BY THE U.S. GENERAL ACCOUNTING OFFICE

Report To The Attorney General And The Secretary Of The Interior

Improved Federal Efforts Needed To Change Juvenile Detention Practices

GAO reviewed secure detention practices in five States and concluded that the Office of Juvenile Justice and Delinquency Prevention needs to assist the States in improving their detention criteria, monitoring and recordkeeping systems, and providing appropriate alternatives to detention. The States were detaining many juveniles who had not committed serious crimes under conditions that did not always meet nationally recommended standards.

GAO also reviewed the secure detention policies of five Federal agencies and found they were not always consistent with objectives of the Juvenile Justice and Delinquency Prevention Act. The Department of Justice agreed that this report accurately portrays juvenile detention practices in the States GAO reviewed and that certain policies and practices of Federal agencies were not consistent with the act's objectives. It said that its support and fulfillment of the recommendations will improve juvenile detention practices at the local, State and Federal levels.

GAO/GGD-83-23
MARCH 22, 1983

Request for copies of GAO reports should be sent to:

U.S. General Accounting Office
Document Handling and Information
Services Facility
P.O. Box 6015
Gaithersburg, Md. 20760

Telephone (202) 275-6241

The first five copies of individual reports are free of charge. Additional copies of bound audit reports are $3.25 each. Additional copies of unbound report (i.e., letter reports) and most other publications are $1.00 each. There will be a 25% discount on all orders for 100 or more copies mailed to a single address. Sales orders must be prepaid on a cash, check, or money order basis. Check should be made out to the "Superintendent of Documents".

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

NERAL GOVERNMENT
DIVISION

B-202295

The Honorable William French Smith
The Attorney General

The Honorable James G. Watt
Secretary of the Interior

This report discusses the efforts that States, localities, and Federal agencies are making to change their juvenile detention policies and practices and identifies opportunities for further improvement.

The report makes recommendations to the Attorney General on pages 35 and 47, and the Secretary of the Interior on page 47. As you know, 31 U.S.C. §720 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are also sending copies of this report to the Director, Office of Management and Budget.

W.J. Anderson

William J. Anderson
Director

GENERAL ACCOUNTING OFFICE
REPORT TO THE ATTORNEY
GENERAL AND THE SECRETARY OF
THE INTERIOR

IMPROVED FEDERAL EFFORTS NEEDED TO CHANGE JUVENILE DETENTION PRACTICES

D I G E S T

Juvenile detention practices have improved since passage of the Juvenile Justice and Delinquency Prevention Act, but problems still exist. Using as criteria standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention to review secure detention practices in five States and five Federal agencies, GAO found that Federal and State agencies needed to establish better detention criteria, conform certain policies to the act's objectives, and establish effective monitoring systems. The Office of Juvenile Justice and Delinquency Prevention could help in implementing these improvements.

CHANGES NEEDED TO IMPROVE STATE AND LOCAL JUVENILE DETENTION PRACTICES

Although the number of juveniles admitted to detention centers appears to have decreased about 14.6 percent from 1974 to 1979, GAO found questionable detention practices in all five of the States it visited.

--The National Advisory Committee standards state that seriousness of the charge and past history of the juvenile are appropriate criteria for determining whether secure detention is warranted. However, GAO found that about 39 percent of its sample of juveniles detained in detention centers and jails in five States were not charged with a serious offense. They were accused of either nonserious offenses, acts that would not be considered offenses if they were adults, or no offenses at all. (See pp. 9 and 10.)

--The standards stress the importance of processing cases expeditiously and state that detention should be brief and play a minor role in the juvenile justice process. Out of the

876 detentions in GAO's sample, 181 lasted over 30 days. These long stays caused several problems, including increased frustration and fighting among juveniles. (See pp. 11 and 12.)

--The suggested standards for physical conditions and services were not met by many of the detention facilities GAO visited. Juvenile detention centers did not totally neglect any major service, but some did not provide the counseling, medical, or educational services recommended by the standards. These services were nonexistent or extremely limited in jails, where GAO also noted insufficient space, dim lighting, and lack of ready access to bathroom facilities. (See pp. 14 to 17.)

--The conditions of confinement in isolation cells conflict with several juvenile detention standards. Some jails GAO visited used isolation-type cells to separate juveniles from adult prisoners. (See pp. 17 to 20.)

GAO believes that, to meet the act's objectives for improving the use of detention by States and localities, the Office of Juvenile Justice and Delinquency Prevention should provide the States with technical assistance and information on detention criteria and service delivery standards, appropriate alternatives to secure detention, and monitoring and enforcement mechanisms to identify, plan, and implement appropriate reductions in secure detentions. (See pp. 22 to 33.)

