

STATUS OFFENDER PROJECT

FINAL REPORT

SUBMITTED TO THE

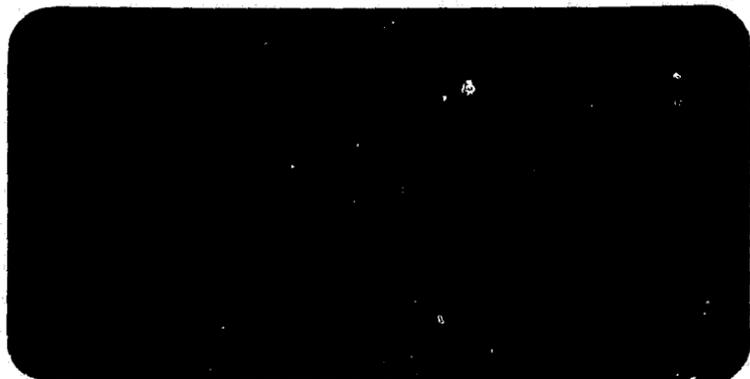
LAW ENFORCEMENT ASSISTANCE  
ADMINISTRATION

DECEMBER 31, 1976

**LEGIS<sup>50</sup>**

The Center for  
Legislative Improvement

39315



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LEGIS 50/THE CENTER FOR LEGISLATIVE IMPROVEMENT is a national organization working to improve the 50 state legislatures through nonpartisan research, publications, technical assistance, and operating programs. A not-for-profit 501(c)(3) organization, Legis 50 performs contract work for legislatures and conducts independent programs and research, funded by government and foundation grants and corporate contributions. Founded in 1964 as The Citizens Conference on State Legislatures, Legis 50 is directed by a 30-member national board of trustees which represents a broad range of social, political and economic backgrounds. A professional, full-time staff of 40 works from the organization's Denver-area office and supports field staff members working in states on various projects.

by

Legis 50/The Center for Legislative Improvement

NCJR

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**LEGIS 50**

The Center for  
Legislative Improvement

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I live in a house called torture and pain.  
It's made of materials called sorrow and shame.  
It's a lonely place in which to dwell;  
There's horror rooms there and they call it hell.  
From the faucets run tears that I've cried all these years  
And it's hated by my heart made of stone.  
But the worst part of it is that I'll die in this place,  
And when I die, I will die all alone.

-- a status offender

## PREFACE

In a decade of escalating crime reports, some authorities estimate that juveniles account for half of all crimes committed in the nation. More than 85,000 youths were placed in juvenile correctional facilities in the 1971 fiscal year, but that number represented only a portion of those coming in contact with some aspect of the juvenile system: An estimated one-third of juvenile delinquency caseloads are status offenders, children who commit acts which for adults would not be considered crimes -- truancy, running away from home, disobedience. In the view of many observers these children are as much victims as offenders. In 1973, 26 individual states made no legal distinction between status offenders and individuals guilty of serious delinquency.

In recognition of the need for state legislative capacity to reach sound, independent decisions on the status offender issue, Legis 50/The Center for Legislative Improvement received funding from the Law Enforcement Assistance Administration for the Status Offender Project, which was designed to improve legislative juvenile justice policymaking. The Status Offender Project analyzed how policy decisions were made within four state legislatures and what specific programs provided for treatment of troubled children. The Law Enforcement Assistance Administration's participation in the project was a recognition of Legis 50's belief that state legislatures must be improved if they are to take an active and innovative part in furthering federally mandated social policy.

This document is the final report to the Law Enforcement Assistance Administration on the Status Offender Project. The report concludes that the project successfully met its objectives, but at the same time demonstrated that the status offender issue cannot be confronted adequately without an increase in the capacity of state legislatures to comprehend and act upon the complex ramifications of the juvenile justice system in its entirety. The report therefore proposes that the Law Enforcement Assistance Administration serve as a legislative catalyst through the initiation of a Model Committee Staff Project which will demonstrate the relationship between effective legislatures and sound policy.

The report was prepared by James E. Arnold, Legis 50 director of operations, Mary Jo Malone, Status Offender Project manager, Edward E. Pokorney and Lucinda S. Simon, members of the project staff, and Cecil Neth, consulting editor. It is in two parts. The first is a report on the Status Offender Project, the second consists of the proposal and Legis 50's rationale for it.

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## THE STATUS OFFENDER PROJECT: OVERVIEW

The Juvenile Justice and Delinquency Prevention Act of 1974 mandated a multifaceted movement to attack widespread problems within the juvenile justice field. Part of that effort was directed at the practice of institutionalizing status offenders -- children whose transgressions, such as truancy, running away from home and unruly behavior would not be considered criminal except for the child's age.

