, in Massachusetts over 26 percent of the State's secure detention slots were for females, but none of the 119 shelter care slots were for females. In commenting on this report, the former Governor said that Massachusetts now has a shelter care facility for detained females.

Misallocation of slots caused one Virginia alternative program to close. Local officials said too many slots for females in a coed facility caused a low utilization rate, despite frequent overcrowding in the local jail and detention home, which often held nonserious offenders.

Coordinating the use of existing alternatives is hampered by two types of problems: (1) the alternatives themselves sometimes place restrictions on referrals or have disadvantages that discourage program use and (2) potential referral sources, such as court intake workers or judges have their own biases regarding alternatives. For example, some alternative programs

--refuse to accept certain types of offenders such as the emotionally disturbed or habitual offender;

--are located long distances from potential referral sources; and

--place other restrictions, such as limiting the time that a juvenile can stay in the alternative.

Problems with potential referral sources may occur when the use of alternatives is contrary to local judicial philosophies. For example, in one State we were told that judges use detention for punishment and will not use nonsecure alternatives. Consequently, even though the local detention home was often overcrowded and held status and nonserious offenders, available bed space in two nearby alternatives went unused. The referral source may also be restricted to only one agency when local turf

battles arise between referral sources, such as social service and court officials. Also, local officials told us they sometimes doubt the quality of the program offered by the alternative, especially if the alternative is new and needs time to establish its credibility.

In some cases, after detained juveniles were found delinquent and committed to a State agency for treatment, problems often arose for officials trying to find a nonsecure placement for the juveniles' treatment. Court officials said that, even when a nonsecure placement is decided on, juveniles sometimes must remain in secure detention because of the lengthy process in locating an appropriate placement. This process includes interviews between the juvenile and placement program officials, bed space availability, and other arrangements needed for placement. For example, in one State a local judge reported that several emotionally disturbed juveniles stayed for long periods in secure detention while an unsuccessful search was conducted for an appropriate placement.

MONITORING AND RECORDKEEPING SYSTEMS NEED IMPROVEMENTS

State monitoring and recordkeeping systems need to be improved so that States can effectively

- --monitor progress and take appropriate enforcement actions to achieve compliance with the act's goals of deinstitutionalization and separation,
- --identify needed detention system improvements, and
- --plan and address emerging issues such as the complete removal of juveniles from adult jails.

The States we visited had not established comprehensive systems to collect data and monitor detention facilities, including jails and lockups. Rather, they had established limited systems geared toward meeting the minimum OJJDP requirements to monitor compliance with the act's deinstitutionalization mandates. The States' monitoring and recordkeeping systems covering detention facilities were therefore not totally effective. For example, the data collection systems were incomplete and could not serve as a reliable basis for making detention decisions.

Community Research Center's analysis of State compliance monitoring systems

Section 223(a)(15) of the act requires as a condition for receiving formula grants that States establish an "adequate" system for monitoring jails, detention facilities, correctional facilities, and nonsecure facilities to help insure compliance with the act's mandates regarding status offenders, separation, and complete removal. The Community Research Center, under a grant from OJJDP, addressed the adequacy of State systems for monitoring compliance with the status offender and separation mandates. The Center's report, based on its review of the monitoring practices in 41 States and the District of Columbia, noted several common problems and made many recommendations to improve the monitoring systems. The report stressed that long-term improvements in due process, deinstitutionalization, quality of service, and living conditions can best be attained by a system that monitors the entire juvenile justice process as well as juvenile detention and correctional facilities. However, several States used only limited systems to monitor compliance with the act and these systems, moreover, had significant problems.

The report discussed limitations of State monitoring systems and also recommended 27 overall improvements to OJJDP. One of the most comprehensive recommendations addressed several monitoring problems that we also observed. The report recommended that OJJDP develop model legislation which States could adopt to improve their monitoring authority. The model legislation would grant the monitoring systems general authority to monitor and specific legal authority to (1) provide uniform admission/release forms, (2) require all secure facilities that might hold juveniles to maintain such records and submit duplicate copies to the monitoring agency at designated times, (3) inspect all secure facilities for compliance with the separation requirements, (4) cite facilities for noncompliance violations, and (5) enforce necessary sanctions, including closure of the facility to juveniles if violations are not corrected.

The study found that one of the most critical monitoring problems was the absence of complete and accurate data at the facility level. The report recommended that OJJDP develop a recordkeeping package to assist monitoring agencies in dealing with the "how to" of monitoring detention and maintaining facility records.

The study also produced individual reports for the States we reviewed which contained several significant findings and recommendations. For example:

--Each of the five States did not monitor all secure facilities that might hold juveniles--primarily jails and police lockups.

--Each of the five States needed to develop uniform admit/release forms and improve reporting because local facility records were often incomplete or inaccurate.

--In three of the five States the CRC monitor disagreed with State officials as to whether some jails provided adequate separation.

--Four of the five States needed to include realistic sanctions in enforcement procedures to correct or eliminate separation violations.

--Two of the States did not use a 12-month reporting period but rather used only a 3- or 6-month period for most facilities.

An OJJDP official said that the Center recommendation concerning authority to monitor had not yet been addressed and that the recordkeeping package the Center recommended would not be developed nationally. OJJDP has conducted monitoring workshops and provided for some limited technical assistance to a few States in the recordkeeping area. However, its most significant effort seems to have been the study itself.

State visits

The States we visited did not have comprehensive systems to monitor detention facilities, including jails and lockups. Without such systems, it is difficult, if not impossible, to effectively evaluate compliance with separation requirements, much less plan and review other detention related programs.

Although we did not evaluate the effectiveness of State efforts to comply with the monitoring and reporting provisions of the act, we found that many of the problems noted in the Community Research Center report persist. These problems and others seriously affect the States' ability to effectively review and improve their detention practices. For example, we were unable to obtain accurate State data on the total number of juveniles held in detention facilities--especially jails and lockups. Lockups generally did not report to the State level and the data reported by jails were highly questionable.

Further, local facilities' records were often inaccurate or incomplete. None of the States or localities summarized data on the reasons for detention or the prior offense history of detained juveniles, although individual records sometimes contained this

data. Data on the juveniles' length of stay in detention facilities were often unavailable or inaccurate. In three States, jail records were not sufficient to verify compliance with the separation requirement. In one of these States, some facilities used the same cell to hold both juveniles and adults but at different times of the day, so that separation was still supposedly achieved. However, the local records generally did not indicate the time that a juvenile was admitted or released from the cell--which prevented the verification of compliance. In another State, the statewide statistics did not indicate whether the juvenile had been transferred to adult court for trial and/or disposition.

CONCLUSIONS

The States we visited often considered the goals and objectives of the Juvenile Justice and Delinquency Prevention Act and used OJJDP funding and technical assistance to revise juvenile codes and make other improvements. However, the States and localities still detained nonserious offenders and status offenders in juvenile detention centers and jails because of (1) vague detention criteria and (2) the lack of appropriate alternatives to detention.

OJJDP efforts to reduce the use of secure detention facilities appear to have concentrated on meeting the deinstitutionalization and separation mandates of the act. OJJDP has sponsored the development of national standards that cover virtually every component of the juvenile justice system including the use of specific and objective detention criteria. While some research has been conducted, little has been done to assist States in adopting and implementing these or any other national standards. Also, the States need more help to identify, develop, and coordinate the use of appropriate detention alternatives.

Improved monitoring systems are needed if States are to effectively review juvenile detention practices and address emerging issues. States have not established comprehensive monitoring systems but rather have established only limited mechanisms to help monitor compliance with the deinstitutionalization of status offenders and separation mandates of the act. Although an OJJDP sponsored national study of State compliance monitoring systems has identified major problems and technical assistance needs, more needs to be done to help the States resolve these problems and improve their monitoring systems.

We realize that OJJDP operates under limited funding and do not suggest that it can accomplish all the act's objectives immediately. However, after recognizing these constraints, we still believe OJJDP is in a position to help the States improve

their detention practices by developing model State legislation that the States can use to conform their laws to appropriate national standards and by providing technical assistance and information to address juvenile detention problems.

RECOMMENDATIONS

We recommend that the Attorney General require the Office of Juvenile Justice and Delinquency Prevention to:

--Encourage States to adopt and implement standards that (1) provide specific detention criteria which limit the use of secure detention to appropriate purposes and (2) require adequate care and services for detained juveniles.

--Develop and support the adoption of model State legislation that would, if implemented, conform secure detention practices in the States to standards consistent with the objectives of the Juvenile Justice and Delinquency Prevention Act.

--Increase assistance to States and localities by providing technical information on how other States and localities have successfully dealt with juvenile detention problems.

--Assist States and localities in identifying areas where additional nonsecure detention alternatives are needed, developing methods of providing alternatives, and coordinating the alternatives with local detention decisionmakers.

--Assist States and localities in improving their monitoring and recordkeeping systems to adequately account for juvenile detention practices.

AGENCY COMMENTS AND OUR EVALUATION

The Department of Justice stated that its support and fulfillment of the recommendations contained in this chapter would result in improved juvenile detention practices at the State and local levels. However, the Department believed OJJDP had done more to assist the States than the report indicated and suggested that we contact OJJDP's Formula Grants and Technical Assistance Division to be briefed on past actions and future plans.

We met with officials from this division during our review and did so again at the Department's request. At this meeting, we were advised that beginning in January 1983, OJJDP

will offer suggestions to nine States and one territory concerning their plans for removing juveniles from jail and reiterate the availability of technical assistance. Appropriate technical assistance would then be provided upon request. The other States and territories are to be assisted at a later date.

These officials also expressed the view that their assistance had been proactive and that some States may not want technical assistance from OJJDP. We understand that OJJDP cannot make States accept help, but the ones we visited during our review did not fall into that category. Since these States expressed a need for additional assistance, a debate over how much OJJDP has or has not done does not appear to be relevant. The issue that should be considered is how best to provide States that want help with the information that they need.

Regarding the recordkeeping package, the Department stated that the package recommended by the Community Research Center is not being developed as a national package, it is being developed at the State and/or county level. We contacted OJJDP officials and were told that the recordkeeping assistance was only being provided to a few States and the localities included in their jail removal initiative. It appears to us that the other States and localities also need this type of assistance. The Department also said that OJJDP has addressed 20 of 27 recommendations the Center made to improve State monitoring systems. This is misleading because OJJDP addressed many of the 20 recommendations by either deciding it had already taken action or that none was needed. These steps have not resolved the problems identified in our report and, after the Department's comments were received, OJJDP officials concurred that more remains to be done.

CHAPTER 4

THE FEDERAL GOVERNMENT SHOULD IMPROVE ITS DETENTION PRACTICES

Several Federal agencies have authority to arrest and detain juveniles or are responsible for their custody under certain circumstances. These agencies could serve as a model to State and local juvenile justice agencies by adhering to the objectives of the Juvenile Justice and Delinquency Prevention Act. Under the act's Concentration of Federal Efforts provisions, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) is required to assist Federal agencies directly responsible for preventing and treating juvenile delinquency to develop and promulgate regulations, guidelines, requirements, criteria, standards, procedures, and budget requests in accordance with OJJDP policies, priorities, and objectives. However, we found that some of the policies and procedures of the U.S. Park Police, Bureau of Indian Affairs (BIA), and Immigration and Naturalization Service (INS) were not consistent with these objectives.

EFFORTS TO IMPROVE FEDERAL DETENTION PRACTICES HAVE BEEN LIMITED

Officials in the Federal agencies we reviewed said that OJJDP and the agencies have had little or no contact concerning juvenile detention policies and procedures other than through efforts of the Federal Coordinating Council on Juvenile Justice and Delinquency Prevention. OJJDP officials said their contacts concerning Federal detention practices had been limited to Coordinating Council efforts and a briefing to two of the agencies we reviewed on children in Federal custody. OJJDP sponsored two studies 1/ concerning juveniles in the custody of Federal agencies. The first identified pertinent issues involved with detaining alien juveniles and recommended further study. The second study assessed the degree to which Federal policies and practices resulted in detaining juveniles under circumstances inconsistent with certain provisions of the act. The study discussed problems and made recommendations to each of the agencies we reviewed.

1/Juvenile Illegal Aliens: Feasibility Analysis, Arthur D. Little, Cambridge, Massachusetts, May 1, 1980, and Children in Federal Custody, Community Research Forum, University of Illinois at Urbana-Champaign, July 1980.

On the basis of the second study's results, a Coordinating Council subcommittee initiated a three-phase program to address problems concerning native American youth. The first recently completed phase collected data currently available to BIA on secure incarceration of native American juveniles. In phase two, a contractor is supposed to review a sample of tribal facilities to identify actual practices and problems. The final phase will recommend solutions to the problems surfaced in the first two phases. In commenting on this report, the Department of Justice stated that, subsequent to phase three, OJJDP and BIA will develop plans for modifying practices that result in inappropriate placement of youth.

OJJDP officials said that, although the agencies disputed many of the second study's findings and recommendations, an Attorney General's order has been drafted that will address deinstitutionalization of status offenders, separation of juveniles from adult prisoners, and complete removal of juveniles from adult facilities. They said that the Attorney General's order will not address any other juvenile issue, will not be binding on Department of the Interior agencies, and is the only action currently planned addressing Federal detention policies and practices other than actions by the Coordinating Council. The Department commented that each bureau or agency will be held responsible for systems which enable it to annually measure or report to the Federal Coordinating Council on progress in meeting goals established by the order.

FEDERAL AGENCIES DO NOT ADEQUATELY ACCOUNT FOR OR MONITOR JUVENILES TAKEN INTO CUSTODY

None of the Federal agencies, except the Marshals Service, could completely account for the juveniles they had taken into custody. Officials from all agencies claimed that the number of juveniles detained was small, but only the Marshals Service had national data to support the claim. None of the agencies could provide us with information, other than averages, on the number of juveniles detained and lengths of stay. In addition, much of the data that was available had not been verified by agency officials and officials admitted that the data was inaccurate or incomplete.

Immigration and Naturalization Service

Current INS statistics combine arrest and detention data for illegal alien juveniles and female adults, making it impossible to determine how many juveniles were detained. The only national estimate of juvenile detention that INS officials could provide was the result of an informal survey of juveniles detained during the week of March 16, 1980. The survey showed

81 juveniles had been detained during the week, including 6 who had been detained over 30 days. This survey only included juveniles who were 16 years of age or younger.