GAO recommends that the Attorney General require the Office of Juvenile Justice and Delinquency Prevention to take several actions to assist the States in improving their secure detention practices. One of the most important

recommended actions is to encourage States to adopt and implement juvenile justice standards that limit the use of secure detention, including standards for specific detention criteria.

FEDERAL AGENCIES SHOULD IMPROVE THEIR DETENTION PRACTICES

GAO's review of the juvenile detention policies and practices of five Federal agencies shows they do not always adhere to the objectives of the Juvenile Justice and Delinquency Prevention Act.

- --The Bureau of Indian Affairs' standards require that juveniles be held in different cells than adults but allow them to be within the sight and sound of adult prisoners. (See p. 43.)

- --The Marshals Service and Immigration and Naturalization Service policies could result in juveniles being transported in the same vehicle as adults. (See pp. 43 and 44.)

- --The National Park Service picks up runaways and turns them over to local authorities, possibly resulting in their detention. (See p. 44.)

Of the five Federal agencies, only the Marshals Service could provide GAO with reliable data on the number of juveniles detained. Further, the agencies' systems of inspecting law enforcement programs and detention facilities for adherence to their policies and national juvenile justice standards were not adequate. (See pp. 38 to 43.)

The Office of Juvenile Justice and Delinquency Prevention has done little to assist the other Federal agencies in conforming their policies and practices concerning juvenile detention to Office policies or the act's objectives. GAO recommends that the Office actively assist the other Federal agencies and that the Attorney General and the Secretary of the Interior require their cognizant agencies to take certain actions to improve this situation.

AGENCY AND STATE COMMENTS

The Department of Justice agreed with GAO's discussion of State juvenile detention practices and agreed that certain policies of Federal agencies were not always consistent with the act's objectives. The Department stated that its support and fulfillment of GAO's recommendations would result in improved juvenile detention practices at the local, State, and Federal levels but expressed the belief that the Office of Juvenile Justice and Delinquency Prevention has done more to assist State and Federal agencies than the draft report indicated. After reviewing the comments and obtaining additional information from the Office and other Federal agencies, GAO believes that (1) the report accurately portrays the Office's past actions and (2) planned actions will provide some of the assistance GAO is recommending.

The Department of the Interior provided comments from the National Park Service and Bureau of Indian Affairs. The Park Service stated it would take actions that would implement GAO's recommendations. The Bureau concurred with several findings but stated that some information needed clarification.

The States responding to the draft report generally agreed with its findings and conclusions. Some States said they were taking actions to improve detention practices and welcomed technical assistance from the Office of Juvenile Justice and Delinquency Prevention. Comments from the States have been incorporated into appropriate sections of the report.

Contents

ABBREVIATIONS

BIA	Bureau of Indian Affairs
FBI	Federal Bureau of Investigation
GAO	General Accounting Office
INS	Immigration and Naturalization Service
NAC	National Advisory Committee for Juvenile Justice and Delinquency Prevention
NPS	National Park Service
OJJDP	Office of Juvenile Justice and Delinquency Prevention

G L O S S A R Y

Jail	A secure facility which holds (1) adults and juveniles detained pending adjudication and (2) persons committed after adjudication (usually those sentenced to 1 year or less).
Juvenile detention center	A public or private facility used for the secure detention of juveniles.
Lockup	A secure room or facility for arrested adults who are either awaiting arraignment or being considered for pretrial release. The duration of stay in a lockup is temporary, usually limited to 2 days or until the next session of court.
Nonoffender	Youth who is before the juvenile court because of various nondelinquent circumstances (e.g., dependent, neglected, or abused child).
Secure juvenile detention	Temporary placement of a juvenile in any facility designed to physically restrict his/her movement for actions covered under a juvenile statute.
Status offender	Youth who is accused of committing or has committed an offense which would not be applicable to an adult (e.g., running away from home, truancy, curfew violation).

CHAPTER 1

INTRODUCTION

The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601) established the Office of Juvenile Justice and Delinquency Prevention (OJJDP) in the Department of Justice to provide Federal resources, leadership, and coordination for juvenile justice and juvenile delinquency programs. OJJDP is required to develop objectives and priorities for all Federal juvenile delinquency programs and activities and to provide technical and training assistance concerning juvenile delinquency programs to Federal, State, and local governments, courts, public and private agencies, institutions, and individuals. The major goals and provisions of the act, as amended, include assisting State and local governments in removing juveniles from adult jails and lockups; diverting juveniles from the traditional juvenile justice system; providing alternatives to institutionalization; and improving the quality of juvenile justice in the United States.

