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Few States have established comprehensive systems to monitor jails, detention facilities, and correctional facilities to insure that deinstitutionalization of status offenders is achieved. This information is extremely important since funding is contingent upon a State's ability to demonstrate compliance with the deinstitutionalization mandate of Federal legislation. Three of the five States reviewed have legislation that allows status offenders to be placed in detention facilities, and two of the three also have legislation that allows such placements in correctional facilities. State Planning Agency officials in all five States did not feel they have implementing authority to bring about deinstitutionalization. Efforts to date have concentrated on removal of status offenders with limited provision of service or treatment. The Law Enforcement Assistance Administration (LEAA) has indicated that services for processing and treating status offenders are generally inadequate, inappropriate, and often destructive. Little information has been developed at the national level on the types of service alternatives that appear most effective for status offenders. LEAA feels that its role is to provide financial and technical assistance to the States rather than to mandate service requirements. (SW)

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STATEMENT OF  
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BEFORE THE  
SUBCOMMITTEE ON JUVENILE DELINQUENCY  
SENATE COMMITTEE ON THE JUDICIARY  
ON  
DEINSTITUTIONALIZATION OF STATUS OFFENDERS

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss our preliminary findings regarding GAO's review of State efforts to remove status offenders from detention and correctional facilities as required by the Juvenile Justice and Delinquency Prevention Act of 1974. The 1974 act provides in part that:

Juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult (status offenders), shall not be placed in juvenile detention or correctional facilities, but must be placed in shelter facilities

The process of removing status offenders from detention and correctional facilities is hereinafter referred to as deinstitutionalization.

While our review is not complete, we believe that the information presented accurately represents the problems being encountered in carrying out this mandate.

JUVENILE JUSTICE AND DELINQUENCY  
PREVENTION ACT OF 1974

Concern has been expressed in recent years about the use of detention and correctional facilities for juveniles charged with or committing status offenses such as truancy, incorrigibility, and running away. In part, the concern stems from the belief that it is unjust for the juvenile justice system to incarcerate youth for non-criminal behavior. In addition, the contention is made that this practice tends to make criminals out of youth who were not previously criminal.

Status offenders constitute a large portion of all youth involved in the juvenile justice system. One estimate suggests that nearly 40 percent or one-half million of the youth brought to the attention of the juvenile justice system per year have committed no criminal act. The Law Enforcement Assistance Administration has estimated that:

--About 25 percent of all cases filed in the juvenile courts of the United States are status offense charges.

--Of the youth referred to juvenile courts on status offense charges, perhaps as high as 10 percent, are ultimately placed in secure institutions.

--Status offenders generally spend as much or more time in secure facilities as delinquents.

The situation is worse for girls than for boys. According to LEAA, 70 percent of all females in juvenile detention and correctional facilities are status offenders as compared to 20 percent for males.

The Congress showed its interest in deinstitutionalizing status offenders in passing the Juvenile Justice and Delinquency Prevention Act of 1974. The act provided that in order to receive formula grants 1/ from LEAA for juvenile justice and delinquency prevention programs, a State must include in its comprehensive law enforcement plan a provision that within 2 years after the plan's submission to LEAA, status offenders will be placed in shelter facilities instead of juvenile detention or correctional facilities.

There are 56 States and territories eligible to receive formula grant funds under the act. The number actually participating in the formula grant program ranged from a low of 39 2/ in fiscal 1975 to a high of 46 in fiscal 1977. As of December 31, 1976, approximately \$77 million had been awarded to the States. Formula grants received ranged from a low of \$112,000 for American Samoa to a high of \$7.5 million for California.

#### Juvenile Justice Amendments of 1977

Amendments now being considered by the Congress would reaffirm the commitment to full deinstitutionalization but provide additional time for State compliance. Specifically, the amendments provide the States a total of 3 years to achieve compliance with the deinstitutionalization requirement. Up to 2 additional years can be allowed if a State has achieved at least 75 percent deinstitutionalization and demonstrated an unequivocal commitment to achieving full compliance.

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1/ The act defines formula grants as grants allocated among the States on the basis of relative population of people under the age of 18.

2/ This number does not include seven States which received formula grants and subsequently withdrew from the program.

The amendments also clarify the enabling legislation to show that all status offenders need not be placed in shelter facilities. They also provide guidance on what types of facilities would be appropriate for status offenders, if they are placed. Additionally, the amendments make it clear that other non-offenders such as dependent or neglected children are also to be included under the deinstitutionalization provisions of the act.

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Our review is being conducted at LEAA headquarters, at four LEAA regional offices--Atlanta, Boston, Dallas, and San Francisco--in five States that were participating in the act--California, Florida, Louisiana, Massachusetts, and Virginia--and in four States that elected not to participate in the act--Nevada, North Carolina, Utah, and West Virginia.