Headquarters officials said that the districts prepare narrative reports each month which contain information on juvenile detentions, but overall statistics concerning juveniles are not available at the national level. Although detention data could be obtained at the district level, a regional official said that obtaining it would require a review of thousands of original documents. National data on juvenile detentions may be available in the future if a planned computerized statistical system becomes operational. In commenting on a draft of this report, the Department said that INS was making significant progress on the computerized system which had been implemented in the San Diego District and El Centro Service Processing Center.

National Park Service

Until 1981 the National Park Service maintained computerized data that included juvenile arrests, juveniles charged and referred to court, and juvenile dispositions, but not juvenile detentions. According to the NPS official in charge of the statistical system, this system was discontinued for economic reasons while a new system was being planned. He also said that the data in the old system may not be accurate because park officials did not always submit data, the coding and input of data into the computer was under contract and somewhat outside NPS's control, and verification of coded data was extremely limited.

An NPS official said that, since the old system was discontinued, data has been tabulated by hand, but it was not done in a manner that would distinguish juveniles from adults. A new computerized system is to be implemented in late 1982 or 1983, but may not include complete juvenile data because all regions will not be required to participate or collect juvenile information.

NPS officials said that most arrested juveniles are referred to State and local jurisdictions or detained in facilities under contract with the Marshals Service. Accurate statistics were not available to show the number of these juveniles or their length of detention. Officials said that the Yellowstone and Yosemite Parks, however, have facilities approved to hold juveniles. Data from a Yellowstone Park official showed that only one juvenile was held in the park facility in the last 3 years because park officials prefer to use local facilities with Marshals Service contracts. At our request, Yosemite officials provided us with the following detention data.

Year	Male	Female	Average length of stay (days)
1979	35	9	1.5
1980	38	10	1.3
1981	42	5	2.1

U.S. Park Police

The U.S. Park Police maintains statistical records for juveniles, including the number of juveniles apprehended (taken into custody but not actually arrested) and charged (arrested and charged with an offense). No information was available on the number of detentions or lengths of stay.

A Park Police summary for 1979 shows that 1,923 juveniles were apprehended, including 253 for traffic violations, and 1,874 juveniles were charged with offenses. Of these, 121 were charged with Part I (serious) offenses while 1,738 were charged with Part II (nonserious) offenses. Fifteen others were charged with status offenses.

U.S. Marshals Service

The U.S. Marshals Service maintains statistics on the number of juveniles "handled" and "received." An official explained that juveniles "handled" refers to any contact a marshal has with a juvenile including each time the juvenile is taken to court. The statistics do not distinguish detentions from other handling. In 1981, the Marshals Service handled juveniles under Federal statutes 1,976 times and juveniles under District of Columbia statutes 5,799 times. Officials further explained that juveniles "received" refers to juveniles actually processed by the Marshals Service, all of whom would be detained at least during processing. In 1981, the Marshals Service received 1,380 juveniles charged with Federal crimes, and 4,677 juveniles charged with District of Columbia offenses. Statistics were not available on individual lengths of stay.

Bureau of Indian Affairs

The Bureau of Indian Affairs compiles tribal law enforcement data, which includes juvenile arrests. This data is collected from law enforcement programs operated by BIA, programs under contract with BIA, and programs completely outside BIA's control. According to a BIA official, approximately 156 programs, run either by BIA or by the tribes under contract with BIA, are required to submit law enforcement data. Also, eight tribes which fund their own programs are encouraged to report data.

Reported data shows that 12,442 juveniles were arrested for nontraffic offenses during 1980. Of these, 204 were for major

offenses (handled by Federal court) and 12,238 were for minor tribal offenses (misdemeanors according to BIA categories). Of the tribal offenses, 2,734 were status offenses. This data may be understated, however, because BIA does not verify it and several tribes do not always report. Records for 1980 show that an average of 27, or 16 percent, of the law enforcement programs did not report each month. Data also showed that, during the first 6 months of 1981, an average of 47, or 29 percent, of the programs did not report each month. In addition, a 1981 Department of the Interior Inspector General's report stated that the BIA reporting system was unreliable and did not provide timely and accurate information. It also stated that data may be underreported by as much as 20 percent.

Information on detention and length of stay was not readily available. BIA officials told us that this information is available for the programs operated by BIA, but that the only way to obtain it for the remaining programs would be to contact the tribes.

INSPECTION OF FACILITIES USED BY THE FEDERAL AGENCIES TO DETAIN JUVENILES WAS INADEQUATE TO ENSURE STANDARDS ARE MET

To ensure that Federal agencies adhere to their prescribed detention policies and that facilities they use meet national standards, agencies could inspect and review the policies of these detention facilities. If State or local facilities are involved, an inspection report could also serve as technical assistance to the State and local officials on detention procedures that meet or exceed the standards. The level of inspection activity and assistance varies widely between Federal agencies. Conflicting demands on the inspectors often delay inspections and inadequate detention alternatives force the agencies to use facilities that may not meet standards.

Marshals Service officials said that, before contracting with a facility, the Marshals Service conducts a complete operational and management inspection on the basis of various national standards, including the "Federal Standards for Prisons and Jails" recommended by the Attorney General. These standards are intended for adult facilities, but also contain provisions for complete removal of juveniles from adult facilities, separation, and deinstitutionalization of status offenders. During the life of a contract, facilities used under 1,000 days are inspected yearly and those used over 1,000 days are inspected biannually. Officials said that, because more facilities are needed than are available they contract with facilities that do not meet standards. Although they inform the facility officials of needed improvements, the Service must use the facility when nothing else is available.

Marshals Service officials also said that when problems are noted during inspections, they can do little more than not renew a facility's contract. They said that marshals have no authority to interfere with a facility's internal operations even if problems are witnessed. Moreover, they said the contracts are more like formal agreements than contracts because the facilities do not make any profit.

INS detains juveniles in facilities under Marshals Service contracts and other State and local facilities under informal agreements with INS. According to INS officials, the facilities with informal agreements are inspected periodically by INS regional or district officers.

A BIA inspector told us that two inspectors are responsible for inspecting 125 law enforcement programs, including detention facilities, operated on the reservations. The inspections concentrate on management and administration of all aspects of the programs. An inspector said that juvenile detention practices are discussed during inspections, but actual practices are rarely observed because juveniles are usually confined on weekends and inspections normally occur on weekdays. If juveniles are in detention during inspections, the inspector said they ensure that separate cells are used but do not require sight and sound separation. Inspectors have no authority to direct changes, but can make recommendations and conduct followup inspections on their implementation. Headquarters and regional officials told us that there is an effort to encourage tribes to implement inspection recommendations, but they would be very reluctant to enforce the recommendations by withholding funds or canceling contracts because of BIA's sensitive relationship with the tribes.

A BIA official said that BIA has no formal requirement for frequency of inspections. BIA recently reported to a Senate committee that all detention facilities are inspected twice a year. A listing of inspections performed from October 1979 through July 1981, however, showed that only 44 inspections were made of the 125 programs, 23 of which were initial inspections. Another list showed that 16 initial and 4 followup inspections were made between October 1981 and July 1982. A headquarters official said that the goal of two inspections a year had not been reached because BIA does not have enough inspectors. The importance of these inspections is evident by the findings and recommendations from the inspections that have occurred. The following are only a few of the problems mentioned in the inspection reports we reviewed:

--lack of smoke and fire detection systems,

--Indian Health Service recommendations not implemented,

--isolation or maximum security cells used to detain juveniles,

--inadequate training of staff,

--jailers reporting to inspectors that juveniles and adults were placed in the same cells, and

--lack of administrative control over the facility.

According to NPS officials, overall operations of the parks are inspected periodically, including the two facilities certified to hold juveniles. Officials said there is no timeframe requirement for these inspections and that recent travel restrictions have limited inspections by both regional and headquarters staff. In addition, there is no centralized file of inspection results and officials had no idea how many inspections were conducted by the regions.

POLICIES OF SOME AGENCIES NOT ALWAYS CONSISTENT WITH FEDERAL OBJECTIVES

The policies of some agencies were not always consistent with the objectives established by the Juvenile Justice and Delinquency Prevention Act to separate juveniles from adults and remove juveniles from adult facilities.

Policies do not require sight and sound separation

BIA's Law and Order Handbook states that juveniles should not be detained in adult facilities except where there are no separate juvenile facilities and a real emergency exists. BIA statistics for November 1980 show that only 8 juveniles were held in separate juvenile facilities while 118 were held in separate cells in an adult facility. In addition, both BIA's Law and Order Handbook and its Law Enforcement Standards for Police and Detention Programs require only that juveniles be held in separate cells from adults. There is no discussion of the need for sight and sound separation.

A BIA inspector said that, although only one tribe admitted in a 1980 survey that it held juveniles and adults together in the same cell, several tribal jailers had told him that juveniles were confined with adults if separate space was not available. In addition, several BIA inspection reports cited tribal detention facilities either for no separation at all or for a lack of designated juvenile cells.

The transportation policy of the U.S. Marshals Service allowed juveniles to be transported with adult offenders if the trip could be made in a day and the juvenile was under constant

close surveillance. However, a new Marshals Service policy will allow this type of transport only as an exception to the basic policy that juvenile and adult offenders be transported separately. A Marshals Service official said that the new policy resulted from comments raised by GAO during this review and that the new policy had not yet been published or distributed to the field.

The INS transportation policy is to not mingle juveniles and male adults, but officials said juveniles and adults are sometimes transported together when they are under the direct observation of an INS officer. INS has no specific policy concerning separation of juveniles and adults during processing, and again juveniles and adults are sometimes not separated when they are under an INS officer's observation. One official said that the separation mandate would not apply during processing because at that point both juveniles and adults would be charged with violating administrative regulations and not criminal laws.

A related concern is the Marshals Service and INS policy of following the States' juvenile age limits when detaining juveniles. This policy could result in persons considered juveniles by the Federal Government being held with adults if the State's juvenile age limit is lower than 18. For example, if INS detains a 17-year-old in Texas (the State age limit for adults), officials said the individual would be held in the INS processing center, a facility that is supposed to be used only for adults.

National Park Service guidelines state that runaways may be picked up and turned over to local jurisdictions. Officials said these juveniles are processed in park facilities and turned over to local jurisdictions for possible detention. Although NPS does not detain status offenders, except during processing, the result of the arrests may be secure detention if the locality so chooses. Because NPS officials said they do not know the localities' practices regarding status offenders, we cannot conclude whether NPS policy complies with the deinstitutionalization of status offender objectives of the act.

Policies do not provide for complete removal of juveniles from adult facilities

The act's 1980 amendments established the removal of juveniles from adult jails and lockups as a national policy objective. Also, the Department of Justice's "Federal Standards For Prisons and Jails" states that juveniles do not belong in adult prisons or jails of any sort. The policies of all of the agencies we reviewed, however, allowed juveniles to be held in adult facilities and there were no current plans to require complete

removal. Likewise, several officials contacted said they were unaware of the act's complete removal mandate.

BIA officials said BIA and the tribes cannot accomplish complete removal because of a lack of available detention space. They said that dozens of new jails would have to be built because alternatives to jail would not be acceptable to the tribes. They also said that, because of the relationship between BIA and tribal organizations, BIA is limited in its enforcement power to cause changes in tribal practices.

Marshals Service officials said they were aware of the Federal objective of complete removal of juveniles from adult facilities but believed they could do little until State and local practices changed. Current policy is to follow national standards that require sight and sound separation, but officials said the Service sometimes uses facilities that do not comply with this requirement because of inadequate alternatives. In commenting on the draft report, the Department of Justice said that the policy is to detain juveniles only in a juvenile facility unless no such facility is available. In that case the marshal can detain a juvenile in an adult facility only with the court's specific knowledge and/or approval. A Marshals Service official said that this new policy resulted from the GAO review and has not yet been published or distributed to the field.

Headquarters officials of the U.S. Park Police were unaware of the act itself and hence its removal objective, and the written policy of the Park Police does not require complete removal. Nevertheless, officials said the Park Police generally uses only local juvenile detention facilities when detaining juveniles.

INS officials said they rely on the policies of the Marshals Service and States when detaining juveniles, so implementation of the complete removal objective would depend on the policies of the other agencies. These officials said INS prefers to use facilities with Marshals Service contracts because of the Service's expertise in detention and its strict standards. They said INS also uses the Marshals Service contract requirements as a basis in forming informal agreements with local facilities. Further, they said INS has no plans to require complete removal of juveniles from adult facilities unless the Marshals Service takes the lead.

ARRESTED JUVENILES ARE TURNED OVER TO LOCAL AUTHORITIES WITHOUT CONSIDERATION OF LOCAL PRACTICES

Juveniles arrested by the Park Police and NPS for delinquent and status offenses on Federal land are usually turned over to local authorities for handling. The arresting officers generally have little or no knowledge of the subsequent disposition of the matter. While this is sometimes the only choice and usually the simplest and most economical procedure for the Federal agencies, it increases the workload of local juvenile justice systems. In addition, officials said Federal agencies that refer juveniles to local authorities do not provide technical or financial assistance to help the local systems improve their detention practices. Although we did not review cases of juveniles detained under this procedure, we believe the influx of juveniles arrested by Federal agencies can only add to State and local problems of juvenile detention practices and increase the number of juveniles detained under conditions that may not meet national standards.

NPS guidelines state that, when runaways are picked up, generally they are to be turned over to local authorities. NPS officials said that NPS does not consider itself responsible for any circumstances or conditions of detention after a juvenile is turned over to a State or locality. Officials said that runaways may be held in parks for a short time after processing if the officer believes a parent can quickly take custody, but they are otherwise turned over to local authorities.

The Park Police maintains its own lockup-type holding facilities for juveniles but does not have space available for long-term detention. It uses local juvenile detention centers if detention is necessary for longer than a few hours. These facilities are not inspected by the Park Police, and officials said they do not know of actual conditions beyond the front door. According to an official from one of the local detention centers, juveniles arrested by the Park Police are not treated any differently from juveniles arrested by any other law enforcement agency.

Both the Park Police and NPS rely on "federally approved" detention facilities to ensure that juveniles are detained in accordance with Federal standards. NPS officials defined federally approved as facilities approved by the Marshals Service. Marshals Service officials said, however, the Service cannot impose Federal regulations on local facilities and cannot approve facilities. Even if a contract facility does not meet all the Federal standards, the Marshals Service may have no other alternative to using that facility.

CONCLUSIONS

Although, to receive Federal assistance, States are required to have an effective monitoring system to account for secure detention of juveniles, Federal agencies which take juveniles into secure custody for many of the same reasons as the States could not account for the detained juveniles. Certain policies and practices of some Federal agencies concerning separation of juveniles from adults, status offenders, and complete removal of juveniles from adult facilities were not always consistent with the national policy objectives of the Juvenile Justice and Delinquency Prevention Act. By arresting and referring juveniles to the local systems and using local facilities for detention of juveniles in Federal custody, these Federal agencies further aggravate problems at some State and local facilities.

