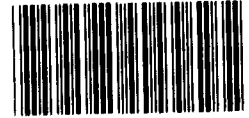


123580
~~27621~~

UNITED STATES GENERAL ACCOUNTING OFFICE
Washington, D.C. 20548

FOR RELEASE DURING HEARINGS
SCHEDULED FOR MARCH 7, 1984

STATEMENT OF
ARNOLD P. JONES
SENIOR ASSOCIATE DIRECTOR
GENERAL GOVERNMENT DIVISION
BEFORE THE
SUBCOMMITTEE ON HUMAN RESOURCES
HOUSE COMMITTEE ON EDUCATION AND LABOR



123580

Mr. Chairman and members of the subcommittee, we appreciate the opportunity to testify before you today on our preliminary observations concerning the Office of Juvenile Justice and Delinquency Prevention's program to evaluate state monitoring reports and the administration's statements that the objectives of the Juvenile Justice and Delinquency Prevention Act of 1974 have been largely accomplished. In response to your April 29, 1983, request we expect to issue a report to you later this year.

The act was established with several basic objectives. Three of these objectives have been cited by the Department of Justice as key. They are (1) deinstitutionalize status offenders and juveniles not charged with an offense; (2) separate juveniles from incarcerated adults; and (3) remove juveniles from adult incarceration facilities. The administration has

028215
123580

claimed that the first two of these objectives--not incarcerating status and nonoffenders and separating juveniles from incarcerated adults--have been largely accomplished. They base this claim on data provided in monitoring reports that states are required by the act to submit to the Office. Progress on the third key objective--the removal of juveniles from adult incarceration facilities--has been limited because, according to the act, states are not required to accomplish this objective until 1985. Using the data provided on the first two objectives and defining the other objectives as responsibilities that the states already have the capability of meeting, the administration has argued that the program has accomplished its objectives.

We were asked to present our assessment of the Office's program to evaluate state monitoring reports and the validity of the conclusions drawn from them by the Department of Justice. In our examination, we found that the Office does not evaluate the reliability and validity of the data that are submitted as part of the state monitoring reports. Our current review and recent prior reviews have found evidence of inaccurate and incomplete local records upon which the state monitoring reports are based. Consequently, state monitoring reports cannot be considered as sufficiently valid and reliable to measure progress in meeting the remaining objectives in the act. I would now like to provide more detail on the results, to date, of our assessment.

**THE OFFICE DOES NOT VALIDATE
MONITORING DATA**

The act requires that states applying for grants authorized under the act have an adequate system for monitoring jails, detention facilities, correctional facilities, and nonsecure facilities to ensure that the objectives of not incarcerating status offenders, separating juveniles from incarcerated adults, and removing juveniles from adult facilities are met. The Office defined the term adequate through its regulations and policies. The act also requires that states submit annual reports on the results of such monitoring to the Administrator of the Office.

The Office does not have a formal policy or guidelines requiring its staff to validate monitoring reports. Office staff members told us they rely on data in the monitoring reports to determine compliance with the three objectives and do not question the data's accuracy. Under the act and Office policy, each state is given the responsibility for establishing its own system for monitoring compliance with the act's key objectives--a self assessment.

State monitoring systems

Office policy requires that every facility in a state that may be used for detention of juveniles prior to disposition (jails, lockups, detention centers) or commitment of juveniles after disposition (training schools) must be monitored and inspected through on-site visits. If this is not possible, a random sample of facilities must be inspected to verify the data

in the monitoring report. Based on telephone interviews with officials from 24 states, we found that the states' verification processes ranged from none in 4 states to on-site verification of data from all facilities in two states. Other methods used by the remaining states included interviewing local officials and examining records at a sample of the facilities.

We have discussed monitoring system problems and recommended corrective actions in two prior reports. In our June 5, 1978, report entitled "Removing Status Offenders From Secure Facilities: Federal Leadership and Guidance Are Needed," we reported that state monitoring systems to determine compliance with the act's objectives had not been established and that reliable juvenile detention and commitment data did not exist. Our March 22, 1983, report entitled "Improved Federal Efforts Needed to Change Juvenile Detention Practices," showed that the five states we visited had not established comprehensive monitoring and recordkeeping systems for detention facilities, especially jails and lockups. These states could not provide us with accurate data on the total number of juveniles held in detention facilities. Further, the local facilities' records were often inaccurate or incomplete.