While we did not attempt to evaluate the merits of deinstitutionalization of status offenders, we did identify a number of problems that, in our opinion, must be dealt with if deinstitutionalization is to be achieved even within the extended time frames provided by the amendments. We found that

- monitoring systems have not been established to determine whether deinstitutionalization has been or will be achieved,
- State laws and practices frequently conflict with the act's deinstitutionalization mandate, and

--appropriate alternatives to incarceration have generally not been identified and developed.

We would now like to discuss each of these issues in more detail.

#### SYSTEMS TO MONITOR DEINSTITUTIONALIZATION

Few States have established comprehensive systems to monitor jails, detention facilities, and correctional facilities to insure that deinstitutionalization of status offenders is achieved. Without adequate monitoring systems, LEAA and the States cannot evaluate progress nor demonstrate when full deinstitutionalization is achieved.

This information is extremely important since future funding is contingent upon a State's ability to demonstrate compliance with the deinstitutionalization mandate of the act. In addition, the lack of reliable statistics on incarcerated status offenders would also appear to make it difficult for States to properly plan alternative services.

Each State receiving formula grants under the act is required to monitor and report annually on deinstitutionalization results. The first monitoring reports were due from 42 States in December 1976. According to LEAA, few States' monitoring systems met the requirements of the act and LEAA implementing guidelines; therefore they were unable to provide complete and accurate information on program progress. The reports disclosed that some States are monitoring only State-operated juvenile facilities and intend to measure compliance on statistics from these facilities only. LEAA stated that this narrow interpretation of the act's requirements is unacceptable because it ignores an undeterminable number of juveniles being detained or institutionalized in local facilities.

After analyzing the monitoring reports, LEAA concluded that the States generally failed to address guideline requirements in their monitoring reports and that their omissions were major in most cases.

Specifically, LEAA's analysis of the monitoring reports disclosed that

- only nine States provided what could be considered complete data,
- seven States could provide no monitoring data at all, either because the State started too late in collecting data or the State simply had no monitoring system,
- data was missing from 17 States--the major problem was in not fully monitoring jails or not monitoring jails at all,
- 3 States had not established baseline data against which to measure deinstitutionalization achievements,
- only four States monitored private facilities containing juvenile offenders, and
- only two States appeared to demonstrate at least a 75 percent reduction in the number of status offenders placed in juvenile detention and correctional facilities.

According to LEAA, these monitoring reports represent the first overall monitoring within the juvenile justice system that many States have attempted. Thus, gaps in data collected are just becoming evident. LEAA officials told us that the extent and significance of problems with State monitoring efforts were not fully recognized until the initial monitoring reports were received.

LEAA said that data collection is one of the overriding problems experienced by States participating in the act and that because of lack of essential statistics, any analysis of deinstitutionalization progress must be qualified.

The Committee on the Judiciary of the U.S. Senate in its May 14, 1977, report expressed concern over difficulties experienced in assuring that States meet the monitoring requirements of the act. The Committee's report stated that the contents of the initial monitoring reports were disappointing. Most States did not present adequate hard data to indicate the extent of their progress with the deinstitutionalization requirement. The report showed that the States' initial monitoring reports contained problems with respect to clarity of data, progress achieved, and the number and type of facilities monitored. The report also noted confusion regarding the definitions of juvenile detention and correctional facilities.

Many of the problems with State monitoring efforts identified by LEAA and enumerated in the Committee report exist in the five States we visited. None of the States monitored all types of facilities required by the act and LEAA implementing guidelines. Officials in four States expressed reservations about whether the State had authority to monitor some local and private facilities. Officials in two States indicated that their States did not have adequate resources to carry out the monitoring requirements.

More specifically, we found that:

--State A's monitoring system provides data from State correctional facilities and county jails but not from local jails. Even for those facilities which are monitored, information is not provided



on the number of status offenders incarcerated during the year but represents only a count of status offenders incarcerated on 1 or 2 specific days during the year.

--State B's monitoring system does not provide information on the number of status offenders placed in approximately 50 local jails. While information is available on status offenders in State-operated jails, detention centers, and correctional facilities, a State Planning Agency official informed us that the data is unreliable.

--State C has no monitoring system because of the belief that the State is already in compliance with the act. As will be discussed, this belief is premised on the fact that there is a State law prohibiting the detention or incarceration of status offenders.

--State D's monitoring system also does not provide data on all types of facilities. The only facilities monitored are 22 State-operated detention centers. Local jails, training schools, and correctional facilities are not monitored.

--State E's monitoring system does not provide information on the number of status offenders, if any, placed in private institutions and secure correctional facilities.