OJJDP should provide Federal agencies detaining juveniles with the information necessary to conform their policies and practices regarding detention of juveniles to better meet the act's objectives. To date, however, OJJDP has done little to assist Federal agencies in meeting its policies and objectives related to juvenile detention. Its actions include two studies of children in Federal agency custody and limited efforts of the Federal Coordinating Council on Juvenile Justice and Delinquency Prevention.

RECOMMENDATIONS

We recommend that the Attorney General require OJJDP to actively promote the objectives of the Juvenile Justice and Delinquency Prevention Act by:

--adopting a strong policy formulation role and through working with the Federal Coordinating Council, identifying the policies and practices of other Federal agencies that are inconsistent with the act's objectives and

--providing technical assistance and information needed to adopt appropriate policies and practices.

We also recommend that the Attorney General and the Secretary of the Interior direct their respective agencies to:

--cooperate with OJJDP and the Coordinating Council in conforming their policies and practices to the act's objectives and

--establish recordkeeping and monitoring programs that adequately account for juvenile detention practices and

help determine whether the act's objectives are being achieved.

AGENCY COMMENTS AND OUR EVALUATION

The Department of Justice agreed with our basic conclusion that certain Federal policies are not always consistent with the act's objectives and stated that its support and fulfillment of our recommendations would result in improved juvenile detention practices at the Federal level. The Department said that OJJDP has long been concerned over whether or not Federal agencies were responsive to the act and, for that reason, had offered to fund the study of the policies and practices of Federal agencies that detain juveniles discussed on pages 37 and 38 of this report. The Department also concluded that the Federal Coordinating Council would be the natural vehicle to address the issues and concerns raised in our report and stated that OJJDP has used the Council for this purpose.

We agree that the Council is a good vehicle for stimulating change, but we believe that it is limited in what it can accomplish because of infrequent meetings, limited resources, and the collateral duties of Council members. Recognizing this, OJJDP could act as a catalyst for change under the Concentration of Federal Efforts mandates that OJJDP provide technical and training assistance to Federal agencies concerning juvenile delinquency programs. OJJDP is also required to assist operating agencies in developing their regulations and procedures concerning the prevention and treatment of juvenile delinquency. According to the Department's comments, OJJDP has already started to address these issues by taking the lead role for completing a Council work plan which calls for assistance to Federal agencies in the appropriate placement of juveniles. The first objective of this plan is to encourage Federal agencies responsible for the apprehension or detention of juveniles to do so in compliance with the deinstitutionalization, separation, and jail removal mandates of the act. The plan calls for an examination of the policies and practices of Federal agencies, development of appropriate policy statements for inclusion in the regulations of the agencies, and provision of technical assistance to those agencies that need it. The plan was adopted by the Council after our draft report was sent to the Department for comment.

The Department agreed that the policies of INS and Marshals Service should be consistent with the objectives established by the Juvenile Justice and Delinquency Prevention Act and that recordkeeping and monitoring programs should be in place. To meet GAO's recommendation to both adequately account for and monitor juvenile detention practices, the Department said that each U.S. Marshal has been directed to develop a standard

operating procedure for the custody and detention of juveniles based on that particular judicial district's resources, availability of juvenile housing, and applicable State laws. A listing of all available juvenile facilities will also be maintained to ensure that, whenever possible, juveniles will be housed in a juvenile facility.

The Department of the Interior, by letter dated December 13, 1982, provided the comments of BIA and NPS. (See app. IV.) NPS said it will work with OJJDP and the Coordinating Council at the National level to better coordinate the policies and practices of OJJDP and NPS. NPS also stated that it will instruct its parks and regions to establish a recordkeeping and monitoring program to assist in determining whether the objectives of the act are being achieved.

BIA concurred that one method of ensuring compliance with existing regulations and policies is through a regular inspection routine. BIA stated it had made an effort to increase the inspection staff, but due to program and fiscal constraints the staff had been maintained at two inspectors. BIA also reaffirmed the comments of its inspectors and the observations presented in this report that were taken from inspection reports.

BIA further stated that the findings concerning data reliability and separation policy needed clarification. After reviewing BIA's comments and supporting documentation, we clarified certain points but have not changed our conclusions and recommendations.

Data Elements GAO Attempted to Obtain for Each Sampled Juvenile

Demographic data
Dates of admittance and release
Length of stay
Reason for arrest, petition, or complaint
Reasons for detention
Detention order date and title of issuing officials
Reason for being detained over 30 days, if applicable
Prior arrests (dates, charges, and dispositions)
Family status (i.e., single parent, foster care, guardian, etc.)
Setting released to (secure or nonsecure)
Tests/evaluations conducted while in detention
Status at time of detention (preadjudicated, postdispositional, etc.)
Changes in detention status, including dates of changes
If postadjudicated, reason for detention instead of treatment
Miscellaneous comments, such as circumstances of arrest

SAMPLED JUVENILES WERE DETAINED FOR VARIOUS OFFENSE TYPES (note a)

State	Serious offenses		Non-serious offenses		Status offenses		Non-offenses		Total detentions (note b)	Percent of detentions not charged with serious offenses
	Male	Female	Male	Female	Male	Female	Male	Female		
Massachusetts c/	99	21	19	14	0	0	0	0	153	22
New Hampshire	34	5	12	4	0	0	0	0	55	29
North Carolina	51	7	7	4	16	9	0	1	95	39
Oregon d/	116	15	25	11	37	55	4	3	266	51
Virginia	88	3	34	8	3	8	0	0	144	37
Total	388	51	97	41	56	72	4	4	713	39 e/

a/Excludes detentions for which GAO could not determine the offense and excludes juveniles committed to treatment but placed in detention for reasons other than new charges or awaiting placement.

b/Does not include 72 probation violations because the probation may have resulted from any of the offense categories.

c/Includes 55 juveniles being held for a new charge but also committed to treatment.

d/The sex could not be determined for 2 nonserious offenders, making the total detentions for Oregon 268 and 715 for all States.

e/Percentage computation includes 2 nonserious offenders described in footnote "d" (276-715 = 38.6%).

APPENDIX II

U.S. Department of Justice

Washington, D.C. 20530

DEC 7 1982

Mr. William J. Anderson
Director
General Government Division
United States General Accounting Office
Washington, D.C. 20548

Dear Mr. Anderson:

This letter is in response to your request to the Attorney General for the comments of the Department of Justice (Department) on your draft report entitled "Improved Federal Efforts Needed to Change Juvenile Detention Practices."

The General Accounting Office (GAO) report consists of three sections, with each section focusing on a major issue related to juvenile detention practices. In addressing these issues, as well as the recommendations associated with them, the Department has identified each issue and provided its comments separately on each.

Questionable Uses of Secure Detention Still Exist

Overall, GAO's discussion of this issue accurately portrays juvenile detention practices within the several States included in the study. However, based on our review of this section, we are identifying a number of points which we believe require further review and analysis by GAO and the results thereof incorporated into their final report.

Page 6 of the draft report states that the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has a policy that juveniles who have not been charged with serious offenses should not be securely detained. The Department is not aware of a specific OJJDP policy which makes this statement. We recommend the statement be modified as follows:

> The national standards, which are not mandatory on the States, provide that juveniles who have not been charged with serious offenses should not be securely detained.
> (See GAO note 1.)

It should also be noted that the standards preceded the valid court order amendment which permits such detention.

The data cited on page 6 do not relate appropriately to the objectives of the Juvenile Justice and Delinquency Prevention (JJDP) Act, as inferred by GAO, because the data do not separate status and nonstatus offenders from other offenders. A staff analysis of the report from which the data was excerpted is available at OJJDP. The analysis also details other deficiencies of the data and their sources. Moreover, the data are outdated and the researchers on the project told OJJDP that they were unsure as to what conclusions could be reached. We believe GAO should reconsider its use of the data excerpted from this report and determine the appropriateness of the conclusions they appear to indicate.

The data on page 9 and the top of page 10 are seriously defective if they ignore or do not reflect the 1980 Valid Court Order Amendment, which permits secure detention for nonviolent juveniles found in violation of a proper order.

The last sentence in the second full paragraph on page 10 states that ". . . about 33 percent of all 1979 and 1980 juvenile detainees were not charged with serious or nonserious offenses." An explanation is needed to identify what constitutes offenses other than "serious or nonserious offenses."
(See GAO note 2.)
With regard to the issues discussed on pages 14-17, and the conclusions reached on page 20, the final version of the report should reflect four actions taken by OJJDP in the past year with respect to accreditation of juvenile detention facilities in conjunction with the Committee on Accreditation of the American Correctional Association. Formula grant funds as well as three separate categorical grants have addressed these issues.
(See GAO note 3.)

The Federal Government Can Help States Improve Their Detention Practices

The last paragraph on page 22 indicates OJJDP has not taken a proactive role in identifying problems and helping States to resolve them. This is not an accurate statement. The Formula Grants and Technical Assistance Division, through technical assistance efforts and through the Jail Removal Initiative, has taken a proactive role. In fact, OJJDP is now beginning to undertake a specific effort to identify those States which are ready to move forward in planning and implementing jail removal efforts. We recommend that GAO contact the Formula Grants and Technical Assistance Division to be briefed on actions that have been taken and review OJJDP's future plans to provide proactive assistance. This data should then be incorporated into the report.

As to the material presented on pages 24 and 25 of the draft report, we consider it important to point out once again that the comments ignore the 1980 Valid Court Order Amendment relating to appropriate detention.

The third paragraph on page 33 indicates that OJJDP does not plan to develop a recordkeeping package to assist States in monitoring and data collection. Although we are not developing a generic package, we are working with individual States and localities in developing improved local and or State recordkeeping capabilities. Accordingly, it is suggested this statement be modified as follows:

> An OJJDP official told us that the overall CRC recommendation concerning authority to monitor has not yet been addressed and that the recordkeeping package CRC recommended is not being developed as a national package, but is being developed at the State and/or county level based upon specific needs, local practices and State codes.

At the bottom of page 34, the report comments that OJJDP has done little to help the States resolve problems and improve their monitoring systems. Of the 27 recommendations identified in the referenced OJJDP-sponsored national study of State compliance monitoring systems, 20 of the recommendations have been or are being addressed by OJJDP.

The Federal Government Should Improve Its Detention Practices

The Department agrees with the basic issue of this section of the report, namely, that "Certain policies and practices of some Federal agencies concerning separation of juveniles from adults, status offenders, and complete removal of juveniles from adult facilities were not always consistent with the national policy objectives of the [JJDP] act."

There is less agreement, however, with the implication that OJJDP has given scant attention to the policies and practices of Federal agencies in meeting the mandates which the JJDP Act requires of the States.

At the outset, it should be noted that the mandates of the JJDP Act regarding status offenders, separation, and jail removal are levied on the States, and it is in this realm that OJJDP is given monitoring and compliance responsibility. Page 47 of the GAO report states that OJJDP should be required to fulfill its "Concentration of Federal Efforts mandates" by identifying policies and practices of Federal agencies that do not promote implementation of the objectives of the JJDP Act. The JJDP Act does not specifically levy this responsibility on OJJDP via its concentration of Federal effort activities. Rather, it is contained in Section 206(a), which authorizes the Federal Coordinating Council "to review the program and practices of Federal agencies and report on the degrees to which Federal agency funds are used for purposes which are consistent or inconsistent with the mandates of Section 223(a)(12)(A) and (13)." OJJDP has long been concerned over whether or not Federal agencies were responsive to the JJDP Act, particularly with regard to the separation, status offender and removal mandates. It was for this reason that OJJDP brought this issue to the attention of the Council in 1979 and offered to provide the necessary funds to undertake a study of the policies and practices of Federal agencies that detain juveniles. The results of the study were published in 1981 and commenced an effort on the part of OJJDP, through the Federal Coordinating Council as the appropriate vehicle, to address the issues and concerns raised by the report, with the assistance of the other Federal agencies. Aside from the authority given to the Council in Section 206(a), OJJDP viewed the Council as the natural vehicle for collaboration among Federal agencies regarding detention of juveniles, particularly since many of the agencies affected were members of the Council.

Since bringing this issue to the attention of the Council, progress has been made toward achieving modifications in the policies and practices of Federal agencies so that they are consistent with the objectives of the JJDP Act. Please note, however, that no authority exists to force any action which is not legally required by refusing to provide funds where the agencies themselves would like to take action.

As noted in the GAO report, OJJDP has entered into an interagency agreement with the Bureau of Indian Affairs (BIA) to ascertain whether native American youth are being detained in accordance with the objectives of the Act. Subsequent to Phase III of this effort, which will be analysis and dissemination of the data to be collected under Phase II, OJJDP and BIA will develop plans for modifying those practices that are resulting in inappropriate placement of youth per the JJDP Act.

In 1982, OJJDP began development of a draft order for the Attorney General entitled "Policy and Goals Regarding the Placement of Juveniles in Federal Custody." This order, when issued, will establish goals related to the placement and conditions of custody for juveniles under the Federal jurisdiction of Department of Justice bureaus and agencies, including the Bureau of Prisons, Immigration and Naturalization Service (INS) and United States Marshals Service (USMS). The exact wording has not been agreed upon as implied on page 38 of the draft report. Each bureau or agency will be held responsible for its maintaining, monitoring, and reporting systems, which will enable it to annually measure or report to the Federal Coordinating Council on the extent of progress in meeting these goals.

Finally, the Federal Coordinating Council has adopted a long-range program plan which calls for the provision of assistance to Federal agencies in the appropriate placement of juveniles. The first objective of the plan is to encourage Federal agencies responsible for the apprehension or detention of juveniles to do so in compliance with the deinstitutionalization, separation and jail removal mandates of the JJDP Act. Unlike the Attorney General's order, this plan will extend beyond Department of Justice agencies to the other agencies which detain children. The plan calls for an examination of the policies and practices of such agencies, development of appropriate policy statements for inclusion in the regulations of Federal agencies, and provision of technical assistance to those agencies that need it. OJJDP has taken the lead responsibility for completion of this work plan.

Detention Practices--INS and USMS

The Department agrees that the policies of the INS and USMS should be consistent with the objectives established by the JJDP Act to separate juveniles from adults and remove juveniles from adult facilities. Further, the Department agrees that recordkeeping and monitoring programs should be in place which adequately account for juvenile detention practices and provide a basis for determining whether the objectives of the JJDP Act are being achieved.