Congress, to implement the act, established within the Law Enforcement Assistance Administration (LEAA) a new Office of Juvenile Justice and Delinquency Prevention and the National Institute of Juvenile Justice and Delinquency Prevention.

The LEAA used funds made available by Congress under the act to finance state and local programs designed to divert status offenders from correctional institutions and into community-based alternative programs. Most of the LEAA awards were action grants to state or local agencies. In October, 1975, however, \$269,000 was awarded to Legis 50/The Center for Legislative Improvement for the Status Offender Project, a study of state legislative policymaking in the juvenile justice area.

Legis 50, the only national private-sector organization engaged in the field of legislative modernization, directs its energies to projects designed to strengthen the institutional and procedural resources of state legislatures. These efforts are motivated by the belief that state lawmaking bodies must have the requisite tools and capabilities to respond intelligently to public demands, to innovate creatively in the formulation of public policy, to guide the operations of government, especially in the fiscal and regulatory fields, and to integrate conflicting demands in an increasingly complex society.

The American federal system was designed to divide the governmental decision-making authority between a national government, with certain enumerated powers, and the states. Within the states, the formulation of public policy was intended to be

largely the preserve of legislative bodies, rather than of the executive branch and its agencies. The Status Offender Project addressed specifically the issues of legislative policymaking.

Status offenders enter the juvenile justice system because of dispositions available under the law, usually a children's code. Such codes originate in state legislatures. Judicial case law often is the impetus for reform, but it is never a substitute for policy action initiated by the legislature. It is crucial, therefore, that those whose policies require effective state legislative action be aware of state legislative capabilities and weaknesses. The Status Offender Project was designed and conducted to increase such awareness.

#### Project Methodology: A Twofold Approach

The Status Offender Project had two components. First, through means of case studies, professional staff analyzed juvenile justice policymaking in four state legislatures which had addressed the status offender question: Alabama, Florida, Michigan and New Mexico. In the second phase, regional workshops were held to promote a full and open discussion of tandem concerns: the LEAA's effort to deinstitutionalize status offenders and Legis 50's commitment to strengthening legislative ability to deal with juvenile justice questions.

The case study approach was appropriate for achieving a full understanding of the issues. Interviews were conducted with persons -- approximately 35 per study state -- intimately involved in each state's juvenile justice system and in the efforts of the legislature to reshape the system. Documents and records were reviewed and analyzed. The goal was to determine why and how legislatures responded as they did both to substantive issues and to multiple constituency, agency and special interest pressures.

The interpretations and findings in the case studies are those of Legis 50 based on its professional knowledge and experience in legislative operations. The

observations focus upon the legislature's treatment of status offenses, although in each instance it was necessary to review the state's response to the broader juvenile justice question.

#### Project Supervision

Larry Margolis, executive director of Legis 50 since 1967, has built a base of knowledge of legislative staff, operations and procedure over a period of 16 years of direct involvement in the legislative process. He has served the California Legislature as consultant to the Assembly Ways and Means Committee and as chief assistant to Jess Unruh, then Speaker of the Assembly. Within Legis 50, he is deeply involved in the development and implementation of research efforts, demonstration projects and seminars designed to improve state legislatures. He has served as consultant to the Eagleton Institute of Politics, the Rand Corporation and the American Political Science Association.

Elton K. McQuery, assistant executive director, joined Legis 50 in 1972 as director of program development, a post which he held at the time the Status Offender Project was first designed. Prior to that, he was an assistant director of the U.S. Advisory Commission on Intergovernmental Relations and served 17 years with the Council of State Governments, for which he was director of research, assistant executive director and director of the Western Regional Office.

James E. Arnold serves as director of operations for Legis 50 with overall responsibility for the projects and studies which the organization conducts in various state legislatures. In addition to the Status Offender Project, the activities include the Model Committee Staff Project in Health and the Legislative Professional Staff Project on Drug Abuse and Alcoholism. Before joining Legis 50, he served as the executive director of the Democratic Legislative Campaign Committee in Tennessee and was chief assistant to the lieutenant governor and speaker of the Tennessee Senate.

#### Project Management

Mary Jo Malone, manager of the Status Offender Project, worked three years as staff assistant to the Appropriations Committee of the Illinois House of Representatives. She has served as assistant project manager of the Model Committee Staff Project in Health and continues to provide assistance to the project. She has a bachelor of arts degree in political science from Northern Illinois University.