The legislative histories of the 1974 act and its subsequent amendments show that the Congress was concerned about inappropriate juvenile detention practices in the States as well as what could result--suicide, rape, abuse, and the increased likelihood that children would commit criminal acts after secure detention. The act authorized OJJDP to use several methods to assist the State and local governments in improving their juvenile detention and juvenile justice practices. These methods included awarding formula grant funds, which are divided between the States on the basis of population under age 18; making discretionary grants for special emphasis programs; providing technical assistance; developing and supporting model State legislation for the adoption of standards that are consistent with the mandates of the act; and disseminating information.

To receive formula grants, States had to agree to restrict their secure detention or correctional facility placements to juveniles who had either been charged with or convicted of a criminal offense (delinquents). Juveniles who committed acts that would not be considered criminal if they were committed by adults (status offenders) and nonoffenders were not to be confined. Also, States had to agree not to confine juveniles where they would have regular contact with adults accused or convicted of criminal offenses. 1/ The 1980 amendments to the 1974 act require that, in order to receive formula grant funds, States

---

1/OJJDP has interpreted this mandate as requiring sight and sound separation of juveniles from adults.

must comply with their own plans, which generally provide that after December 8, 1985, no juveniles will be detained in any adult jail or lockup.

SECURE JUVENILE DETENTION: THE PROBLEM

Congressional testimony, various studies, and the media have discussed the negative aspects of secure juvenile detention on both the juvenile and the public. Studies have concluded that the practice of detaining children should be severely limited for the following reasons:

--A detention center's environment may serve to promote rather than discourage future delinquency behavior.

--Secure detention is costly to the taxpayer.

--Detention may hamper the juvenile's opportunity to prepare an effective defense.

--Detention may subtly influence the court's final disposition of the case to the juvenile's detriment.

One author noted that every study of detention practices showed that too many juveniles were being detained unnecessarily, under harsh conditions, and at great expense. 1/ One study by the University of Michigan's National Assessment of Juvenile Corrections 2/ noted that:

--Up to 500,000 juveniles were held in adult jails and 494,000 juveniles were held in juvenile detention centers each year.

--Few courts had adequate information systems so that accountability for detention decisions was usually neither possible nor demanded of those in charge of detention.

--Recordkeeping in jails was practically nonexistent except for daily censuses.

The report also noted that detention of nonserious offenders and status offenders and long detention stays were major problems. Finally, the assessment reported inadequate services and conditions in local jails, such as insanitary conditions and inadequate medical services, exercise, and counseling services.

1/Sufian, J., Of the Detaining of Children, The Legal Aid Society, Brooklyn, New York, December 1978.

2/Sarri, R.C., Under Lock and Key: Juveniles In Jails and Detention, National Assessment of Juvenile Corrections, The University of Michigan, December 1974.

OJJDP'S ROLE ALSO INCLUDES WORKING WITH FEDERAL AGENCIES

In addition to providing leadership and assistance to State and local juvenile justice programs, OJJDP is responsible for implementing overall policy and developing objectives and priorities for all Federal juvenile delinquency programs and activities; assisting Federal agencies in the development and promulgation of regulations, guidelines, requirements, criteria, standards, procedures, and budget requests; and providing training and technical assistance to Federal agencies and others in planning, establishing, funding, operating, and evaluating juvenile delinquency programs.

Certain Federal agencies have specific law enforcement and detention responsibilities for Federal crimes or crimes committed on Federal land by both adults and juveniles. In the Department of Justice:

--The U.S. Marshals Service is responsible for transporting federally charged juveniles between jails, detention centers, and the courts; contracting with local sheriffs, police departments, and detention administrators for space in detention centers; and inspecting detention facilities to ensure compliance with contract provisions.

--The Immigration and Naturalization Service is responsible for administering and enforcing Federal immigration laws and can arrest and detain suspected juvenile aliens.

In the Department of the Interior:

--The U.S. Park Police has certain responsibilities for maintaining law and order on and within Federal roads, parks, and parkways in the San Francisco, New York, and Washington, D.C., areas.

--The National Park Service is responsible for maintaining law and order and protecting persons and property within the National Park System.

--The Bureau of Indian Affairs is responsible for assisting tribes in their law enforcement and detention activities. It operates some law enforcement and detention systems, contracts with the tribes to operate others, and upon tribal request, reviews and evaluates programs of tribes who independently operate their systems.