With respect to INS, the GAO draft report states on page 38 that INS combines arrest data for illegal alien juvenile and female adults on the monthly G-23 statistical report. Although this statement is correct, a further explanation needs to be made pointing out that, on a separate report, INS maintains separate statistics for juveniles in detention each month. In another

statement on page 39 of the draft report, GAO indicates that a survey conducted by INS to determine the number of juveniles detained may have been inaccurate. The data INS collected in early 1980 regarding the detention of juveniles was an actual count of apprehended illegal alien juveniles placed in appropriate juvenile detention facilities.
(See GAO note 4.)
In terms of juvenile statistical data, we wish to emphasize that INS is making significant progress in computerizing the deportation docket control system. The pilot Deportable Alien Control System has been implemented in the San Diego District and in the El Centro Service Processing Center. When the entire system is in place, separate statistics on juveniles will be readily available for statistical reporting and analysis purposes.

Concerning facilities used for detention, INS policy provides that apprehended illegal alien juveniles, who are defined as persons subject to the jurisdiction of a juvenile court, are to be placed in juvenile facilities or with appropriate responsible agencies or institutions that are recognized or licensed to accommodate juveniles by the laws of the particular State. The policy further states that children who are too young to be placed in a juvenile facility or youth hall are to be placed with local youth/child services, or with relatives or friends. The above-mentioned policy is formally published in INS' Operations Instructions (O.I. 242.6(c)).
(See GAO note 5.)
With respect to the USMS, the GAO statement in the fifth paragraph on page 43 relating to the USMS transportation policy on juveniles is incomplete. USMS policy directs that the transportation of juveniles be accomplished separately from adult offenders. Only as an exception to policy are juveniles transported in the same vehicle as adult prisoners. In such rare instances, the trip must be of short duration and the adult offender present must not exhibit a negative influence on the juvenile. For example, mothers and children are transported together to a half-way house facility where they will reside together as a family unit.

The policies of the USMS regarding the complete removal of juveniles from adult facilities is discussed in the last paragraph on page 45 of the report. GAO's statement of USMS policy is incomplete and should include the following additional policy. USMS policy directs that upon remand, juveniles be detained only in a juvenile facility. When no such facility is available, the Marshal must notify the U.S. Attorney and the court of that problem. Only with the court's specific knowledge and/or approval can juveniles be placed in an adult facility. This type of situation occurs primarily when a violent or dangerous juvenile will not be accepted into a youth facility or has been rejected by a facility.
(See GAO note 6.)
To meet GAO's recommendation to both adequately account for and monitor USMS juvenile detention practices, each U.S. Marshal has been directed to develop a standard operating procedure for the custody and detention of juveniles based on that particular judicial district's resources, availability of juvenile housing, and applicable State laws. A listing of all available juvenile facilities will also be maintained to ensure that whenever possible, juveniles will be housed in a juvenile facility rather than an adult facility which has a juvenile housing unit.

* * * * * * * * * * *

We appreciate the opportunity to review and comment on your draft report prior to its publication. Overall, we believe that our support and fulfillment of the recommendations of the report will result in improved juvenile detention practices at the local, State and Federal levels.

Should you desire any additional information, I trust you will let me know.

Sincerely,

Kevin D. Rooney
Assistant Attorney General
for Administration

*Page references have been changed to correspond to the final report.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

DEC 1 3 1982

Mr. J. Dexter Peach
Director, Resources, Community
and Economic Development Division
U.S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Peach: Dexter

Thank you for the opportunity to review the GAO Draft Report "Improved Federal Efforts Needed To Change Juvenile Detention Practices."

Attached are the comments from the two Interior agencies involved, the National Park Service and the Bureau of Indian Affairs.

Sincerely,

J. Robinson West
Assistant Secretary -
Policy, Budget and
Administration

Enclosure

United States Department of the Interior

NATIONAL PARK SERVICE
WASHINGTON, D.C. 20240

IN REPLY REFER TO:
F4217(230)

DEC 2 1982

Memorandum

To: Director of Budget

From: Assistant Director, National Park Service

Subject: GAO Draft Report, "Improved Federal Efforts Needed to Change Juvenile Detention Practices"

We have reviewed the subject draft audit report from the General Accounting Office and have the following comments concerning the specific recommendations on page 44 of the report.

The National Park Service (NPS) will work with the Office of Juvenile Justice and Delinquency Prevention, Department of Justice (OJJDP), and the Coordinating Council at the national level to better coordinate the policies and practices of the OJJDP and the NPS.

The NPS will instruct its Parks and Regions to establish a record-keeping and monitoring program to assist in determining whether the objectives of the act are being achieved.

BIA Central Office Response
to
U. S. General Accounting Office

Draft Report

IMPROVED FEDERAL EFFORT NEEDED TO CHANGE
JUVENILE DETENTION PRACTICES

Bureau of Indian Affairs - Pages 40 and 41

The statements concerning criminal justice data are misleading and require clarification. It is true that we do not collect data on detention and length of stay in custody of juveniles at the Central Office level. This information is not utilized at this level. Detention and length of stay data is available at the operating level (reservation) of our programs and is available if requested.

It is true that a number of operating programs do not report as required. Generally speaking, however, Bureau programs do meet the annual as well as the monthly reporting requirements. Primarily because the use of the ADP system is a new process, as is the operation of their own law enforcement programs, tribal programs do not always report as required. It must be understood that the contracting process and the operation of their own law enforcement programs is a new process that takes time and guidance from knowledgeable sources. Training for Bureau and Tribal programs in the use of the newly re-designed ADP system is scheduled for the first two weeks in December, 1982, and it is our hope this training will aid greatly in the programs' abilities to fulfill the reporting requirements.

With regard to the comments concerning reliability of data collected, we objected to statements of this nature in the OIG Memorandum Audit Report "Survey of Law Enforcement, Investigative, and Audit and Program Activities" earlier this year and we object to the statement in this report. Although the data is often under-reported due to some tribes' failure to submit incident reports for long periods of time, what is actually in the computer is absolutely correct. We, therefore, recommend that comments regarding the reliability of the data in the system be deleted. (See GAO note 7.)

Inspection of the Facilities used by the Federal Agencies to Detain Juveniles was Inadequate to ensure standards are met - Pages 42 and 43

We concur with the report that one method of ensuring compliance with existing regulations and policies is through a regular Inspection routine.

The Bureau has made an effort to increase the Inspection staff. However due to program and fiscal constraints, the staff has been maintained at two inspectors. They have the responsibility for program review mandated by 68 BIAM for Bureau operated programs and 25 CFR 11.304 for Tribally operated progams.

Furthermore, field program oversight is shared by the following program supervisors:

1. Area Special Officers are required to conduct periodic inspections of detention facilities.

2. Superintendents are responsible for detention facilities at their Agency (if present).

3. Agency Special Officers (BIA) are responsible for the day-to-day operations of detention facilities.

4. Tribes are responsible for detention operation and maintenance under P.L. 93-638 contract guidelines in 25 CFR 11.305.

5. Indian Public Health Service conducts Environmental Health Survey of Detention Facilities, BIA or Contract.

We concur with the comments by the Inspectors to the extent that they do not have the authority to direct change. All revisions to Bureau programs must come through the Bureau's line officers and for Tribally operated P.L. 93-638 contract programs, the changes must be made either in compliance to the existing contract or as a modification to the contract.

We have no knowledge of the Bureau reporting to a Senate Committee that all detention facilities are inspected twice a year. We assume you have reference to a June 30 letter to the Chairman, Senate Select Committee on Indian Affairs, in response to correspondence it received from the National Criminal Justice Association. In our response to that correspondence, no mention is made on the frequency of Inspections or that even Inspections of facilities are made by the Bureau. Therefore, we recommend that this statement be deleted.

(See GAO note 8.)

We concur with the observations that relate to problems encountered in some of the facilities inspected either by the Bureau's Inspectors or through the Inspections conducted by the Indian Health Service. Area/Agency plant managers make an effort to rectify these problem areas through the Bureau's Facilities Improvement and Repair program. They place priority on those areas that endanger the health and safety of persons in custody.

Policies do not require sight and sound separation - Page 43

We do not agree with the statement that our Manual "suggests" that juveniles be detained in a separate facility. 68 BIAM, Supplement 1, 4.8, specifically states the following, "Juveniles should not be detained in a facility where adults are detained. It is the policy of the Bureau to avoid placement of a juvenile in any adult detention facility except where there are no separate detention facilities available for juveniles and a real emergency exist. However, a juvenile may not be detained in an adult facility unless the juvenile is in a separate room or cell from adult detainees and adequate supervision is provided 24 hours per day."

As it relates to the detention of juveniles in Tribal facilities, the Tribes make a concerted effort to comply with the OJJDP requirement of sight and sound even though, an opinion from the Acting General Counsel, OJARS September 1, 1981, to the Acting Administrator of OJJDP clearly pointed out the fact that the provisions of Section 223(a)(12) and (13) of the Juvenile Justice Act are not applicable to Indian Tribal courts exercising jurisdiction over juvenile offenders.

We recommend removal of Paragraph "1 of this section, as it is incorrect and misleading. The Bureau's regulation is a prohibition and not a "suggestion" as per the report. (See GAO note 9.)

There is no doubt that there may be instances where juveniles may be kept in a section of a reservation detention facility where there is the possibility of sight and sound contact with adults. The Bureau and the Tribes who operate their own P.L. 93-638 contract programs are constrained from incarcerating adult and juveniles in the same cell.

It should be also noted that the majority of detention facilities that are owned by the Tribes were constructed by LEAA. They were constructed without the OJJDP requirement of sight and sound. These facilities are in use throughout Indian country today.

*Page references have been changed to correspond to the final report.

GAO NOTES

1. Our report has been clarified to show that OJJDP's policy is to encourage the adoption of national standards advocating "...the reduction in the use of detention and incarceration for all but the most serious or violent juvenile offenders...". (See p. 6.)

2. The juveniles referred to by the Department were charged with status offenses. These offenses were not considered to be serious or nonserious delinquent acts. (See p. 10.)

3. Our discussion of OJJDP's efforts to improve detention practices is presented in chapter 3 of this report. Additional discussions with agency officials conducted after receipt of the Department's comments surfaced two cooperative agreements which began in October 1982 to provide training and assistance in the adoption of standards. The only other efforts identified were in the planning stages and we were told they resulted from our draft report. (No changes were made in the report.)

4. Information concerning the juvenile detention statistics available at INS have been clarified in the final report. (See pp. 38 and 39.)

5. The policy stated in the Department's comments is the same policy we considered during our review. This policy permits the detention of juveniles in adult facilities because (1) the upper age limit for juveniles in some States is lower than the Federal age limit of 18 and (2) adult jails and lockups are recognized and licensed to detain juveniles in many States. (No changes were made in the report.)

6. The new Marshals Service policies concerning transportation of juveniles and adults and complete removal of juveniles from adult facilities have been added to the final report. A Marshals Service official told us that these policies have not yet been distributed to the field. (See pp. 43 to 45.)

7. The statements in our report concerning data on detention and length of stay have been clarified where appropriate. BIA's comment that Bureau programs meet reporting requirements fails to mention that there are only a few "Bureau programs." The comments concur that tribal programs do not always report data but attributes this to the new process of tribes contracting for and operating their own law enforcement programs. The process of the tribes contracting with BIA to operate their own programs started January 4, 1975. (See pp. 40 and 41.)

   BIA objected to comments in our report taken from an Interior Office of Inspector General's audit report concerning reliability of data in BIA's law enforcement reporting system. We reviewed BIA's response to the report and find no basis for changing the statement.

8. The letter to the Senate Select Committee on Indian Affairs cited by BIA was the support for our statement. In it, the Bureau says "...and inspectors from the Bureau's Division of Law Enforcement Services inspect all facilities twice a year." (No changes were made in the report.)

9. BIA's policy requiring the use of separate juvenile facilities where possible and separate cells from adult detainees in other cases has been clarified in our final report. (See p. 43.) Regarding the OJARS legal memorandum concerning sight and sound separation, our report never implied that Indian tribes must meet the same separation requirement that States are required to follow when receiving formula grant funds. The issue we are raising is that BIA's juvenile detention policies should reflect the national policy objectives established by the Juvenile Justice and Delinquency Prevention Act, including separation of juveniles from adult prisoners and complete removal of juveniles from adult facilities.

(185991)

Section 1. AS 12.05 is amended by adding a new section to read:

Sec. 12.05.020. JURISDICTION OVER CERTAIN MINORS CHARGED WITH SERIOUS FELONIES. (a) A person 16 or 17 who is charged with an offense designated as an unclassified [or Class A] felony must be arrested and presecuted as an adult.

(b) A person 16 or 17 years of age who is charged with a Class A felony is subject to AS 47.10.

(c) If the court has waived juvenile jurisdiction over a person under the age of 18 under AS 47.10.060, that person must be prosecuted as an adult.

(d) Refernces in this section to the age of a person refers to the person's age at the time of the offense.

Sec 2. page 1, line 29:

delete "class A"

page 2, line 2:

delete "Class A"

tals of the two surveys indicate th it on a given day in 1982 approximately 122,000 American adults were locked up. Probation and parole figures for 1981, the last year available, add another 1,445,800 to those under correctional supervision, for a total of more than two million.

The states with the greatest increases last year were California, up 5,257 inmates, or 18 percent; Texas, up 4,780, or 15.2 percent, and Florida, up 4,241, or 18 percent. Those states' populations are growing so rapidly that each could build a new 500-bed institution every month and barely keep pace.

Some smaller states showed even greater percentage increases: North Dakota, 28.2 percent; Alaska, 27.7 percent; Nevada, 25.4 percent; New Mexico, 23 percent, and Oklahoma, 21 percent. By region, the largest percentage increase was in the West, 17.7 percent. But the South continued to lead the nation in imprisonment; the 16 Southern states (by BJS's definition) and the District of Columbia account for 47 percent of the nation's prison population.

Only three states showed a decrease in the BJS figures, and for two of them the figures are misleading. Kentucky, which reported a 2.8 percent decline, ceased counting inmates backed up in county jails waiting for room to be available in state prisons. Had they been counted, a Kentucky official says, the state would have shown a ten percent increase. In West Virginia, the assistant to the commissioner of corrections sounded surprised at BJS figures showing a 4.3 percent decline; he said the state prison population grew 4.4 percent. A BJS official said the discrepancy could have come about because of differing definitions of a state prisoner, and that the figure will be double-checked.