The Office has not completed its efforts in response to our recommendations. For example, we recommended that the Office assist states and localities in improving their monitoring and recordkeeping systems to adequately account for juvenile detention practices. The Office has developed recordkeeping and data collection policies and practices though, to date, these policies and practices have not been issued to the states.

Recent evidence indicates that state monitoring systems still have problems. Criminal Justice Council officials in 21 of 40 states and state agency officials in 19 of 33 states responding to our questionnaire, stated that the assistance, other than funding, provided by the Office to establish and improve their monitoring and data collection systems was less than needed.

We interviewed state and local juvenile justice officials, examined records, and inspected a limited number of state and local facilities in North Carolina and Texas to obtain first-hand information on monitoring practices and juvenile justice activities. Because of the small number of facilities time allowed us to inspect, our findings are not necessarily indicative of other facilities in the states. In North Carolina, the agency which monitors compliance under the act has to rely on data supplied by other state agencies because it lacks state-level authority to collect data from facilities. The agency that collects data from local jails and lockups does not verify the number of juveniles held or the length of stay.

The North Carolina official who prepared the 1982 report told us that data necessary to accurately answer questions in the monitoring reports were not collected and the reported numbers were probably inaccurate. Another North Carolina official who prepared the most recent reports said that the accuracy of these reports was questionable because appropriate data was not available. The North Carolina Governor's Crime Commission is currently reviewing each state agency's reporting

needs so it can devise a form that facilitates timely and accurate reporting.

Texas based its separation data in 1982 and prior years on the number of juveniles held in jails, but not whether the jails provided sight and sound separation. We inspected four jails in 1983 and found that two jails certified to hold juveniles had detained an estimated 400 juveniles in 1982 and did not provide sound separation.

In Texas we also found:

- The state statistics used to prepare the monitoring report did not include detained juveniles who were not charged with an offense and, starting in 1983, only truants and runaways were reported as status offenders, while possession of alcohol and "all other status offenses" were dropped.
- One county we visited did not report detained juveniles, including status offenders and nonoffenders, if they were detained pending transfer to child welfare or another program.
- Two of the six counties we visited, with the third and eighth largest juvenile populations in the state, reclassified status offenders as delinquents if the juvenile had ever been referred to court for a delinquent offense, regardless of the outcome of that referral.

OBSERVATIONS OF PROGRESS
CONCERNING THE ACT'S OBJECTIVES

In your April 1983 letter you also requested that we provide information on accomplishments under 10 objectives in the act. As discussed, the act provides specific time frames and requires the states to monitor accomplishments under three objectives--deinstitutionalization of status offenders and nonoffenders, separation of juveniles from adults, and removal of juveniles from adult facilities. We recognize that while not all of the remaining objectives may lend themselves to being quantitatively measured, clearly some can be. But for there to be a useful evaluation of any of the 10 objectives, criteria and valid data collection strategies are essential. Because the Office has not required rigorous data collection procedures, the state monitoring reports are not, in our opinion, a definitive basis for drawing conclusions about the overall effectiveness of the act with respect to any individual objective.

We made the following observations concerning each objective based on the results of a nationwide questionnaire, national estimates based on juvenile justice court cases, and detailed work in North Carolina and Texas. We used questionnaires to obtain information from all states participating in this program, a random sample of judges who belong to the National Council of Family and Juvenile Court Judges, and a judgementally determined sample of juvenile advocacy groups. The national estimates of juvenile justice statistics were prepared for us by the National Center for Juvenile Justice.

Deinstitutionalization of status
and nonoffenders

The act states that within 3 years after a state begins participating in the formula grant program, juveniles who have committed offenses that would not be considered criminal if committed by an adult or such nonoffenders as dependent or neglected children shall not be placed in secure detention or correctional facilities.

National estimates show that in 1981, about 37,000 status offenders referred to juvenile court were detained in secure facilities, as compared to about 127,000 in 1975. Progress in removing status and nonoffenders from secure facilities was claimed by Criminal Justice Councils in 35 of 39 states responding to our questionnaire, with the remainder claiming the objective had been accomplished. Even with this progress, Council officials in 31 of 40 states reported the need for continued federal funding to support this objective.