Edward E. Pokorney, a member of the project team, earned an undergraduate degree from Southwest Texas University, a masters degree from the University of Missouri, and a doctor of philosophy degree in public administration from the University of Missouri. He served as manager of the Texas Rules Project conducted by Legis 50 in 1974. He was the principal author of the Florida case study and co-author of the Alabama case study.

Lucinda S. Simon, a member of the project team, serves as administrative assistant in the program development department of Legis 50. Her experience includes work with newspapers in Monterey, California, and Toledo, Ohio. In 1975, she was awarded a Coro Foundation Fellowship in Public Affairs and named to the Coro program in St. Louis, Missouri. She has an undergraduate degree in journalism from Northwestern University and a masters degree in urban studies from Occidental College. In the Status Offender Project, she was the principal author of the New Mexico and Michigan case studies.

Cecil Neth, consulting editor, is a lecturer in journalism at Colorado State University. He served for one and one-half years as associate director of the Legis 50 Department of Communications, and prior to joining Legis 50 was associate editor of The Chicago Sun-Times.

#### Advisory Committee

An advisory committee of distinguished individuals, including nationally known authorities in the field of juvenile justice, guided the course and conduct of the Status

Offender Project. In its initial meeting, the committee carefully selected the four study states and reviewed the approach planned by the Legis 50 staff. Individual members assisted in identifying key participants in the legislative process in the four states. In later meetings, the advisory committee members critiqued the case studies. They also participated in the regional workshops, which involved 24 states, including those which were the subject of the case studies. Legis 50 appreciates the efforts of the advisory committee members to strengthen and enhance the operation of the Status Offender Project. The committee members:

Fay Williams, Esq.  
Attorney at Law  
Indianapolis, Indiana  
Chairwoman

Peggy Goodwyn  
Deputy Director  
Alabama Department of Youth Services  
Montgomery, Alabama

Professor Judith Areen  
Georgetown University Law Center  
Washington, D.C.

Charles Morgan Jr., Esq.  
Attorney at Law  
Washington, D.C.

Representative Richard Castro  
Colorado House of Representatives  
Denver, Colorado

Gerald L. Olson  
Executive Director, Government Relations  
Cummins Engine Company, Inc.  
Indianapolis, Indiana

Judge William S. Fort  
Oregon Court of Appeals  
Salem, Oregon

Professor Margaret Rosenheim  
School of Social Service Administration  
University of Chicago  
Chicago, Illinois

Representative Craig Washington  
Texas House of Representatives  
Houston, Texas

## CASE STUDIES: THE FINDINGS

The Status Offender Project offered an unusual opportunity for deep investigation of the legislative policymaking process, the influences upon the process, and the relationship between the legislative institutional capacity and the soundness of the legislative product. Data obtained from the investigation was more than sufficient to allow conclusions to be drawn both about the process and the juvenile justice issue under study.

Viewed from an institutional perspective, the case-study findings demonstrated that the long efforts toward state legislative improvement nationally remain short of the objectives. There still is too little utilization of the resources necessary for effective legislative action. Specifically, these key weaknesses appeared major, if not fully systemic:

- The improper employment of legislative time, particularly through the failure adequately to structure interim procedures and activity that would allow continuity of policymaking from session to session;
- The dependence of some legislative committees upon external sources for the collection and evaluation of data, rather than upon information gathered and analyzed under direct legislative supervision;
- The inability to conduct continuing program review, a failure that results in flawed administration and a debilitating diffusion of authority;
- The inability to identify the extent of resources necessary for program implementation, and the corresponding inability to allocate available resources properly, if at all;
- The failure to employ sufficient professional staff or to employ available staff wisely -- although the marshalling of time, the gathering and analysis of information, the investigation of resource needs, and the conduct of program oversight all are proper functions of trained, professional legislative staff.

There is little question that these institutional weaknesses stand as barriers to policy formulation -- in particular, as barriers to policy required for implementation of federal programs which require action by state legislatures.

The status offender issue under study can be a nagging puzzle to legislators ill-equipped to deal with matters of complexity and broad social impact, for the status offender issue does not stand alone. Both the case-study findings and the subsequent workshop deliberations (discussed in the next section of this report) offer evidence that the problem of status offenders cannot be considered separately from the full, broad complex of juvenile justice issues.