The only state showing a true decline was Michigan, where the prison population decreased 2.8 percent. That was attributed to a Michigan law that reduces prison sentences whenever the population exceeds capacity. This act has been emulated by several other states, and prison officials, judges and parole boards have let out hundreds of other inmates early in order to keep things from getting out of hand.

Students of imprisonment trends cite a number of factors behind the increase: the post-war "baby boom," longer sentences, decreased paroles, mandatory sentences, increased police and court efficiency, unemployment, and above all, a seemingly insatiable public thirst for punishment of criminals.

"On the basis of the incarceration rate and the increasing length of stay, I'd have to say that as a society we have never been more punitive than now," says Allen Breed, director of the National Institute of Corrections. "I'm not necessarily condemning that, but it has a price tag that is astronomical."

The size of that price tag was calculated by M. Kay Harris, professor of criminal justice at Temple University. "There are 100,000 new prison beds on the drawing boards across the country," she says. "I was doing some figuring, and we're talking about spending $70 billion for them over the next 30 years, not counting inflation." California is planning to build 21,000 new prison beds by 1987 — more than all the inmates in 17 states put together — at a cost of $1.5 billion. The Texas Department of Corrections asked the legislature for $1.5 billion for the next two fiscal years, to enable it to meet the requirements of the federal court in the *Ruiz v. Estelle* lawsuit.

"We are a very foolishly punitive society," says Alvin Bronstein, director of the National Prison Project of the ACLU, which has won court orders against prison conditions in many states. "We don't have the resources to confine these people, and the cost is going up. There's got to be an explosion."

Minor explosions traced to overcrowding and idleness occurred last year at several prisons, such as New York's Ossining Correctional Facility and Illinois' Pontiac Correctional Center. Other states are being pressed to the limit. South Carolina has 1,500 prisoners living in spaces of less than 30 square feet per person, half the space called for by the standards of the American Correctional Association. Maryland is 44 percent over capacity; Massachusetts, 39 percent over capacity.

The skyrocketing cost and the potential for problems in the nation's prisons have led even those who favor a punitive approach to question whether we have gone too far. In a major address in March, U.S. Attorney General William French Smith said: "The meteoric rise in the nation's prison population has led to a serious overcrowding problem." Smith called for alternative sanctions for lesser offenders, saying: "We must recognize that we cannot continue to rely exclusively on incarceration and dismiss other forms of punishment."

Last year, Delaware's incarceration rate was five times what it was a decade ago; its prison population has increased by 40 percent in the last two years. "If we continue to grow at the rate we have for the last 20 months, in 20 years the entire population of the state will be incarcerated," says Correction Commissioner John Sullivan. "What's happening now is an aberration from everything that's ever happened to this state. I'm at a loss for an explanation. We've tried every mathematical model [to explain it] we could use. If anyone can figure it out, I'd like to know."

Trying to predict prison populations is a notoriously risky business. In 1981, consultants to the Maryland prison system forecast a "worst case scenario" of 9,900 inmates in 1987. By the end of 1982, Maryland had 11,012 inmates and a net gain beyond that of 150 per month. A North Dakota study several years ago predicted a need for 355 cells at the state prison by the end of the century; the state will need that many by the end of this year.

The magnitude and strength of the population boom has defied most attempts to explain it. "One thing you usually count on in making projections is that the pendulum will eventually swing — but it hasn't," says Zimring. "As a rule, you can't just take your rate of increase and mindlessly project it forever. But guess what?"

Carnegie-Mellon's Blumstein has for

Additional reporting for this article was done by Charles M. Young, a free-lance writer based in New York City.

Bureau of Justice Statistics Prison Census as of 12/31/82

Region and State	12/31/82	12/31/81	Percent change	Number of sentenced prisoners per 100,000 population 12/31/82[a]
Northeast	59,751	54,013	10.6	115
Maine	1,007	992	1.5	69
New Hampshire	445	398	11.8	47
Vermont[c]	599	534	12.2	84
Massachusetts	4,431	3,889	13.9	77[c]
Rhode Island[c]	1,037	962	7.8	82
Connecticut[c]	5,674	5,263	7.8	114
New York	27,910	25,599	9.0	158
New Jersey[d]	8,126	7,011	15.9	107
Pennsylvania	10,522	9,365	12.4	88
North Central	77,553	72,348	7.2	130
Ohio	17,317	14,968	15.7	160
Indiana	8,827	8,022	10.0	152
Illinois	13,875	13,206	5.1	119
Michigan	14,737	15,157	−2.8	162
Wisconsin[e]	4,662	4,416	5.6	96
Minnesota	2,081	2,024	2.8	50
Iowa	2,829	2,670	6.0	93
Missouri	7,283	6,489	12.2	147
North Dakota	359	280	28.2	47
South Dakota	791	693	14.1	109
Nebraska	1,680	1,653	1.6	99
Kansas	3,112	2,770	12.3	129
South	180,388	159,712	12.9	224
Delaware[c]	2,064	1,712	20.6	250
Maryland	11,012	9,335	18.0	244
District of Columbia[c]	4,152	3,479	19.3	531
Virginia	10,079	9,388	7.4	177
West Virginia	1,498	1,565	−4.3	77
North Carolina[e]	16,578	15,791	5.0	255
South Carolina	9,161	8,538	7.3	270
Georgia[d]	14,320	12,444	15.1	247
Florida	27,830	23,589	18.0	261
Kentucky	4,051[d]	4,167	−2.8	110
Tennessee	8,046	7,897	1.9	173
Alabama	8,687	7,657	13.5	215
Mississippi	5,484	4,624	18.6	210
Arkansas	3,819	3,328	14.8	166
Louisiana	10,935	9,415	16.1	251
Oklahoma	6,390	5,281	21.0	201
Texas	36,282	31,502	15.2	237
West	64,938	55,182	17.7	139
Montana	917	831	10.3	114
Idaho	1,036	957	8.3	107
Wyoming	677	587	15.3	135
Colorado	3,286	2,772	18.5	108
New Mexico[e]	1,842	1,497	23.0	126
Arizona	5,994	5,223	14.8	209
Utah	1,216	1,140	6.7	77
Nevada	2,653	2,116	25.4	301
Washington	6,264	5,336	17.4	148
Oregon	3,867	3,295	17.4	146
California	34,459	29,202	18.0	135
Alaska[c]	1,301	1,019	27.7	194
Hawaii[c]	1,426	1,207	18.1	88
Total State Institutions	382,630	341,255	12.1	160
Total Federal Institutions[b]	29,673	28,133	5.5	10
Total United States	412,303	369,388	11.6	170

[a] Calculations include only those serving sentences longer than one year.
[b] Figures include the following number of persons held under jurisdiction of the Immigration and Naturalization Service rather than the Bureau of Prisons: 1,921 on 12/31/81 and 1,203 on 12/31/82.
[c] Figures include both jail and prison inmates; jails and prisons are combined into one system.
[d] Official prison population counts exclude state prisoners held in local jails.
[e] Population counts for New Mexico, North Carolina and Wisconsin are estimated for 12/31/82.

several years championed the role of demographics. He uses the metaphor of "a pig in a python" to show how the postwar baby boom is moving through society: creating crises in the schools in the 1960s, raising the crime rates in the 1970s, and now (since the prime age for imprisonment is ten years older than the prime age for committing crimes) jamming the prisons. But, he concedes, the prison population boom is much stronger and has persisted much longer than the age factor can account for. He believes the formula for explaining the phenomenon is "demographics plus toughness."

Most experts agree with Blumstein that the key reason behind population increases is the hardening of public attitudes. That is something they were loathe to concede a few years ago, when demographics or sentencing-law changes took the blame. Carlson speaks of the popularity of "the Ronald Reagan level of solutions — rewarding and punishing individuals." Kay Harris says that the incarceration rates "reflect a growing punitiveness and repressiveness. There's a sense of futility and despair in American society. We have lost our characteristic optimism. It's kind of giving up."

Norval Morris speaks with wonder of the public's "astonishing belief that leniency [previously] characterized our sentencing practices." A contributing factor, Morris says, was the improvement in catching and prosecuting criminals that occurred in the 1970s, spurred partially by innovations funded by the Law Enforcement Assistance Administration. "The earlier protections of inefficiency have been removed," he says.

One anomaly is that prison commitment rates have shot through the ceiling just as rates of serious crime have been declining. "The Uniform Crime Index went down in 1982, and yet throughout the country you see a trend toward harsher sentences," says Bronstein. In many cities, serious crimes declined significantly last year. In New York City, murders went down by 8.6 percent, robberies 10.7 percent and burglaries 16.1 percent. In Miami, those crimes declined by ten percent, 17 percent

and 12 percent, respectively. "What scares me is that somebody will take these two graphs and argue that crime has gone down because of the deterrence factor," says Harris. Most experts agree with her that the crime rate has little impact on the imprisonment rate, and the imprisonment rate has virtually no impact on the crime rate.

The increasing "punitiveness" of American society is indicated most clearly by the incarceration rate. The highest recorded figure of previous decades was 137 per 100,000 in 1939. That figure was surpassed in 1980 to reach its current level of 170. There is wide variation among the states, from North Dakota's 47 to Nevada's 301. The rate for the District of Columbia, 531, is the highest known rate for any jurisdiction in the world. But Carol Kalish of the Bureau of Justice Statistics says the figure is deceptive, because it covers only an urban area. She says that statistics for other metropolitan areas, such as Baltimore and Chicago, are similarly high.

Nevada's high incarceration rate seems to stem from the fact that it sends 47 percent of its convicted felons to prison, the highest such rate in the nation. "Anyone who breaks the law here just has to be prepared to do time," says Vernon Housewright, commissioner of corrections.

Lonnie Fouty of the Florida Department of Corrections says that the South's high incarceration rate (224 for the region) may reflect efficient police and court systems as much as a harsh public attitude. "In Florida, we put 18 percent of our convicted felons in prison; it's 27 percent nationally," he says. "We just have an efficient conviction rate." He traces this fact partially to Reconstruction, during which most Southern court systems were streamlined. He contrasts Florida with Ohio, a state with a slightly larger population. It sends approximately the same percentage of convicted felons to prison, but only produced half as many convictions last year. Ohio has an incarceration rate of 160; Florida had a rate of 261.

John Keenan, a researcher with the Georgia Department of Offender Rehabilitation, has done a study of the variance in incarceration rates among states. He came up with three factors that explain most of the variation: the rate of admissions to prison, the rate at which violent crimes are cleared by arrest and indictment, and the percentage of blacks in the population. "The South clears violent crimes much more efficiently than any other region," he says. The South, of course, also has the greatest percentage of blacks in its population.

Prison populations depend on two factors: the number of people coming in and number of people going out. While 1981 increases were brought about largely by increased admissions, last year's were often the product of tougher parole policies and longer sentences. "Perhaps what we have here is the two-punch of a one-two combination," says Zimring.

In Florida, Massachusetts and New Jersey, last year's large increases were fueled by efforts to reduce backlogs in the courts, through speedy trial rules and transferring judges from rural districts to urban ones. In Florida, for example, felony convictions jumped from 56,537 to 70,950. Increased admissions also seem to be behind the increases in California (where prison admissions are up 138 percent in the past five years) and Illinois.

Several states reported increases in admissions of minor offenders serving short terms — often due to tough new laws against drunk drivers. In Alaska, the prison system (which includes both prisons and jails) was flooded with people serving mandatory three-day terms for drunken driving. In North Carolina, misdemeanor commitments were up 19 percent, while felony commitments rose only two percent. Officials there also attributed the increase to a crackdown on drunk drivers, even though there is no new drunk-driving law.

The number of state prisoners backed up in local jails waiting for space in state prisons increased from 6,900 in 1981 to 8,217 in the BJS survey. That number would be larger, but Kentucky last year ceased to count these inmates. Georgia and New Jersey have not provided these figures to BJS for the last two years.

The number of people leaving a prison system is affected by a number of factors: parole policies, sentence lengths, and good-time rules.

Paroles have been declining in several states: In Nevada, the rate of paroles has been cut in half, and it has also gone down in Massachusetts and Ohio. Some states have tried to use parole boards to reduce overcrowding. The Washington legislature passed a law last year directing the parole board to take prison capacity into account in determining parole dates.

Long sentences are becoming the rule, rather than the exception, in many states. The average sentence of new inmates in South Carolina is now 12 years. Alabama gives a mandatory life-without-parole sentence to anyone convicted of a violent felony with two previous felony convictions; there are about 130 inmates doing such terms. Florida has some 950 prisoners doing 25-year sentences; they cannot earn good time. "By the time the first one gets out, in 1997, there will be 3,600 in the system," says Fouty. Those sentences, says John Conrad, a senior fellow at the National Institute of Justice, "mean we have a different type of prison community. We never had anything like it before."

Average time served has gone up in many states. In Maryland, Illinois, and Oklahoma, where it has risen from 20 months to 30 months in the past five years. Several states, such as Texas, have eliminated good time for many offenses, which will raise the amount of time served there by a third or more.

State officials have come up with a number of ways of trying to manipulate these factors to bring down prison populations. In California, a new law provides for "incentive good time" under which inmates who work or go to school full-time can cut their determinate sentences in half; the most good time that they could earn previously could reduce sentences by a third. Illinois officials discovered a little-known law authorizing prison officials to grant releases for "meritorious good time" or "administrative reasons." The fact that there is no room in the prisons is considered a significant "administrative reason,"

and as many as 100 nonviolent offenders have been let out each week under the state's "forced release" program. "We've been catching a lot of flak for it," concedes a spokesman for the Department of Corrections. "We're not nuts about forced release, it's just a means to keep it together."