LEAA is responsible for assisting States in establishing systems to monitor deinstitutionalization results. At the time of our review, accomplishments in this area were essentially confined to the review and analysis of initial State monitoring reports and the modification of LEAA guidelines to define key terms associated with the monitoring requirements. Efforts were underway to develop (1) strategies and techniques for monitoring jails,

detention, and correctional facilities, and (2) a model report format for States to use in preparing their second monitoring report due December 31, 1977.

STATE LAWS AND PRACTICES  
REGARDING DEINSTITUTIONALIZATION

Although States participating in the act have agreed to comply with the deinstitutionalization mandate, three of the five States we reviewed have legislation that allows status offenders to be placed in detention facilities and two of the three also have legislation that allows such placements in correctional facilities. Data was not available on the extent to which the laws were being implemented, but information we obtained indicates that all three States are detaining status offenders, and that one State is placing them in correctional facilities. In one of the States that did not have legislation, we were told by State officials that, in practice, certain status offenders were being detained.

Specifically, we found that:

- In State A a revised statute allows for the secure detention of runaways, incorrigibles, and ungovernables for up to 12 hours without a court order and up to 7 days with a court order. More than one-third of the 49 judges responding to a 1976 questionnaire indicated that secure detention was being used for certain status offenders.
- State B's recently revised juvenile code provides that status offenders no longer be placed in correctional institutions. However, the code still allows for the secure detention of status offenders for up to 72 hours.
- Although State C's law does not allow for any incarceration of status offenders, we were told by judges in the State

that in practice certain status offenders are being placed in secure detention.

--State D's law allows for juveniles adjudicated as ungovernable for a second time to be considered delinquent and placed in secure detention or correctional facilities. While the policy is to no longer place status offenders in training schools, State Planning Agency officials indicated that many judges are quick to use the State law to order secure detention for ungovernables. Alleged ungovernables are also being placed in secure detention under a State law that permits the use of secure shelter for ungovernable children pending disposition. The term secure shelter is not clearly defined in the statutes, and some judges interpret it as including secure detention. In addition, some status offenders are being placed in secure detention by judges who hold them in contempt of court for violating previously issued court orders not to commit status offenses. Thus not only ungovernables but other status offenders such as truants or runaways are being detained in secure facilities.

--State E's legislation specifically prohibits the placement of status offenders in either secure detention or correctional facilities. However, an amendment is before the State legislature which would permit a status offender to be held in secure detention for up to 48 hours.

One reason why certain status offenders are still being placed in detention facilities could be that a number of State officials we interviewed, such as juvenile court officials, law enforcement and correction personnel and others associated with the juvenile justice system, believed the detention of some status offenders to be justified. In addition, some officials expressed the opinion that there are a small number of status offenders who should be put in secure correctional facilities.

Officials in the non-participating States we visited expressed similar opinions and cited opposition to total deinstitutionalization of status offenders as a reason for not participating in the act.

An LEAA official told us that he is aware of opposition to deinstitutionalization among juvenile authorities. He said that opposition to deinstitutionalization exists partly because the concept has never been emphasized from the national level and because deinstitutionalization conflicts with the status quo in juvenile justice.

## State Planning Agency efforts to implement deinstitutionalization

In order to receive funds under the act, States must provide evidence that their State Planning Agency has or will have authority to implement the provisions of their criminal justice plan, including the deinstitutionalization of status offenders. According to LEAA, the specific means for accomplishing compliance with the deinstitutionalization mandate is left to each planning agency to determine, but may include agreements with operating agencies, legislative reform efforts, public information and education, and other methods.

State Planning Agency officials in all five States we visited stated that they generally do not have implementing authority over other agencies in the State, and therefore cannot be expected to bring about deinstitutionalization. Officials in three of the States told us that they see their role as one of planning and advising, not implementing mandates such as deinstitutionalization.

Officials in non-participating States told us that the State Planning Agency's lack of authority to bring about deinstitutionalization was one reason the State elected not to request funds under the act.

LEAA needs to examine this problem. If States agree to deinstitutionalize, they must accept responsibility for carrying it out.

## ALTERNATIVES TO INCARCERATION

Deinstitutionalization efforts to date appear to have concentrated on removing status offenders from detention and correctional facilities

with limited regard to their service or treatment needs. Uncertainty exists over the alternatives that are most appropriate for status offenders under various situations. Also, there is a generally recognized shortage of alternatives in most States. According to some State officials, status offenders needing assistance are sometimes assigned to programs that are not structured to deal with their problems or returned to society without receiving help.

#### Status offender service needs

Uncertainty exists over the types of alternatives that are most appropriate in dealing with various status offender problems. State officials we interviewed expressed a variety of opinions regarding status offender service needs. For example, some officials view status offender service needs as similar or identical to those of delinquents. Therefore, the same dispositions are considered appropriate for both groups. Some officials see status offenders as a distinct group with service needs different from those of other juvenile offenders. Therefore, services specifically designed for status offenders are considered appropriate.