Statistics available in North Carolina show that it has made progress in reducing the number of status offenders held in secure facilities, but the state juvenile justice coordinator told us she was uncertain over the actual number of status offenders held. Texas monitoring data showed the number of status offenders detained over 48 hours, excluding weekends and holidays, decreased from about 4,000 in 1975 to about 1,100 in 1982.

Separation of Juveniles from Adults

The act provides that juveniles shall not be detained or confined in any institution in which they have regular contact with incarcerated adults. The Office defines the term "regular contact" to mean that incarcerated juveniles and adults cannot see each other and no conversation is possible.

Progress in accomplishing this objective was claimed by Criminal Justice Councils in 30 of 40 states responding to our questionnaire, with nine Councils reporting their states had accomplished it. Council respondents in 25 states also said there is a continued need for federal funding to support this objective. According to 60 judges, either the current number of programs or more are needed in their jurisdictions to accomplish this objective.

In our March 1983 report, we showed that the five states we visited had generally improved their practices of separating juveniles from adults. We found, however, incidents of inadequate separation, separation under harsh or isolating conditions, and locations where we could not determine whether compliance was achieved.

In our current review, we also found incidents of inadequate separation. We visited two jails in North Carolina that were certified to hold juveniles. The jailers at these facilities told us they did not provide sound separation for all juveniles. On the basis of our observations and discussions with local officials, we concluded that two of four jails in Texas did not provide sound separation. Local court officials agreed with our conclusions.

Removal of Juveniles
from Adult Facilities

The act provides that, after December 8, 1985, no juveniles shall be detained or confined in any adult jail or lockup, except in low population density areas. In these areas, temporary detention in adult jails is permitted for juveniles accused of serious crimes against persons.

According to the latest available Bureau of Justice Statistics Bulletin, the estimated number of juveniles in adult jails on June 30, 1982, about 1,700, was unchanged from the number reported more than 4 years earlier. The Bureau further estimates that, if the average daily population approximates 1,700 and if the average stay is 2 days, more than 300,000 juveniles were held in jail during the preceding 12-month period.

Data concerning this objective was first required in the 1982 monitoring reports. Although data was not available for all states, the Office determined that 16 states had complied. Juvenile justice agency officials in the 38 states responding to our questionnaire provided the following perspective on progress.

--In 1982, nine states held all of their juveniles detained prior to disposition in facilities exclusively for juveniles.

--In 1982, 24 states held all of their juveniles committed to rehabilitation in facilities exclusively for juveniles.

The states we visited had made progress but had not achieved this objective. North Carolina law requires that all juveniles be removed from adult jails by July 1, 1984. According to state officials responsible for fulfilling this requirement, they may miss this deadline but should meet the act's December 1985 deadline.

According to Texas Criminal Justice Division officials, their largest juvenile justice challenge is removing all juveniles from adult jails. They reported to the Office that insufficient state and local funds are available for regional detention facilities and, that the state cannot meet the act's December 1985 deadline unless federal funds are also provided for the construction and renovation of these facilities.

Reducing the Number of Secure Detentions and Commitments

The act states, in part, that formula grant funds shall be used for programs to increase usage of nonsecure facilities and discourage secure incarceration and detention.

National estimates indicate that secure commitments after disposition have increased and secure detentions before disposition have decreased. The National Center for Juvenile Justice estimates that, in 1975 the courts committed about 67,000 juveniles to institutions compared to about 84,000 in 1981. The Center also estimates that in 1975 about 339,000 of the juveniles referred to juvenile court were held in secure detention facilities, compared to about 270,000 in 1981.

In our questionnaire, Criminal Justice Council officials in 34 of 40 states reported progress in reducing secure detentions before disposition and 35 of 40 reported progress in reducing secure commitments after disposition. Thirty-seven of 40 Councils reported a continued need for federal funding to further reduce secure detentions while 36 reported they needed federal funding to reduce secure commitments.

Progress is also evident in North Carolina and Texas. North Carolina studies show that admissions to juvenile detention centers decreased by 30 percent between 1978 and 1982, while training school admissions decreased by 53 percent between 1974 and 1982. A 1982 survey showed that the greatest juvenile justice need at the local level in Texas was for more short- and long-term alternatives to reduce the number of juveniles placed in secure detention and correctional facilities. State statistical reports show, however, that the number of juveniles detained after referral decreased by 8 percent between 1976 and 1982.