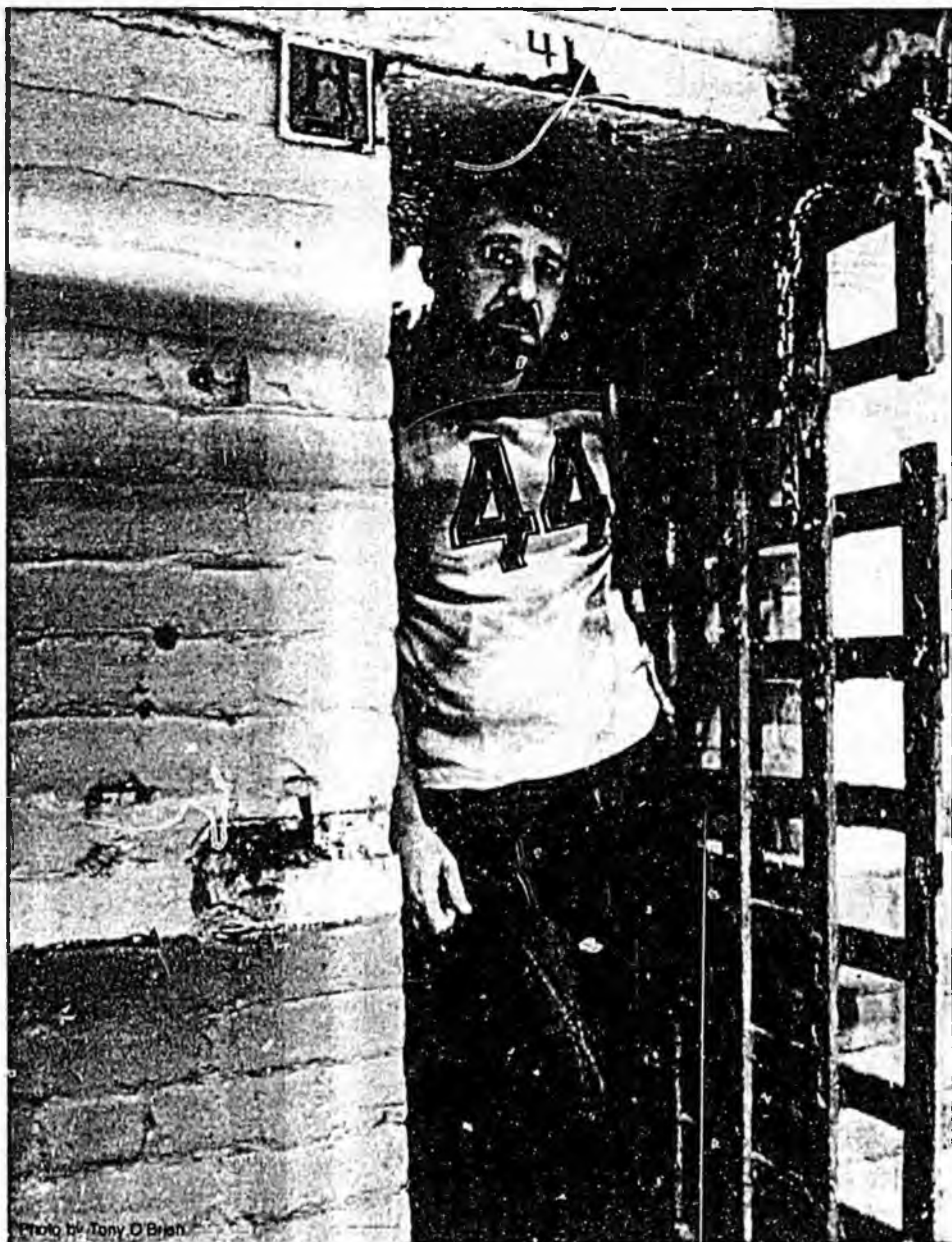
Other states have made these early releases part of a more formal policy, which begins with the legislature establishing a population "cap." Many observers think such a cap is the starting point for keeping prison populations in check. "The only effective remedy for overcrowding is a defined capacity," declares William Bennett Turner, the attorney who guided the massive *Ruiz* case against the state of Texas. Perry Johnson, director of the Michigan Department of Corrections, says: "When you get on a plane, you accept the fact that there is a limit on the number of people it can hold. Why don't people accept that with respect to prisons?"

Under Michigan's Prison Overcrowding Emergency Powers Act of 1981, whenever the prison population exceeds the system's defined capacity for more than 30 consecutive days, the governor must declare an emergency. Then every inmate in the system with a minimum sentence — 80 percent of all inmates — gets 90 days off that minimum. It remains up to the parole board to release them or not, but if it does not reduce the prison system to under 95 percent of capacity, then another 90 days is lopped off sentences.

The emergency act was triggered once in 1981, three times in 1982, and again in March 1983. Inmates who have been in the system since 1981 have thus had one year and three months knocked off their minimum sentences.

"We had one guy come in with six months left on his sentence," says William Kime, deputy director of the Department of Corrections. "He had some jail-time credit, plus good time, and then the Emergency Powers Act was triggered. It turned out he was eligible for parole three days before he committed the crime."

Because the parole board will not release dangerous offenders no matter how much time has been taken off their minimum sentences, each time the act is triggered there are fewer and fewer minor offenders to parole. "It's become increasingly less effective," says Johnson. "If we can just wait a year between emergencies, then it works fine," says Kime.



Cell Block 1 at the Central Correctional Institution (CCI) Columbia, S.C. The inmate population in South Carolina has tripled in the last decade; at the Civil War-era CCI, long slated for demolition, more than 1,200 prisoners are housed.

In Iowa, which passed a capping law similar to Michigan's (but with 45 days as the period during which capacity must be exceeded), a cynical game has developed in which officials try to dip below the capacity just often enough to avoid triggering the act, which they fear would bring public outcry. "One time every 45 days we drop under 2,780, our capacity," says Paul Grossheim, deputy director of the Iowa Bureau of Correctional Institutions.

In late January, newspaper headlines counted down the days before the 45-day limit was reached. With five days left, the parole board had approved the release of a record number of inmates, and a newspaper described officials working

(continued on page 47)

"feverishly" to get them out of prison more quickly than the normal five-to-ten day period for releasing parolees. Officials were also counting on inmates on furlough or in hospitals to not return, and hoping that snowy roads would keep newly sentenced inmates in county jails and out of the population count. Three days before the deadline, parole board members consulted with each other by telephone to release another 22 prisoners, dropping the count to five below the maximum; officials kept checking until midnight of the last day to see if new admissions would keep them under that figure. They squeaked by, but Grossheim says that next time "it may be insurmountable. The parole board says they might not be able to do it again. They may have paroled all the best people."

Reformers are more enamored of systems that try to prevent so many people from coming into the prison system in the first place. Their favorite is the sentencing guideline commission set up in Minnesota. But in its third year, the Minnesota system did not prevent the state prison population from increasing 2.8 percent, and it is now very close to the maximum capacity. Kay Knapp, executive director of the guidelines board, says the increase was due to a new mandatory minimum sentencing law and the fact that prosecutors are figuring out ways to build up points on the sentencing grid to place marginal offenders in prison rather than in county jails or community programs. To deal with the problem, she says, the commission might decrease the weight given to past convictions.

Oregon uses parole guidelines on a grid system similar to Minnesota's; they are supposed to take prison capacity into account, but they did not prevent that state from a 17 percent increase last year. Washington adopted guidelines this year, but no one can agree on what their effect will be. A spokesman for the commission that drew them up estimated that they would reduce the prison population by 1,000 within a year, and eventually cut the incarceration rate 40 percent. But Commissioner Amos Reed found these estimates excessively optimistic, and in January Gov. John Spellman said he was "very skeptical of such predictions."

The West's 17.7 percent increase last year led the nation, compared with 12.9 percent for the South, 10.6 percent for the Northeast, and 7.2 percent for the North Central states. Observers attribute the West's surge to several factors: population increases, particularly of transient young men; increased ethnic conflict, and a sharp turn from a liberal to a conservative political outlook in states like California, Washington and Oregon.

California provided the bulk of the numbers. Officials in the California Department of Corrections (CDC) once considered it the crown jewel of America's corrections systems. In 1974, when it had 22,000 inmates, then-director Raymond Procunier

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Now, with 35,000 inmates, a system at 134 percent of capacity, and tent cities about to be erected at San Quentin and Chino, the system is reeling. Even if that state's 1977 determinate sentencing law is not responsible for the increase (page 34), it has surely provided a mechanism for sending more people to prison and keeping them there longer. The state projects a total of 57,000 inmates by 1987, although increased good-time may reduce that somewhat. In addition to the sentencing law, CDC researcher Norman Holt points to the passage of Proposition 13, which cut property taxes and hence revenues for local government. Many cities and counties took an ax to community programs and probation. "The demise of local alternatives makes it advantageous for counties to send people to state facilities," Holt says.

Two years of extraordinary prison population growth in Nevada have left that state with the highest incarceration rate in the nation and a host of prison problems. Parole rates have dived from 60 percent of eligible inmates to 30 percent. For all this, Nevada prisons are not yet severely overcrowded, because a new prison opened near Las Vegas last year. It is almost full, however, and Commissioner Housewright says it will soon be over capacity. "Where it all ends, I don't know," he says.

The northwestern states of Washington and Oregon had identical rates of increase, 17.7 percent, and both have serious problems finding room for their prisoners. Inmates are sleeping two to a cell and in the hallways at the prison in Shelton, Wash.; the former federal penitentiary at McNeil Island, acquired in 1981 as a temporary facility, is now at 136 percent of capacity, and state officials are negotiating to purchase it for permanent use. The governor has proposed spending $116 million to add 2,400 beds to the system, which he thinks will be needed despite the sentencing guidelines.

The one western state that is bucking the trend is Utah, which had an increase of only 6.7 percent and has one of the lowest incarceration rates in the country. Utah is using every method at its disposal to keep the prison population within bounds: There is an emergency release program, time served has been reduced from a median of 31 to 24.5 months, offenders are being diverted from prison to do community service and highway work, and private residential programs are receiving inmates. Nevertheless, director of corrections William Millikan says: "We may be in good shape compared to others, but our incarceration rate is still too high."

Two states experiencing rapid development in energy-related fields, North Dakota and Alaska, have suffered from high rates of prison expansion. Both attribute it largely to the influx of young men in search of work.

North Dakota had almost no transients in 1970, and young people were leaving the state to find work, according to Bill Broer, deputy warden of the penitentiary. Now 13 percent of the state's population is classified as transient; 29 percent of the prison population comes from out of state. The prison population has risen from 186 in 1979 to 359 last year. Still, Broer says, "we are one of the lucky 11 states not under court order." The prison is nearing capacity, however.

In Alaska, "we're putting them in every nook and cranny," says commissioner Roger Endell. In addition to the influx of rootless young people, he says Alaska suffers from high unemployment in the winter, the highest per-capita income in the U.S. ("There is a tremendous disparity between those with jobs, who are making lots of money, and the unemployed"), and one of the highest rates of alcohol consumption. This is "everything you need for a high crime rate," says Endell.

The South accounted for almost half of the additional prisoners in the U.S. in 1982.

Despite the stringent *Ruiz* court order that brought prison problems to the forefront of political concern, Texas showed an increase of 4,780 inmates. The lieutenant governor called the prison system "an absolutely bottomless pit" and the legislature's budget body cut the Texas Department of Corrections' $1.5 billion request almost in half, even though TDC director W.J. Estelle warned legislators that they were embarking on a collision course with U.S. District Judge William Wayne Justice.

The TDC's building program should soon begin to ease crowding a bit; by early next year 3,600 additional beds should be available in new prisons and additions to existing facilities. This is, however, barely enough space for the prisoners currently housed in tents at 15 of 25 prisons.

Few states have suffered as much from the influx of prisoners in the past decade as South Carolina. Its inmate count has almost tripled in that time, and it is operating at 136 percent of capacity. Some 58 percent of the population is housed in less than 40 square feet per person; 1,250 of them are at the ancient Central Correctional Institution in Columbia. Meanwhile, two new facilities — a 144-bed pre-release center and a 62-bed work-release center — are standing idle because the state has not appropriated enough money to staff them. Corrections officials have scoured the South for quonset huts for temporary housing, but none seem to be available; presumably they are being used to house prisoners in other states. "We don't know what the hell we're gonna do," says deputy corrections director Sam McCuen.

Maryland's population increase, 42 percent in two years, paralleled the fall from power of Gordon Kamka, who championed alternatives to imprisonment as commissioner until he became a political liability and was replaced in 1982. Officials say that admissions are up 8.3 percent and paroles are down 35.6 percent. While the legislature has agreed to build a new prison, locating it has become a major political issue. A new prison at Hagerstown, with 720 cells, is scheduled to open early 1986; officials concede already that they will have to double-cell it.

The Midwest showed the smallest increase, probably because devices such as Michigan's emergency release program and Minnesota's sentencing guidelines have been picked up by a number of

states. Illinois' capacity limit was set by the Department of Corrections, not the legislature, and officials hope their "forced release" program will not backfire. "We got away from triple-celling six years ago and won't go back," says spokesman Nik Howell. "We're not going to shoehorn them in. Overcrowding and idleness were a contributing factor to the riot at Pontiac. We learned our lesson. We're not going to . . . tents or quonset huts either; those half-measures cost more in the long run."

In Ohio, "bed-making is one of our biggest industries," says a spokesman for the corrections department. The state, which had 15,000 inmates in early 1982, expects to have 21,500 by the end of next year. One reason is a law that took effect last July doubling minimum sentences for second offenders. Paroles have dropped. The state has embarked on a $638 million construction program.

Several large northeastern states had significant population increases. New Jersey's population rose by 16 percent in 1982, after rising 30 percent the year before. County jail backup declined from 1,500 to 1,330. To find room for the prisoners, officials are putting beds in chapels, recreation rooms and gymnasiums.

Pennsylvania had no capital budget for its corrections system for eight years in the 1970s; now more than $400 million has been set aside for construction and expansion. Almost 3,000 cells have been doubled up.

"I could recite these figures in my sleep," says Joseph Landolfi, public information officer for the Massachusetts Department of Corrections, as he ticks off a dirge of overcrowding: Court commitments doubled from 1978 to 1982; paroles fell from 59 percent to 50 percent between 1980 and 1982; Concord Correctional Facility, with a capacity of 272 inmates, houses 640; the state system is 39 percent over capacity. Landolfi attributes last year's 14 percent increase to several factors: reduction of a court backlog; an increase in the youthful population, and longer sentences.

The U.S. Bureau of Prisons saw its population growth slow a bit — 5.5 percent compared with 15.5 percent last year. Bureau figures, however, include those people held in federal prisons as immigration cases, and the release of 500 Cuban and 500 Haitian detainees helped keep the increase down. Admissions, however, increased from 19,595 to 22,278 in one year, and the Bureau is no longer talking about abandoning the outmoded penitentiary at Atlanta; instead, it will be refurbished. A 400-bed medium-security institution is under construction near Phoenix; money has been appropriated for 780 beds in expansion facilities, and the President's budget for 1984 included $97 million for new facilities, of which Congress approved $60 million in a bill passed this year.

Canada seems a stark contrast to the picture in the U.S. Over the last four years, the population in the Canadian federal system — which includes all those sentenced to more than two years — has gone from only 9,500 to 11,000. But there is some double-bunking taking place. "In the past, we had been proud of the fact that we only had one inmate in a cell," says Dennis Finlay, director of public information.