According to an LEAA official, some research indicates that status offenders should receive no services at all and that status offenders will, in time, solve their own problems.

State laws in two participating States we visited specifically provide that status offenders needing assistance be treated by social agencies that traditionally have served abused and neglected youth. Various service agency and correctional officials we interviewed in these States told us

that service programs provided by these agencies are not appropriate for many status offenders. They cited insufficient funds, inexperienced staff, and shortages of the right types of programs as reasons for the social agencies not being able to properly assist status offenders. Officials in one State believed that non-secure programs administered by the State juvenile corrections agency for delinquents are more appropriate. Officials in the other State indicated that non-secure programs should be designed specifically to deal with status offender problems.

Availability and  
Appropriateness of  
Alternatives

LEAA has indicated that services for processing and treating status offenders are generally inadequate, inappropriate, and often destructive. Preliminary work on an LEAA-funded study of the impact of deinstitutionalization on selected States indicates that little attention has been devoted to the specific service needs of status offenders. After visiting one State, the contractor performing the study indicated that no one had thought very much about alternatives for status offenders and that no one seemed aware of what, if anything, had happened to status offenders.

In each of the five States visited, we found indications of problems with limited availability of alternative dispositions for status offenders and/or dispositions being used that were not considered appropriate for dealing with status offender problems. Reasons given for the States not having adequate numbers of appropriate alternatives include:

- Limited funding at both the Federal and State levels.
- Resistance from some localities to establishing programs in their community.
- Lack of emphasis on status offender service needs, especially at the Federal level.

Specifically, we found that:

- In State A, status offenders requiring assistance are dealt with through a variety of local and private non-secure programs that also serve delinquents. While officials we contacted generally believed that these programs are appropriate for status offenders, they acknowledged that there are shortages of such programs. Nearly one-half of the juvenile judges responding to a State administered questionnaire indicated that they had experienced problems handling status offenders because of shortages of non-secure programs. The State agency responsible for serving status offenders reported that during 1976, non-secure placements were unavailable for over 500 adjudicated juvenile offenders.
- In State B, a recently passed law provides for deinstitutionalization of status offenders, except for secure detention up to 72 hours. At the time of our visit, it had not been decided which non-secure programs will be used for status offenders. State officials anticipate using existing programs administered by the State juvenile corrections agency and/or the State social service agency. An official at the juvenile corrections agency told us that while some localities have sufficient numbers of non-secure services,



others do not. Plans call for establishing additional group homes that may be used by status offenders. An official at the State social service agency expressed concern that status offender placements will overburden caseworkers that already have full caseloads. The official also stated that agency personnel are not trained or experienced in dealing with problem teenagers.

--In State C, a 1974 law decriminalized status offenses and transferred responsibility for status offenders from the State juvenile corrections agency to the State welfare agency. Status offenders needing assistance have been integrated into a service delivery system designed primarily for abused and neglected youth. Status offenders requiring residential care are usually placed with foster parents. State officials told us that these services are inappropriate for many status offenders and that numerous problems have resulted.

--In State D, a 1975 law decriminalized status offenses and transferred responsibility for status offenders from the State juvenile correctional agency to a social service agency. The State is attempting to meet status offender service needs primarily through existing programs designed for abused and neglected youth. Foster care and protective service counseling are the most frequently used programs. Many State officials told us that these programs are often inappropriate to meet status offender needs and that numerous problems have resulted.

--In State E, State officials believed the State to have a full range of services for juvenile offenders, including status offenders. There are, however, significant variances in the level of services among counties within the State. Some of the more populous counties have a variety of programs, including foster homes, group homes, counseling services and psychiatric care, while some rural counties have few, if any, programs. County officials that we interviewed generally agreed that additional non-secure programs are needed for juvenile offenders.

LEAA efforts to assist States  
in identifying and establishing  
appropriate alternatives

To date, little information has been developed at the national level on the types of service alternatives that appear most effective for status offenders under various situations. LEAA has recognized a need for such information and a number of research efforts are underway. Because of the delay in initiating and completing most projects, however, the States have generally been left on their own to deal with the problem.

LEAA efforts to assist States in establishing alternative services for deinstitutionalized status offenders have primarily been through providing formula grants under the act and block grants under the Omnibus Crime Control and Safe Streets Act of 1968 as amended and through a variety of technical assistance efforts.

LEAA officials told us that although it is important that status offender service needs be met outside of institutions, LEAA is not in a position to mandate service requirements in the States. They view their

role as one of encouraging States to establish viable alternatives through financial and technical assistance.

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Mr. Chairman, our report, which we expect to issue in the next few months, will discuss these matters in more detail and provide certain conclusions and recommendations regarding them. This concludes my prepared statement. We will be pleased to respond to any questions you may have.