Due Process and Procedural Safeguards

The act authorizes "Special Emphasis" grants, in part, to improve the juvenile justice system to conform to standards of due process.

Criminal Justice Council officials responded in our questionnaire that 29 of 40 states have made progress in this objective, and 5 others have accomplished it. A continued need for federal funding under this objective was reported, however, by 35 states.

Concerning procedural safeguards, the juvenile court judges generally responded that all or almost all juveniles in their jurisdictions were afforded due process and procedural safeguards, and these rights were explained to the juveniles.

--About 93 percent of the jurisdictions explained to juveniles that they have the right to remain silent and the right to an attorney.

--About 90 percent explained to juveniles that their statements could be used against them.

--About 97 percent provided the juveniles with the right to an impartial decisionmaker.

On the other hand, a majority of the jurisdictions did not provide juveniles with the right to a trial by jury and bail.

Delinquency Prevention

The act states, in part, that formula grants shall be used for developing, maintaining, and expanding programs and services designed to prevent juvenile delinquency.

Preventing delinquency, as a concept, is agreeable to most, but the reality of how to define or accomplish it and how to know when it is substantially accomplished is difficult to address. We identified indicators concerning progress under this objective. For example, national estimates show that the delinquency arrest rate per 100,000 juveniles, aged 10 through 17, decreased by 3 percent between 1975 and 1981. This indicator, however, shows police activity, but not necessarily changes in delinquent activity.

Criminal Justice Council officials in 37 of 40 states responded to our questionnaire that progress has been achieved under this objective. All 40 expressed a continued need for federal funding to accomplish it.

Both North Carolina and Texas funded statewide prevention programs to keep students in school rather than suspending or expelling them. While the number of programs in North Carolina increased from 37 in 1977 to 98 in 1982, indicators show that

- the dropout rate per 1,000 juveniles, aged 10 through 17, decreased by 24 percent;
- the rate of suspensions increased by 2 percent; and
- the expulsion rate increased by 28 percent.

According to a Texas report, approximately 92 percent of the juveniles who would have otherwise been suspended or expelled from school in 21 communities were returned to regular classrooms. The report also stated that law enforcement officers in one community had noted a corresponding reduction in daytime burglaries which they attributed to the program keeping unsupervised juveniles off the streets.

Diverting Juveniles from the Juvenile Justice System

The act states, in part, that formula grant funds shall be used for developing, maintaining, and expanding programs and services designed to divert juveniles out of the juvenile justice system.

Progress under this objective is difficult to measure because juveniles may be "diverted" out of the system at different times, depending on how diversion is defined. For example,

the police may "divert" a juvenile simply by not arresting or referring the juvenile to court. These diversions are not always recorded.

We identified several indicators of juvenile diversion being practiced. For example, national estimates show that about 70 percent of the juveniles referred to court in both 1975 and 1981 did not go through the full adjudication process. Also, North Carolina revised its juvenile code in 1979 to keep juveniles away from the juvenile court system if possible. Texas statistical information shows that the police counseled and released 38 percent of the juveniles arrested in 1982 and the courts diverted about 69 percent of referrals out of the juvenile system.

Resolve Problem of Serious Crime by Juveniles

The act states, in part, that formula grant funds shall be used in developing, maintaining, and expanding programs and services designed for juveniles who have committed serious crimes, particularly programs which are designed to improve sentencing procedures, provide for informed dispositions, and provide for effective rehabilitation. While not required, the Office encourages states to allocate a minimum of 30 percent of the formula grant funds to programs designed for serious and repeat offenders.

Changes in the level of serious crime, like several other objectives, can be measured in different ways. We obtained estimates which show that referrals for crimes against persons

and those against property increased by 26 percent and 3 percent, respectively, from 1975 to 1981. Other estimates, however, show that arrests for crimes against persons stayed about the same between 1975 and 1981 and arrests for crimes against property decreased by 7 percent.

On the other hand, Criminal Justice Council officials responded to our questionnaire that 29 of 40 states had made progress in programs for juveniles committing serious crime and 39 said there was a continued need for federal funding to support these programs.

North Carolina statistics show that juvenile arrests for "major crimes" decreased about 23 percent between 1976 and 1981. The extent of serious crime by juveniles in Texas had not been established but reports showed that, from 1978 through 1982, about 3 percent of court referrals were for violent crimes and about 36 percent were for crimes such as burglary and theft.