The 1974 act also established a Coordinating Council on Juvenile Justice and Delinquency Prevention made up of certain cabinet level officials and heads of Federal agencies. The function of the Council is to coordinate all Federal juvenile delinquency programs. The Council is authorized to review the programs and

practices of Federal agencies and report on the extent they conform to the act's requirements for the deinstitutionalization of status and nonoffender juveniles and the separation of juveniles from adult prisoners.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Reagan Administration's budget requests recommended no funds for OJJDP in fiscal years 1982 and 1983, and Administration witnesses stated in hearings that OJJDP had accomplished its statutory objectives. OJJDP, however, received approximately $70 million for fiscal years 1982 and 1983.

We made this review to determine the extent to which the act's major objectives concerning secure detention practices have been accomplished. We studied current detention practices and focused on (1) whether the problems noted in previous studies were still occurring and (2) whether the Federal Government, primarily OJJDP, could assist States, localities, and other Federal agencies in improving detention-related problems. This review was made in accordance with generally accepted Government auditing standards.

State and local detention practices

In examining State and local programs, we compared the detention practices we observed with "Standards for the Administration of Juvenile Justice" developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention (NAC). The NAC standards we used pertained to the initial detention decision and services and conditions provided to detained juveniles. Although several national organizations have promulgated standards related to juvenile detention, we chose the NAC standards because (1) the act requires NAC to recommend juvenile justice standards and ways to facilitate their adoption, (2) OJJDP placed special attention on them because they were developed after considering the other standards, and (3) by using them, we could make consistent comparisons between the States and localities.

Our review included detailed work in Massachusetts, New Hampshire, North Carolina, Oregon, and Virginia and limited work in Rhode Island and West Virginia. In reviewing State detention practices, we interviewed State agency, local court, and detention facility officials and representatives of youth advocacy groups. We reviewed State statutes, studies concerning State detention practices, and available statewide detention statistics. We reviewed 876 case files for juveniles detained during 1 month in either 1980 or 1981 at 12 detention centers, 22 jails, and 23 lockups. A list of data elements we attempted to obtain for each detained juvenile is in appendix I.

These States were selected on the basis of their geographical location and size and not on the quality of their detention practices. Also, because the focus of this report is on identifying ways in which the Federal Government can assist States and localities, we generally have not identified States unless they showed some success in solving certain problems. This was done so that other States could contact them to obtain additional information.

Sample selection methodology

Initially, we attempted to draw a stratified random sample of detention facilities, jails, and lockups. However, in some cases, we found that an extensive statistical sample was impractical due to the travel expense and time necessary to cover the juvenile facilities dispersed throughout the State. Therefore, when necessary, we used our judgment in selecting facilities that included rural and urban localities. Because of the judgmental sampling procedure, our findings cannot be projected beyond the sample facilities.

Federal agency review

We reviewed the laws, regulations, policies, and procedures pertaining to juvenile detention and interviewed agency officials at OJJDP and the headquarters offices of the Bureau of Indian Affairs, Immigration and Naturalization Service, U.S. Marshals Service, U.S. Park Police, and National Park Service. We also contacted certain of the agencies' regional and local offices by telephone to compare their data with that provided by headquarters.

CHAPTER 2

QUESTIONABLE USES OF SECURE DETENTION STILL EXIST

Although the States report--and our review found--improved juvenile detention practices, questionable practices still exist. The national standards provide that juveniles who are not fugitives or who have not been charged with serious offenses should not be securely detained. An Office of Juvenile Justice and Delinquency Prevention (OJJDP) policy, dated November 14, 1980, encourages 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* * *." In the five States we visited, however, between 22 and 51 percent of the detained juveniles in our sample were charged with non-serious offenses, status offenses, or no offense at all. Also, juveniles were held in secure detention for long periods of time. Finally, the services provided to detained juveniles and the physical conditions of the facilities did not always conform to national standards. In this regard, some of the methods used to separate juveniles from adults either did not achieve complete separation or created isolation-type situations. Elimination of these conditions is an objective of the Juvenile Justice and Delinquency Prevention Act.

SLIGHT PROGRESS APPEARS TO HAVE BEEN MADE IN REDUCING THE USE OF SECURE DETENTION

According to data recently developed by the Hubert Humphrey Institute of the University of Minnesota, the number of juveniles admitted to detention centers, nationwide, 1/ decreased about 14.6 percent from 1974 to 1979, as shown below.

	1974	1979	Percent decrease
Male	371,225	356,167	4.1
Female	157,850	95,643	39.4
Total	529,075	451,810	14.6

As shown in the table, most of the decrease was attributable to the drop in the number of females detained. The decrease in the total number of juveniles detained nationwide also resulted

1/Seven States did not report data for 1 or both years.

in a 12.3 percent drop in the rate of juveniles detained from 1.79 to 1.57 per 100,000. 1/

In the five States we visited, the number and rate of juveniles detained decreased in three, increased in one, and were not determined in the fifth State due to insufficient data.