There is only marginal knowledge of the root causes of misbehavior and delinquency, for example, and the Status Offender Project reported on the available knowledge. It could not advance it. Yet, in order to define the ideal disposition and treatment of status offenders, there must be greater knowledge of causes -- a more complete gathering of information upon which to base status offender or other juvenile justice action. Without that information, there can't be a proper balancing of needs and resources within the state juvenile justice systems.

It is the responsibility of the legislatures, which must make the final decisions in such matters, to gather and use the information still unconsidered. In order to do so, the capacity of the legislatures must be increased to the level of the task.

The following state-by-state findings illustrate the validity of these contentions.

#### New Mexico

In 1972, citizen groups and juvenile justice professional workers joined to seek passage of a new New Mexico Children's Code. The legislation, although accomplished as an official act of the New Mexico Legislature, was largely the product of outside interest groups. The code came into being without the knowledge and understanding among legislators that major new substantive policy ought to command.

Paradoxically, the institutional weaknesses of the Legislature initially contributed to the enactment of the 1972 statutes, but subsequently have detracted from

the fulfillment and implementation of the code. Perhaps the most significant example has been the relationship of substantive policymaking and its fiscal counterpart. In 1972, fiscal implications were obscured in cursory legislative deliberations. Since that time, the code has fallen short of its original intent because, while it established a framework in which status offenders were to be treated distinctly and separately from delinquent youth, the legislative inability to identify and commit the resources necessary to implement that policy left the status offender provisions largely untested and unfulfilled in 1976.

Key findings of the New Mexico case study were:

#### Institutional Traits of the Legislature

- The 30-day New Mexico legislative session in even-numbered years was too short to allow thoughtful and comprehensive review of the proposed 1972 Children's Code. The short session worked to the decided advantage of proponents of the code to insure its speedy passage.
- Legislative staff was not utilized to generate independent information for legislator consideration. The central research staff was available primarily to do drafting, but no full-time, professional committee staff was employed to do major policy research.
- Legislative leaders, not the lawmaking body as a whole, played the dominant role in the legislative process as it pertained to juvenile legislation -- the 1972 code sponsors, the House leadership in 1973, the House Judiciary Committee chairman in 1975, and the Senate president pro tem in 1976.
- The lack of any interim committee work on the 1972 Children's Code and on subsequent legislative proposals through 1975 contributed to the Legislature's reliance on outside interest groups. Only in 1976 was there a truly legislatively developed proposal on juvenile justice.

#### Legislative/Executive/Judicial Interrelationships

- An administrative limbo has developed regarding the treatment and care of children in need of supervision (CHINS). In 1972 the Legislature failed to assign this responsibility to a specific executive branch agency, and not until 1976 did the Legislature direct an executive department to study the question of CHINS services. No executive branch agency has taken the initiative to provide or propose services to status offenders.
- The judicial and legislative branches operate under a strong separation-of-powers doctrine, but this philosophy has not resulted in a clear division of

authority. District judges often have ignored provisions of the Children's Code. The Legislature has enacted court procedures, while Supreme Court rules have been issued in conflict with statutes.

- Despite provisions mandating the development of court rules in the 1972 code, the New Mexico Supreme Court did not issue these guides for juvenile court procedures until 1976. Uneven application of the Children's Code has been attributed to the absence of these rules.

#### Impact of Non-governmental Forces

- Interest groups in support of and in opposition to the 1972 Children's Code have been the single most important source of information and influence shaping legislative decisions on juvenile justice. The institutional weaknesses of the Legislature have created a dependence on these forces.
- Media coverage of juvenile justice legislation has been limited, often centering only on matters of particular concern to news outlets, rather than on the full issue. The complexity of the legislation appears to have contributed to such limited coverage.

#### Implications for the Juvenile Justice System

- No detailed information describing the New Mexico juvenile justice system has been available to legislators making important substantive decisions. An even greater deficiency of information exists on the narrow question of CHINS.
- The extension of the deadline allowing CHINS to be detained with alleged delinquents and accused adult criminals continues to negate the intent of the Children's Code that these children be treated separately. Without the establishment and funding of services and facilities for CHINS, New Mexico's juvenile justice system will continue to differentiate between these youths only by statute and not in practice.

#### Summary

- Institutional weaknesses of the Legislature -- limited staff, short sessions and a lack of staff-supported interim committee work -- have placed the lawmakers in a dependent rather than an independent policymaking posture.
- Comprehensive information about the juvenile justice system does not exist, and this lack encourages policy decisions based on intuition and emotion, not on logic and knowledge which could be employed were there proper use of professional staff assistance in information analysis and policy formulation.
- The result has been that policy leadership in juvenile justice has been by citizen groups and individuals within the juvenile system.