Advocacy Activities to
Improve Services for Youth

The act states, in part, that formula grant funds shall be used for projects designed to develop and implement programs stressing advocacy activities aimed at improving services for and protecting the rights of youth affected by the juvenile justice system.

Our questionnaire results indicate that organizations advocating improved juvenile justice and improved juvenile services are active in 28 of 32 states. In our state work we

found that there were 80 statewide and about 34 local youth advocacy groups in North Carolina in May 1983. We visited two statewide organizations and a local organization and were told that advocacy groups have prompted legislative and policy changes at the state level and increased public awareness of juvenile issues at the local level.

The primary advocacy group in Texas, the Texas Coalition for Juvenile Justice, attempts to influence the state legislature on policy issues related to juvenile justice. The Coalition's director explained that it has worked to improve services throughout the state and, partly through its lobbying efforts, Texas established a Juvenile Probation Commission in 1981 to

- make juvenile probation services available throughout the state,
- make probation services more effective,
- provide alternatives for delinquent juveniles through state aid to probation departments, and
- establish uniform probation standards.

Community-based Alternatives to Incarceration

The act states, in part, that formula grant funds shall be used in developing, maintaining, and expanding programs and services to provide community-based alternatives to secure detention facilities and secure correctional facilities.

Our survey showed that although the participating states had made progress in developing and expanding community-based alternatives, there were indications that this objective has not

been fully accomplished. Specifically, 22 of 37 state agencies indicated that the number of nonsecure community-based facilities is less than adequate. The following factors were reported as hindering the development of alternatives in some of the 38 states we surveyed:

--Disagreement about the importance of alternatives (23 states).

--Resistance from communities where facilities could be located (36 states).

--Availability of funding (36 states).

--Availability of transportation (16 states).

Further, all 38 states said the future federal role in developing community-based alternatives should remain the same as it is now or be expanded.

Our work in North Carolina and Texas supports the survey results. A 1982 Texas study showed that only 20 of 136 county departments reported sufficient resources to meet short-term alternative placement needs and 26 reported being able to meet long-term alternative placement needs. Our analysis of this study showed that 85 percent of the counties do not have community-based alternatives to incarceration.

The Community-Based Alternative Program in North Carolina, however, reported expanding programs from 152 in 1977 to 302 in 1982. The assistant program director said that shortages still exist in 20 eastern and 5 western counties.

Federal Presence in Juvenile Justice

Top officials in the Office told us the current administration believes that the states have demonstrated their ability to meet the act's objectives without continued federal involvement. They explained that the accomplishments in deinstitutionalizing status offenders and separating juveniles from adults demonstrate the state and local capability of achieving the act's objectives.

State juvenile justice officials responded to our questionnaire that, although the federal proportion of total funds expended to prevent, control, and treat juvenile delinquency is small, it has been a factor in making progress under the objectives. The average federal proportion reported by Council officials was 5 percent for fiscal year 1983. At least 29 of 40 Council officials responded, for each objective, that the Juvenile Justice and Delinquency Prevention Act of 1974 was a factor in the progress achieved. State agency officials' responses to this question varied by objective, but a majority said assistance provided under the act was a factor in the progress achieved for all objectives except due process, where the act was reported as a factor in 15 of 38 states.

We also asked Council officials what the effect would be on the current effort for each objective if they no longer received federal funds. A majority of the respondents said that their current efforts would be reduced for all objectives except separation and due process. In addition, all 40 of the Council officials said that federal funding should remain the same or be

expanded and 38 said federal leadership, that is, identifying national priorities, setting national objectives, etc., should also remain the same or be expanded. Likewise, juvenile justice agency officials in 33 of 38 states said federal funding should remain the same or be expanded and 31 said federal leadership should remain the same or be expanded. Juvenile court judges had similar opinions for their jurisdictions. Ninety percent said federal funding should be expanded or remain the same and 80 percent said federal leadership should be expanded or remain the same.

- - - -

This concludes my prepared statement. We hope this information and the detailed information in our report later this year will assist the subcommittee in its considerations concerning reauthorization of the Juvenile Justice and Delinquency Prevention Act of 1974. We would be pleased to respond to any questions at this time.

27621