To figure out what to do in the coming years, many states — 30 by one count — have set up commissions to study the problem. North Carolina's privately funded Citizens Commission on Alternatives to Incarceration, a 20-member group of judges, legislators, attorneys, business leaders and ex-prisoners, issued a report last year with 26 suggestions for keeping the prison population in check. But "one wonders whether prison commissions are just a way of buying time," says Norval Morris. To try to overcome this problem, the Prison Overcrowding Project, sponsored by the Edna McConnell Clark Foundation, has set up commissions in four states (Michigan, Colorado, South Carolina and Oregon) that include key legislators, who will have responsibility for implementing recommendations.

In his year-end "Report on the Judiciary," Chief Justice Warren Burger proposed that Congress create a National Commission on Corrections Practices. It would presumably formulate a national corrections policy, something that many reformers say is sorely needed amid the welter of claims about deterrence, incapacitation, retribution and rehabilitation.

Meanwhile, some reformers are losing their enthusiasm for one of the prime strategies of the past decade, promoting alternatives to incarceration. "One of the lessons of the 1970s is that alternatives do not reduce imprisonment," says Barry Krisberg. In practice, he says, many programs intended to divert people from prison have ended up being used to crack down on probationers instead, thus "widening the net of social control." Kay Harris says it is time to rethink our most fundamental approaches toward reducing crime. "Trying to tinker with the punishment apparatus is not very effective," she says. "A greater proportion of citizens have been brought under social control."

One thing most experts agree on is that unless some dramatic and unexpected event occurs, there will be no improvement in the next few years. "Increased prison terms are like a time bomb set to go off a few years later," says Krisberg. "We won't see the full effect for some three or four years, and we'll see increases well into the end of the decade." John Conrad agrees: "We can expect increases for a long time to come."

Lonnie Fouty, who has a good track record for predicting Florida's prison population, says that growth will slow by the end of the decade because of demographics, but will pick up again early in the next century as the children of the Baby Boom come of age. "We have to plan for the next wave now," he says. "We're trying to tell the legislature to build single cells now so we can double-cell later. There's nothing we can do about it short of nuclear holocaust."

At a colloquium on the prison overcrowding crisis held in March at the New York University School of Law, Norval Morris summed up the proceedings with a more optimistic view of the future. "It is highly likely that this, too, will pass." he said. "I don't know what level of incarceration we will achieve, and at the present it is terrifying, but it will indeed pass." □

Senator Vic Fischer's presence was noted.

JUN 13 1983
DEPT. OF LAW
CRIMINAL DIVISION

CONSIDERATION OF THE CALENDAR

SENATE BILLS IN SECOND READING

SB 154

Rubini

SENATE BILL NO. 154 (repealing the municipal exemption option to the Public Employees Relations Act) which had been held from June 7 was before the Senate in second reading.

Senator Faiks moved and asked unanimous consent for the adoption of the Rules Committee Substitute offered on page 1180. Senator Eliason objected, then withdrew his objection. There being no further objection, CS FOR SENATE BILL NO. 154 (RLS) (relating to the municipal exemption option to the Public Employees Relations Act) was adopted.

CS FOR SENATE BILL NO. 154 (RLS) was read the second time.

Senator Mulcahy offered the following Amendment No. 1:

Page 1, line 18: after "option" insert "(1)"

Page 1, line 23: after "resolution" insert "; or (2) conduct a local election to determine whether to adopt such local ordinances. If the election indicates that local ordinances shall be adopted the borough or political subdivision shall adopt local ordinances within 180 days after the results of the local election are certified"

Senator Mulcahy moved that Amendment No. 1 be adopted. Senator Fahrenkamp objected.

The question being: "Shall Amendment No. 1 be adopted?" The roll was taken with the following result:

SB 154 cont'd

CS SB 154 (RLS) AM 1

Yeas:	10	Eliason, Faiks, Fischer Paul, Gilman, Halford, Kerttula, Mulcahy, Pettyjohn, Ray, Ziegler
Nays:	8	Bennett, Fahrenkamp, Fischer Vic, Josephson, Kelly, Moss, Rodey, Sturgulewski
Absent:	2	Ferguson, Sackett

and so, Amendment No. 1 was adopted.

Senator Ray moved and asked unanimous consent that CS FOR SENATE BILL NO. 154 (RLS) am be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 154 (RLS) am was read the third time.

Senator Sackett's presence was noted.

Senator Ray moved and asked unanimous consent that the calendar be held until tomorrow. Senator Kelly objected, then withdrew his objection. There being no further objection, it was so ordered.

SB 154

CS FOR SENATE BILL NO. 154 (RLS) am (municipal exemption option to the Public Employment Relations Act) will appear on the June 10 calendar in third reading.

SB 224

Stark / Nordski

CS FOR SENATE BILL NO. 224 (FIN) (establishment of prison facilities) will appear on the June 10 calendar in third reading.

HB 202

Colvin

SENATE CS FOR HOUSE BILL NO. 202 (JUD) (increasing the liquor tax) will appear on the June 10 calendar in second reading.

Citations will appear on the June 10 calendar.

JUN 10 1983
DEPT. OF LAW
CRIMINAL DIVISION

SENATE ANNOUNCEMENTS 6/9/83

Meetings are in Capitol Building & times listed unless noted

FINANCE - SENATE FINANCE ROOM - 8:30 a.m.

Botelho/Scoccia
June 9 **CANCELLED**
June 10 SB 85 Certificate of need SB 87 Harbor Facilities
SB 106, SB 167 Prisons HB 319 Municipal Bond Bank
Noretski/Stark Davis/Rubini

HEALTH, EDUCATION & SOCIAL SERVICES - ROOM 504 - 3:00 p.m.

June 9 *1:30 p.m.* SB 303 Social work
Shaw/Botelho
June 10 HB 352 Definition death HB 357 Religious schools - Botelho/Shaw
HB 403 Insurance trade practices
Amendola

JUDICIARY - BUTROVICH ROOM - 1:30 p.m.

June 10 SB 228 Indian tribes HB 270 Child pornography Shaw/Noretski
HJR 2 Session length
(state aid/Fed Reserves) - Baldwin/Koester

LABOR & COMMERCE - BELTZ ROOM - 1:30 p.m.

June 9 **CANCELLED**

STATE AFFAIRS - BUTROVICH ROOM - 3:00 p.m.

June 9 HB 209 Personnel classification HB 323 Residency
HB 413 Historic Properties Commission
June 14 HB 258 Special Investment Tax Credit - Vogt

RESOURCES - BELTZ ROOM - 3:00 p.m. Koester/Mertz

June 10 SB 43, SB 102, HB 130 Homesteads HCR 27 Trapping
HCR 31 Kenai River HCR 37 Economic development
Koester Colvin

Sec. 7. AS 12.80 is amended by adding a new section to read:

Sec. 12.80.060. CONFINEMENT OF CERTAIN MINORS. If a person under the age of 18 who is subject to the jurisdiction of the court under AS 12.05.020 is confined to custody while awaiting trial or sentencing or is sentenced to a period of incarceration upon conviction, the court shall

(1) order that the defendant be confined to an institution designated by the Department of Health and Social Services for offenders under 18 years of age; and

(2) order that the defendant be transferred to an adult correctional facility when the defendant reaches 18 years of age if more than one year remains of the defendant's term of imprisonment and there is no substantial likelihood that the defendant is amenable to treatment.

Page 6, line 12 amend to read:

decision. [A finding that there is no substantial likelihood of successful rehabilitation of the person under children's court proceedings may be based on any one or a combination of the factors.] If the...

25 Sec. 12.80.060. CONFINEMENT OF CERTAIN MINORS. (a) A person 16
26 or 17 years of age who is charged with an unclassified felony, and who
27 is held in custody, shall be confined in a facility for juvenile
28 offenders until indicted for, held to answer following a preliminary
29 hearing on, or charged by complaint or information following a waiver
1 of indictment or preliminary hearing for an unclassified felony of-
2 fense. Following indictment, preliminary hearing, or waiver the
3 person, if held in custody, shall be confined in a facility for adult
4 offenders.

5 (b) Except as provided in (a) of this section, a person under
6 the age of 18 who has been arrested and is being held in custody for
7 an offense which would be a criminal offense if committed by an adult
8 shall be confined to a facility for juvenile offenders unless chil-
9 dren's court jurisdiction over the person has been waived under
10 AS 47.10.060, and the person has been indicted for, held to answer
11 following a preliminary hearing on, or charged by complaint or infor-
12 mation following a waiver of indictment or preliminary hearing for a
13 felony offense.

(c) If a person under the age of 18 who is subject to the jurisdiction of the court under AS 12.05.020 is confined to custody while awaiting sentencing, or is sentenced to a period of incarceration upon conviction, the person must be committed to the custody of the Department of Health and Social Services for confinement in a correctional facility for juvenile offenders, unless the person is 17 or 18 years of age and has committed an unclassified felony, in which case the person may be confined in a correctional facility for adult offenders.

HB

125

COMMITTEE REPORT

SENATE

FURTHER:

4/22/93

Date: May 18, 1993

Mr. President:

The Committee on HESS has had HB 125

Relating to 'emergency closure days' in response to a threat to the health or safety of students.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[✓] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for ______ [ ] same title [ ] new title

and recommends ______

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the ______ Committee

MEMBERS SIGNING DO PASS

______

______

Ryan Halford

______

______

______

______

______

______

MEMBERS HAVING OTHER RECOMMENDATIONS:

______

______

______

______

______

______

______

CHAIRMAN

DATE: 5/18/83 SPONSOR: Larson

SUBJECT(S): HB 125 - Emergency closure days

NAME	REPRESENTING	ADDRESS	PHONE	Observer	Witness		
E. S. Rabeau	DH&SS	H-06	3090		X (position paper)		
Steve Hole	DOE	Pouch F	2890				
Rep. Larson	Sponsor						

Alaska State Legislature

RONALD L. LARSON
DISTRICT 16B

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3727

BOX 53
PALMER, ALASKA 99645
(907) 745-3826

House of Representatives

MEMORANDUM

TO: SENATE HESS

FROM: REPRESENTATIVE RON LARSON R.L.

SUBJECT: COMMENTS ON SCHOOL CLOSURE DAYS

Having been an active teacher in Alaska for the past 23-½ years, I have personally seen many days when schools have remained opened simply to meet the mandate of "student in session days", when it was clearly obvious that in doing so, the health and safety of many individual students were being compromised.

The superintendent of school districts needs to be able, at least on a limited basis, to provide school closure days, when in their opinion the health and safety of students may be jeopardized by requiring student attendance. (Example: days with extreme weather conditions, breakdown of school heating system, loss of electrical power, possible bomb threats, or other unforeseen threats to health and safety conditions).

I might note that as a classroom teacher, I found that classroom procedures and general learning experiences are best retained by using normal procedures for missed work, instead of trying to make up missed work by holding school on Saturdays or extending school days at the end of the regular school year.

A personal example I might cite is: during one such day last year, I know of five automobile accidents involving students trying to get to school under extreme icy road conditions. School was held all that day with only 15-20% of the students present, and therefore, no regular classroom type instruction took place. The only purpose or value in holding school that day was to satisfy a requirement under State law. I might also add that the Matanuska-Susitna Borough is also being sued at this time over a bus accident that took place on a day when road conditions were extremely icy.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: House Bill No. 125 Date on Bill: 1/26/83
Title: "An Act relating to 'emergency closure days 'in response to a threat to the health and safety of students."
Sponsor: Representative Larson
Requestor:

1. Estimated fiscal impacts on: Department of Health & Social Services

a. Expenditures:

(Thousands of Dollars)

			FY 83	FY 84	FY 85	FY 86		
Capital			0	0	0	0		
Operating			0	0	0	0		
Total			0	0	0	0		

B. Revenues:

Revenue								

2. Source of funds to offset fiscal impact of bill:

Responsibility for identification of funding is that of the author of the bill.

3. Assumptions:

4. Disclaimer:
This statement has not been reviewed by OMB in the Office of the Governor. It does not represent the policy of the Sheffield Administration or the final estimate of fiscal impact.

Prepared by: Dean Tirador, M.D. Phone: 465-2113
Division: Public Health Date: 2/8/83

Approved by Commissioner: Robert Burden Bissett Ph.D. Date: 2/22/83
Department: Health and Social Services

5. Distribution:
Original to Legislative Finance
Copy to OMB
Copy to Sponsor
Copy to Requestor

2/8/83

POSITION PAPER

HOUSE BILL NO. 125

"An Act relating to 'emergency closure days' in response to a threat to the health or safety of students."

This Bill amends AS 14.03.030 by adding a provision that an "emergency closure day" may be substituted for a day in session because of conditions posing a threat to the health or safety of students.

The Department of Health and Social Services cannot comment on the educational impact of the new provision. Emergency closures for strictly health or safety reasons are a relatively uncommon event and can be kept at a minimum by strict enforcement of existing statutes and regulations relating to immunization requirements and building and safety codes. In the past year, there have been no instances in which the Division of Public Health has recommended closure of a school due to health reasons. The most likely reasons for closure would probably relate to environmental considerations due to failure of utilities such as heating, water or sewerage systems.

Recommended by: E. S. Rabeau
E. S. Rabeau, M.D., Director
Division of Public Health

Date: Feb 5, 1983

Approved by: Robert London Smith
Robert London Smith, Ph.D.
Commissioner
Department of Health and Social Services

Date: 2/9/83

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB - 125
Title An Act relating to 'emergency closure days'...
Requested by House HESS Date 2/22/83

II. FISCAL DETAIL
Agency Affected Education
Program Category Affected Elementary and Secondary Education
BRU, Program, Or Subprogram(s) Affected K-12 Foundation Support
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		0	0	0	0	0
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source) OPERATING						
CAPITAL						

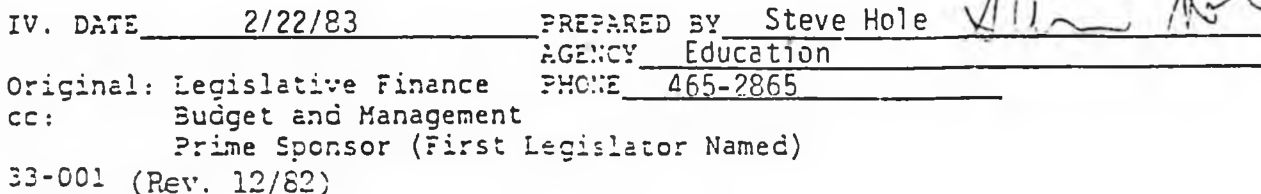
POSITIONS N/A

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

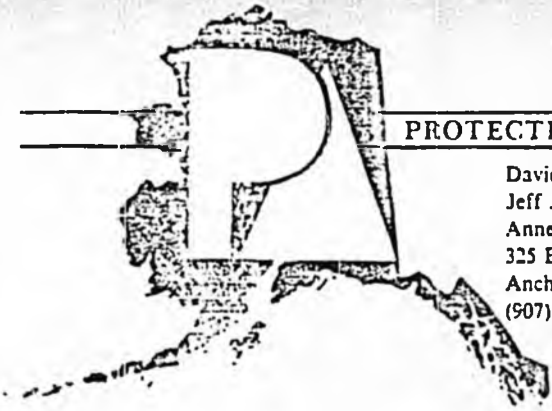
THIS FISCAL NOTE IS PRESENTLY BEING REVIEWED BY THE OFFICE OF MANAGEMENT AND BUDGET.