## Florida

The Florida Legislature initiated an extensive reorganization in 1972 of the state's Department of Health and Rehabilitative Services. As part of that reorganization, the Legislature undertook to redefine and deinstitutionalize status offenders. The new legislation, passed in 1975, dispensed with the category of children in need of supervision (CINS); status offenders now are classified as dependent children. Furthermore, responsibility for services has been decentralized to the district level in the hope of increasing bureaucratic responsiveness.

Passage of the 1975 reorganization measure caused controversy between the legislative and executive branches of Florida government. The resulting collision between two self-reliant, co-equal units of government largely determined the nature of the final legislation. Amid the furor over the major elements of reorganization, the little-noticed and lightly discussed sections on status offenses were enacted into law, clearly drawing the distinction between delinquencies and most status offenses. Whether, despite the ambiguity surrounding ungovernability, this distinction can be maintained is problematic.

Key findings of the Florida case study were:

### Institutional Traits of the Legislature

- The Florida Legislature is an independent and, perhaps, even dominant branch of state government, as the 1975 session and its significant achievements amply demonstrated. Both houses of the Legislature initiated reorganization plans with extensive study, while an agency-written proposal was largely ignored.
- Professional, full-time legislative staff was instrumental in the Legislature's deliberations and eventual passage of the reorganization package. As a resource, legislative staff served as a counterbalance to executive agencies and private lobbying groups. Beginning with the interim committee work, the staff gathered data and assisted in coordinating committee activities.
- In both houses, the Committee on Health and Rehabilitative Services and its staff worked diligently in the interim to produce complex legislative packages for the regular session. Given the brevity of the 60-day annual

session, active interim committees proved essential to the preparation of the legislation.

- The referral of the reorganization package to three major committees in the House of Representatives generated broad support and insured wide exposure of the measures among legislators.
- Legislative leadership significantly influenced the reorganization package. The Senate president helped create a favorable climate for passage of the package, even to the point of assisting floor debate. The House speaker's intervention in the conference committee helped push the bills to successful conclusion. The knowledge and influence of the conference committee members also helped insure passage.

#### Legislative/Executive/Judicial Interrelationships

- The Legislature's fiercely guarded independence manifested itself in distrust and combativeness toward the executive branch agencies. On the juvenile justice issues under analysis, there was little evidence of a spirit of cooperation with such agencies. Legislators and committee staff appeared to view executive agencies as overbureaucratized and motivated principally by a sense of territoriality.
- The executive branch officials believed the Legislature was not cognizant of the far-reaching implications of reorganization, and that the legislators saw the plan as merely an exercise in changing organizational labels. The executive agency opinion also rested on the belief that the legislators should have paralleled the deinstitutionalization provisions with a plan to develop alternative services.
- Although unhappy with the direction in which status offender treatment was heading, the courts remained rather passive during legislative consideration of the issue. In part, this may be attributed to a lack of awareness of the proposed legislation and its repercussions.

#### Impact of Non-governmental Forces

- At no time during the legislative session or during the interim activities immediately before does it appear that public opinion or the activity of private interest groups constituted a factor in the consideration of status offender legislation. The absence of media coverage, the low visibility of the issue within the Legislature, and the dominance of concerns related to reorganization deflected potential interest on the part of non-governmental groups.
- While private interest groups showed only limited knowledge of the status offender legislation, there was no attempt to promote or publicize the issue by legislators or staff. The lack of any publicized hearings on the status offender issue probably muted potential opposition.

### Implications for the Juvenile Justice System

- The retention of ungovernability as a ground for adjudicating a child as dependent is an ambiguous and unsettling aspect of Florida's new provisions regarding status offenders. Since a second adjudication exposes a status offender to disposition as a delinquent, this broad and undefinable concept may be used to incarcerate a status offender. Thus deinstitutionalization with due process guarantees is not yet a reality in law.
- Initial post-legislative statistics show status offenders are being diverted from the juvenile justice system in increasing proportions, and detention and/or judicial handling of such offenders has declined. Whether these tendencies will continue in the absence of satisfactory alternative services and in the presence of the ungovernability category is an unanswered question.

### Summary

- Despite its abbreviated session, the Legislature's use of qualified staff and extensive interim committee work permitted the Florida Legislature to function effectively with regard to the status offender issue as evidence of its emergence as an independent, co-equal branch of government.
- While status offender legislation resulted principally from the initiatives of legislators and staff of the House Committee on Health and Rehabilitative Services, the requirements of the legislation were already being implemented by the executive branch prior to legislative action.
- Although the intent of the status offender legislation was to have status offenders treated separately from juvenile delinquents, the continuance of the ambiguous classification of ungovernability as a potential delinquent category means that complete deinstitutionalization of status offenders has yet to be achieved.