One of the primary concerns addressed by the 1974 act pertains to the incarceration of status offenders. Decreases in the number of status offenders and nonoffenders placed in secure detention and correctional facilities for more than 24 hours, excluding nonjudicial days, 2/ have been reported nationally and in each State we visited. OJJDP has reported an 83.4 percent reduction in the number of status and nonoffenders held in secure facilities between 1977 and 1982. A 1982 report by the National Research Council of the National Academy of Sciences 3/ concluded that (1) most adjudicated status offenders have been removed from institutions, (2) the use of preadjudicatory detention for youth charged with status offenses has declined, and (3) fewer youth labeled as status offenders enter the juvenile justice system.

We found evidence that such progress has been made. Although 19 percent of the detentions in our sample were for status and nonoffenders, only a fourth of these were held over 24 hours, excluding nonjudicial days. Each State where we had performed detailed audit work took actions to meet the act's requirement that status offenders not be held in secure facilities and reported progress in the annual monitoring reports required by the act.

--In the early 1970s, Massachusetts decriminalized status offenses and made the Department of Public Welfare, which was not a juvenile justice agency, responsible for

---

1/The rates represent the percentage of juvenile admissions per 100,000 juveniles age 10 through age of juvenile court jurisdiction. The upper age limit for jurisdiction of juvenile courts varies among States. Depending on the State, a person is considered a juvenile until he or she is 16, 17, or 18 years of age.

2/OJJDP established this time frame for the States to use when monitoring their compliance with the deinstitutionalization of status offenders mandate of the act. Nonjudicial days are days the court is not in session, usually weekends and holidays.

3/Handler, J.F., and Zatz, J., editors, Neither Angels Nor Thieves: Studies In Deinstitutionalization of Status Offenders, Panel on the Deinstitutionalization of Children and Youth, Committee on Child Development Research and Public Policy, Assembly of Behavioral and Social Sciences, National Research Council; National Academy Press, Washington, D.C., 1982.

providing services to status offenders. In the monitoring report for 1980, Massachusetts reported three status or nonoffenders held in juvenile detention facilities. Because of this low number, OJJDP found Massachusetts in full compliance with the act's status offender and nonoffender requirement. During our visits to secure detention facilities in Massachusetts, we did not identify any status or nonoffenders.

--New Hampshire reported in its 1980 monitoring report that only one status offender was detained in county jails or local lockups and one was committed to the State training school. OJJDP also found New Hampshire in full compliance with the act's status offender requirement. Again, we did not identify any status or nonoffenders in the detention center or county jails and local lockups we visited.

--In 1977, Virginia enacted an extensive juvenile code revision that

(1) required that jails be used only for adults or delinquents who are at least 15 years old and

(2) prohibited the detention of status offenders in secure detention homes for longer than 72 hours.

The 1980 monitoring report showed that status and nonoffenders held in secure facilities for periods longer than 24 hours, excluding nonjudicial days, decreased from 6,558 in fiscal year 1976 to 271 in fiscal year 1980. A State report attributed the reduction to technical assistance provided to local agencies, funding support for community-based delinquency prevention, and creation and improved utilization of nonsecure facilities. State statistics indicate that the number of complaints to the juvenile courts concerning juveniles that committed status offenses between 1977 and 1980 was also reduced by 42 percent.

--In the 1980 monitoring report, Oregon reported it had reduced the noncompliance detention of status offenders and nonoffenders by 76 percent since it enacted a law in 1975 limiting detention of runaways to 72 hours. State laws have also been revised to prohibit the holding of status offenders in training schools and to allow preadjudicatory detention if the child allegedly committed an adult violation or was a runaway. In line with these legislative initiatives, Oregon instituted a variety of programs to help reduce detention of status offenders and required its districts to develop plans to eliminate secure detention of status offenders as a condition of receiving OJJDP funds for fiscal year 1982.

--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

---

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

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 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.

APPENDIX I

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

APPENDIX III

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.

APPENDIX III

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:

APPENDIX III

> 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.

APPENDIX III

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

APPENDIX III

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.

* * * * * * * * * *

APPENDIX III

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.

APPENDIX IV

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

DEC 1 8 1982

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

Dear Mr. Peach:

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

APPENDIX IV

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.

APPENDIX IV

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.)

DEPARTMENT OF THE INTERIOR

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.

24602

AN EQUAL OPPORTUNITY EMPLOYER

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

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE,$300

POSTAGE AND FEES PAID
U. S. GENERAL ACCOUNTING OFFICE

THIRD CLASS