This bill has no fiscal impact.



IV. DATE 2/22/83 PREPARED BY Steve Hole
AGENCY Education
Original: Legislative Finance PHONE 465-2865
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/82)

HB
194



PROTECTION AND ADVOCACY FOR THE DEVELOPMENTALLY DISABLED

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Jeff Jessee-Staff Attorney
Annely Germaine-Coordinator
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Juneau, AK 99801
(907) 586-1627

Patricia Pennelia-Advocate
763 7th Ave.
Fairbanks, AK 99701
(907) 456-1070

March 14, 1984

Mr. Steve Hole
Education Administrator
Department of Education
Pouch F
Juneau, Alaska 99811

Dear Steve,

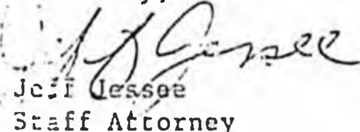
This letter is to provide you with the proposed amendment to HB 194 we discussed on March 9, 1984, regarding the availability of due process hearings. We suggest the following amendment:

> Sec. 14.30.195 HEARINGS (a) The department shall by regulation provide for administrative hearings which may be initiated by parents or educational agencies and to be conducted under AS 14.30.180 - 14.30.350 whenever the parent or educational agency:
>
> (1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child, or
>
> (2) Refuses to initiate, change or consent to the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education.

It is our understanding that this amendment would eliminate the need for Sec. 14.30.337 requiring parents to ensure that their child attends a special education program by allowing an educational agency to initiate a due process hearing when a parent refuses to consent to an initial evaluation or placement.

Thank you for your help on this. If you have any further questions or believe that another alternative would be better, please let me know.

Sincerely,



Jeff Jessee
Staff Attorney

JJ:dw

SECTIONAL ANALYSIS CS HB 194 (Finance)
March 8, 1984 (Revised)

Section 1	Makes changes in conformity with federal requirements that free public educational services be provided to exceptional persons in need of them through their twenty-first year, and that those services be appropriate to the actual student needs.
Sections 2-3	Make changes in conformity with federal requirements.
Section 4	Sets out the federally required process for determining the needs and program placement respecting exceptional children.
Section 5	Sets out the process for resolving disputes which arise from the requirements imposed by this chapter.
Section 6	Establishes the pre-existing Governor's Council for the Handicapped and Gifted as the federally required state advisory council on matters associated with programs for exceptional children.
Section 7	Language clean-up.
Section 8	New statutory requirement. Although already required by regulations adopted under the authority expressly granted by sec. 14.30.250, this section would require that persons employed as school district directors of special education programs possess appropriate training in education administration.
Section 9	Clarifies requirements for a substitute teacher of exceptional children.
Section 10	Sec. 272 sets out the specific rights granted to parents of exceptional children by federal law. Sec. 274 sets out the federal requirements respecting the affirmative action required of school districts to locate and arrange for services for exceptional children. Sec. 276 sets out the federal requirements generally associated with the concept of mainstreaming, or making sure that exceptional children are treated and served as non-exceptional children to the maximum extent practicable. Sec. 278 sets out the process and content required of individualized education program plans for exceptional children.

Section 11	Clarifies and cleans up the requirements and process for transferring exceptional children to schools or programs outside their school districts of residence.
Section 12	Clarifies the scope of services considered necessary for the child's program.
Section 13	Makes it clear that disagreement over the transfer of an exceptional child does not eliminate the school district's obligation to provide services to the student.
Section 14	Clarifies the meaning of the section which deals with services provided to hospital or home bound exceptional children.
Section 15	Sec. 14.30.315 makes clear that state aid for programs for gifted students is conditioned upon prior state approval of those programs. Sec. 325 largely restates the existing federal requirements on the subject.
Section 16	Sec. 14.30.335 would give the department the authority to alter requirements imposed upon school district programs for exceptional children in conformity with changes in the federal law which may occur from time to time.
Section 17	Clarification.
Section 18	Would adopt the existing federal definitions of all of the listed items except (3), (4)(C) and (7).
Section 19	Would repeal various sections replaced or made unnecessary by this Act.
Section 20	Effective date.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: March 7, 1984

REQUEST
Bill/Resolution No.: CSHB-194(Fin)
Title: ...exceptional children...

Sponsor: Governor
Requestor: House Finance
Date of Request: 3-7-84

FISCAL DETAIL
Agency Affected: Education
Program Category Affected: Elementary and Secondary Education
BRU, Program or Subprogram(s) Affected: Exceptional Children, Foundation Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS: N/A

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The bill has no fiscal impact on this department.

ANALYSIS: Attach a separate page for analysis

Prepared By: Steve Hole
Phone: 465-2800
Division: Commissioner's Office
Date: 3-7-84

Approved by Commissioner: Harold Raynolds, Jr.
Date: 3-7-84
Agency: Education

Distribution (by Agency preparing fiscal note):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

HB
196

COMMITTEE REPORT

SENATE

FURTHER: FINANCE

5/[illegible]/83

Date: [illegible]

Mr. President:

The Committee on HESS has had HB 196

Relating to provision of adequate housing for public school teachers in rural areas.

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[✓] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for ______ [ ] same title [ ] new title

and recommends ______

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the ______ Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

CHAIRMAN

COMMITTEE OBSERVER/WITNESS SIGN-UP SHEET

DATE: 5/18/83 SPONSOR: Adams

SUBJECT(S): HB 196 - teacher housing

NAME	REPRESENTING	ADDRESS	PHONE	Observer	Witness		
Steve Hole	D.O.E.						

Collateral references. — Power to require construction or repair of school buildings. 1 ALR 1559.

Power of school authorities to employ physicians, nurses, oculists, and dentists. 12 ALR 922.

Extent of legislative power with respect to attendance and curriculum. 39 ALR 477; 53 ALR 832.

Kindergartens or specialized departments, power and duty of school authorities to maintain. 70 ALR 1313.

Power of school or local authorities as to granting leases of school property. 111 ALR 1051.

Sec. 14.08.111. Duties. A regional school board shall:

(1) provide, during the school term of each year, an educational program for each school age child who is a resident of the district;

(2) develop a philosophy of education, principles and goals for its schools;

(3) employ a chief school administrator and approve the employment of the professional administrators, teachers and noncertificated personnel necessary to operate its schools;

(4) establish the salaries to be paid its employees;

(5) designate the employees authorized to direct disbursements from the school funds of the board;

(6) submit the reports prescribed for all school districts;

(7) provide for an annual audit in accordance with AS 14.14.050;

(8) provide custodial services and routine maintenance of school buildings and facilities; and

(9) establish procedures for the review and selection of all textbooks and instructional materials before they are introduced into the school curriculum; the review includes a review for violations of AS 14.18.060. (§ 2 ch 124 SLA 1975; am § 2 ch 17 SLA 1981)

Effect of amendments. — The 1981 amendment added paragraph (9).

NOTES TO DECISIONS

As to absence of duty on regional educational attendance areas to bargain collectively with noncertificated employees, see note following chapter analysis. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Applied in Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Sec. 14.08.115. Advisory school boards in regional educational attendance areas. A regional school board may establish advisory school boards, and by regulation shall prescribe their manner of selection and organization, and their powers and duties. (§ 2 ch 24 SLA 1979)

office, each school board member shall take and sign the oath or affirmation prescribed by AS 14.12.090.

(b) The officer of the board responsible for the custody of regional educational attendance area funds shall execute a bond of $50,000 with the commissioner. (§ 2 ch 124 SLA 1975)

Sec. 14.08.101. Powers. A regional school board may

(1) sue and be sued;

(2) contract with the department, the Bureau of Indian Affairs, or any other school district, agency, or regional board for the provision of services, facilities, supplies or utilities;

(3) determine its own fiscal procedures including but not limited to policies and procedures for the purchase of supplies and equipment; the regional school boards are exempt from the Fiscal Procedures Act (AS 37.05);

(4) appoint, compensate and otherwise control all school employees in accordance with this title; these employees are not subject to the State Personnel Act (AS 39.25);

(5) adopt regulations governing organization, policies and procedures for the operation of the schools;

(6) establish, maintain, operate, discontinue and combine schools subject to the approval of the commissioner;

(7) recommend to the department projects for construction, rehabilitation, and improvement of schools and education-related facilities as specified in AS 14.11.010(a), and plan, design, and construct the project when the responsibility for it is assumed under AS 14.11.020;

(8) exercise those other functions that may be necessary for the proper performance of its responsibilities;

(9) by resolution adopted by a majority of all the members of the board and provided to the commissioner of the department, assume ownership of all land and buildings used in relation to the schools in the regional educational attendance area. (§ 2 ch 124 SLA 1975; am § 2 ch 57 SLA 1976; am § 1 ch 147 SLA 1978; am § 4 ch 92 SLA 1982)

Effect of amendments. — The 1978 amendment added paragraph (9).

The 1982 amendment rewrote paragraph (7).

NOTES TO DECISIONS

As to absence of duty on regional educational attendance areas to bargain collectively with noncertificated employees, see note following chapter analysis. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Applied in Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

buildings. 1 ALR 1559.

Power of school authorities to employ physicians, nurses, oculists, and dentists. 12 ALR 922.

Extent of legislative power with respect to attendance and curriculum. 39 ALR 477; 53 ALR 832.

Power of school or local authorities as to granting leases of school property. 111 ALR 1051.

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(5) designate the employees authorized to direct disbursements from the school funds of the board;

(6) submit the reports prescribed for all school districts;

(7) provide for an annual audit in accordance with AS 14.14.050;

(8) provide custodial services and routine maintenance of school buildings and facilities; and

(9) establish procedures for the review and selection of all textbooks and instructional materials before they are introduced into the school curriculum; the review includes a review for violations of AS 14.18.060. (§ 2 ch 124 SLA 1975; am § 2 ch 17 SLA 1981)

Effect of amendments. — The 1981 amendment added paragraph (9).

NOTES TO DECISIONS

As to absence of duty on regional educational attendance areas to bargain collectively with noncertificated employees, see note following chapter analysis. Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Applied in Northwest Arctic Regional Educ. Attendance Area v. Alaska Pub. Serv. Employees, Local 71, Sup. Ct. Op. No. 1811 (File Nos. 3360, 3362), 591 P.2d 1292 (1979).

Sec. 14.08.115. Advisory school boards in regional educational attendance areas. A regional school board may establish advisory school boards, and by regulation shall prescribe their manner of selection and organization, and their powers and duties. (§ 2 ch 24 SLA 1979)

declare the position vacant and shall notify the ex-member by registered mail. The vacancy shall be filled as provided by AS 14.12.070. (§ 1 ch 98 SLA 1966)

Sec. 14.14.090. Additional duties. In addition to other duties, a school board shall

(1) determine and disburse the total amount to be made available for compensation of all school employees and administrative officers;

(2) provide for, during the school term of each year, an educational program for each school age child who is a resident of the district;

(3) withhold the salary for the last month of service of a teacher or administrator until the teacher or administrator has submitted all summaries, statistics, and reports which the school board may require by bylaws;

(4) transmit, when required by the assembly or council but not more often than once a month, a summary report and statement of money expended;

(5) keep the minutes of meetings and a record of all proceedings of the school board in a pertinent form;

(6) keep the records and files of the school board open to inspection by the public at the principal administrative office of the district during reasonable business hours;

(7) establish procedures for the review and selection of all textbooks and instructional materials before they are introduced into the school curriculum; the review includes a review for violations of AS 14.18.060. (§ 1 ch 98 SLA 1966; am § 3 ch 17 SLA 1981)

Effect of amendments. — The 1981 amendment added paragraph (7).

NOTES TO DECISIONS

Stated in Tunley v. Municipality of Anchorage School Dist., Sup. Ct. Op. No. 2160 (File Nos. 4796, 4797, 4826), 631 P.2d 67 (1980).

Sec. 14.14.100. Bylaws and administrative rules. (a) The school board policies relating to management and control of the district shall be expressed in written bylaws formally adopted at regular school board meetings.

(b) Administrative rules which do not embody school district policy need not be promulgated as bylaws; however, the rules shall be in written form and readily available to all school personnel. (§ 1 ch 98 SLA 1966)

NOTES TO DECIS

Applied in Skagway City School Bd. v. Davis, Sup. Ct. Op. No. 1216 (File No. 2265), 543 P.2d 218 (1975).

Sec. 14.14.105. Sick leave bank. A
the board of a regional educational att
sick leave bank to enable a teacher, beca
to draw not more than twice the num
teacher has accumulated before the fir
year, or 24 days, whichever is greater.
administer the sick leave bank indepen
(§ 1 ch 76 SLA 1971; am § 1 ch 142 S

Legislative history reports. — For report on ch. 76, SLA 1971 (HB 266 am), see 1971 House Journal, p. 544.

Sec. 14.14.107. Sick leave and si
school district shall allow its certificat
days of sick leave a month with unlim
days.

(b) A certificated school district emp
from one school district to another dis
the department, or from the departme
fer all of the cumulative sick leave
responsibility of the employee to noti
days of commencing work, of the nun

(c) The department may implemen
ch 99 SLA 1974; am § 1 ch 118 SLA

Revisor's notes. — In subsection (b), the words "of education" were deleted following "department" by the revisor of statutes under AS 01.05.031. See AS 14.60.010(4).

Sec. 14.14.110. Cooperation wi
essary to provide more efficient or
vices, a district may cooperate or the
to cooperate with other districts, stat
of Indian Affairs in providing educa
boarding and tuition arrangements,
pupils or teachers, or other similar
erative arrangement requires pupi
homes, the school board shall prov
area when there are at least eigh
mentary and secondary school in t