### Michigan

Since the mid-1960's, juvenile justice questions periodically have attracted the interest and concern of Michigan government officials and citizens. In 1973 the Michigan Legislature drew from divergent constituencies and agencies to form a special study committee to review and recommend changes in the delivery and administration of juvenile justice services. Parallel with the study of services has been increasing attention within the Legislature to revision of the Juvenile Code.

Constituencies have been sharply divided on both questions. Judicial interests, often aligned with educators, have fought actively to maintain a system of court-

administered services to children and to retain court jurisdiction over status offenses. Counterbalancing this force is a coalition of social services agencies, executive branch officials, legislators and citizen groups urging the development of a unified state-run service system and the complete removal of status offenders from the courts.

The Legislature has acted favorably on a proposal establishing a special office to study and plan for a coordinated system of juvenile justice services. The debate continues on code revision with status offender jurisdiction as the central issue.

Key findings of the Michigan case study were:

#### Institutional Traits of the Legislature

- The establishment of the Juvenile Justice System Study Committee in 1973 was an appropriate and effective means of developing an information base from which legislation could be initiated. This action and the current study of the Juvenile Code reflect independence and initiative on the part of the Legislature.
- The Juvenile Justice Services Bill (HB 4392) was reviewed by both the substantive and money committees in each chamber of the Legislature, but not all of the related bills tied to HB 4392 were referred to the substantive committees. This pattern of bill referral did not allow the substantive committees an opportunity for full review of the legislation, and the broad policymaking implications fell to the money committees.
- The annual, unlimited legislative session and the automatic carryover of bills from the first to the second session of the biennium have allowed continuous and unhurried review of code revision. With up to two years time for consideration, the Michigan Legislature is able to devote considerable, uninterrupted attention to major substantive legislation.
- The House Special Subcommittee on Juvenile Code Revision has taken careful steps to understand the complex issues of code revision, to consider compromises, to solicit testimony and input, and to complete the major substantive changes in committee rather than on the floor of the Legislature. Such committee operations are proper and exemplary.
- Full-time professional, legislative staff has contributed quality research, support work, independent analysis and other assistance to legislators and legislative committees. The visible advocacy of the staff in the status offender debate may be detrimental, however, if in final legislative action the staff role is interpreted as one-sided.

#### Legislative/Executive/Judicial Interrelationships

- Only the legislative body can develop statewide policy. The innovations of individual judges in the 83 separate Michigan county courts and the efforts of various executive agencies provide policy that is piecemeal at best.
- Executive branch agencies have been cooperative and supportive of legislative activities, supplying information and testimony at appropriate points in the legislative process.
- The judiciary's participation in the legislative process has not always been uniformly cooperative. Some probate judges have declined to give input into the development of a new code and have opposed any change in the delivery of juvenile justice services. Other judges, however, have worked constructively with legislators on study committees and advisory groups.
- A muddling of responsibilities has been allowed to take place in Michigan's juvenile system, and a dual system of services has developed without correction by the Legislature. Probate judges often have moved into the "service business" after the failure of state leadership to meet the needs, but a judge's continued role as both adjudicator and administrator raises serious questions about the separation-of-powers doctrine.

#### Impact of Non-governmental Forces

- Citizen groups, through study efforts, contributed indirectly to the development of juvenile justice policies and the establishment of the Juvenile Justice System Study Committee. More recently, legislators have encouraged these groups to become directly involved in the legislative process and to launch a concerted lobbying effort in part to counterbalance the efforts of members of the judiciary.
- The Michigan Legislature is considering a unique policy yet not adopted by any other state: the complete removal of status offenders from court jurisdiction. The legislative debate has been characterized by an openness and intensity that stems from the participation of many constituencies.

#### Implications for the Juvenile Justice System

- The service needs of juveniles and the revision of the Juvenile Code are equally important aspects of juvenile justice policy, and the Michigan Legislature's consideration of both components is laudable. The ultimate responsibility, however, will come when the Legislature must transform the recommendations of the Office of Juvenile Justice Services into programs that are fully funded.
- The visibility of the status offender issue is such that the matter will not be buried or disguised in a larger complex of factors. The publicity attracted to the issue may lead, however, to a superficial understanding or neglect of other important questions of code revision.

### Summary

- The use of competent, professional staff, exemplary subcommittee work and the initiation of a special study committee early in the debate contributed to an independent information base from which policy may be developed.
- A dual system of juvenile services -- one lodged in the state social service department and the other among the 83 county probate courts -- has been allowed to develop unchanged by the Legislature. These competing service arrangements have fostered opposing viewpoints in the current legislative debate.
- The debate over juvenile services and the code revision have been characterized by openness which has contributed to wide participation in the legislative process.

### Alabama

Alabama began the process of judicial modernization with creation of the Alabama Constitutional Commission by the Legislature in 1969. By the time the process had run its course in 1975, a new Judiciary Article for the state constitution had been approved by the voters of Alabama, and the Alabama Legislature had passed the Judicial Article Implementation Act that enabled the Judicial Article to become a reality. Within the implementing legislation were substantial provisions replacing the state's antiquated 1973 Juvenile Code.

Throughout the process of judicial modernization in Alabama, the judicial branch of government was in the forefront. Both the proposed Judicial Article and the Judicial Article Implementation bill were formulated principally by the judiciary; the chief justice of Alabama's Supreme Court selected the sponsors of the bills affecting the judiciary, and the judiciary spearheaded the public campaign to have the Judicial Article ratified by Alabama's voters. While the Legislature had significant impact on the Judiciary Article Implementation Act through its diligent committee and subcommittee work, the initiative and creativity in judicial reform were characteristic principally of judicial -- not legislative -- efforts.

Key findings of the Alabama case study were:

### Institutional Traits of the Legislature

- The inadequacy of legislative resources in Alabama weakens the position of the Legislature vis a vis the executive and judicial branches. Foremost among the inadequacies is the lack of sufficient legislative staff to provide an independent source of information and advice to the Legislature.
- Despite the Legislature's weakened position, the work of legislative committees and subcommittees in their examination of the Judicial Article Implementation bill was praised by observers as a breakthrough in legislative operations. In particular, the performance of the House Judiciary subcommittee during its painstaking consideration of the measure reflected an unprecedented emphasis upon subcommittee activity in the analysis of complex legislation.

### Legislative/Executive/Judicial Interrelationships

- The process of judicial modernization in Alabama illustrates the potency of the judicial branch in legislative policymaking affecting the judicial sphere. From the appointment of the Alabama Constitutional Commission in 1969 to final passage of the Judicial Article Implementation Act in 1975, the influence and initiative of the judiciary -- and particularly Chief Justice Howell T. Heflin -- was pre-eminent in the decision-making process.
- The predominance of the judiciary in the policymaking process should not be interpreted as indicative of an adversary relationship between the two branches of government. The dependence of the Legislature in this instance translated into a remarkably high degree of cooperation and consultation with the judiciary.
- While the pre-eminence of the executive branch in Alabama's state government rests upon several bases, including historical tradition, the central position of the judiciary in the policy process analyzed here appears to derive principally from the Legislature's lack of sufficient resources, particularly staff.
- With the adoption of the Judicial Article and its subsequent implementing legislation, Alabama has successfully altered the judicial portion of its state constitution. For proponents of complete constitutional revision, success in the judicial phase became a necessary prerequisite to ultimate adoption of new legislative and executive articles to the constitution.

### Impact of Non-governmental Forces

- Neither among legislators nor among private groups does there appear to have been significant interest in the creation of the children in need of supervision (CHINS) category. There was no grass-roots movement to establish a new juvenile classification, and with the exception of a small number of legislators at the subcommittee level, there was a general lack of awareness of the CHINS provisions.

- While interest-group activity may have been absent during the establishment of the CHINS classification, this was not the case with respect to the Legislature's consideration of judicial modernization in general. Time and again, both public and private pressures were brought to bear on the Legislature in an attempt to induce action. Citizens groups, private associations and the news media urged the Legislature to act upon the judiciary's initiations. To a considerable extent, pressure from the private sector was organized and orchestrated by representatives of the judicial branch of government.

#### Implications for the Juvenile Justice System

- The new Alabama judicial system is considered an innovative model in judicial organization. Included within the model is an extensive revision and recompilation of the juvenile code, transforming juvenile proceedings from dependence upon precedent and practice to a foundation in modern statutes.
- The CHINS category was created within the juvenile code. Previously, status offenders could be treated as delinquents who had committed a crime under the law. The inclusion of status offenders within the category of CHINS seeks to divorce treatment of status offenders from that of delinquents.
- Although Alabama successfully has reorganized its judicial branch, questions remain as to what will be the effect in the field of juvenile justice. New procedural rights for juveniles have been introduced; special treatment and services have been stipulated for CHINS. The legislative mandate, however, has not yet been followed with appropriations to meet the statutory dictates, nor are the necessary professional commitments assured to support the new provisions in the juvenile justice system.

#### Summary

- Where the Legislature, as a result of institutional weaknesses, is not in a position to exercise its constitutional prerogative of policy initiation, the resulting power vacuum will be filled by outside forces such as the executive, the judiciary, or private interest groups.
- Judicial modernization in Alabama reflects a concerted and determined effort over an extended period by a diverse collection of governmental and non-governmental entities.
- Among both legislators and the public at large, the question of status offenses elicited little interest, so the interest of a few persons who believed status offense legislation to be necessary was sufficient to establish a new and distinct adjudicatory category for the status offender -- child in need of supervision (CHINS).

## WORKSHOPS: STATE TASK FORCE REPORTS

The goal of the case-study component of the Status Offender Project was to determine why and how legislatures responded as they did both to the substantive need and to multiple constituency and agency pressures. Following the development and publication of the case studies, regional workshops were held in the four study states. The workshops served as a means of multiplying the impact of the project findings.

Twenty-four states were selected to participate in the workshops. Chosen were states with legislatures at a stage of development comparable to that of one or more of the study states, and with demographic similarity to one or more of the study states.

During the workshops, participants were involved in two forms of group activity. In one, all participants met without regard to state identification for exposure to broad problems of juvenile justice policy. In the second, legislative, judicial, executive and program representatives from individual states met as state task forces.

The primary objective of each task force was to identify individual state problems and possible solutions in an atmosphere free from the routine and special pressures attendant to problem-solving efforts during actual legislative sessions. The assumption underlying the task force approach was that successful workshop discussions would lead to a more effective and clearly defined pursuit of policy solutions within the state decision-making framework.

Members of the task forces reviewed their states' progress in status offender legislation, isolated persistent problems and discussed possible courses of action to pursue in both the public and private sectors. The individual task force reports follow

in summary form. (Of the study states, only New Mexico chose to form a task force. Representatives of the remaining study states served as resource persons for other task forces. Of the non-study participating states, Oklahoma, because of the small number of its representatives, did not form a task force.)

#### Florida-New Mexico Workshops

##### Colorado

- A 33-person juvenile justice advisory committee, established by the governor, will be employed in helping to draft a bill to deinstitutionalize status offenders. It also will be involved in organizing a public constituency for the status offender issue.
- A conference to address the status offender issue was planned, based upon the model of a three-day conference on sentencing reform held previously. The conference also will involve the juvenile justice advisory committee.
- It is planned that the proposed legislation will be limited in scope to status offenders, on the assumption that broadening the legislation's scope to include total code revision could "side-track the issue." It also was anticipated that the status offenders would be described in the legislation as "individuals demonstrating non-criminal behavior."

##### Georgia

- A Senate committee has been established to study the status offender issue and will look at procedures, case loads, alternative services, resources, and appropriations. The committee is expected to develop legislation to deinstitutionalize status offenders.
- A two-year-old Juvenile Justice Coalition made up of 15 statewide organizations will work as an advisory committee to the Senate committee and is considering a statewide status offender conference.
- The task force suggested the possibility of broadening the juvenile court's powers to deal with problem families.
- Further involvement of schools in status offender supervision is being studied.

##### Maryland

- The task force identified as a primary problem the lack of sufficient foster and group care homes to handle children who, under state law, cannot be institutionalized.

- A majority of the task force members indicated they did not want to end court jurisdiction over status offenders.

#### New Mexico

- The task force focused upon the need for program agencies to improve information and data-gathering systems and to improve coordination among the branches of government. The task force considered accurate statistics essential for assessing service responsibilities, developing public understanding of status offense issues, and for legislative response.
- Problems within the legislature were identified as failure to fund services, overcentralized leadership and weaknesses in legislative capabilities to respond accurately and appropriately to issues. A task force objective was to seek to initiate action through the legislature, rather than react only to crises.
- There was agreement that it was necessary to clarify issues through development of standards and goals and through greater citizen involvement.

#### North Carolina

- A task force discussion of the responsibilities of the legislative, judicial and executive branches of government isolated a series of problems: the reluctance of judges to implement existing statutes; a lack of uniform code practices among counties; a lack of executive agency accountability; and a fragmentation of statutes.
- Recommendations of the task force included raising public awareness of status offender issues; clarification of the definition of status offenses; the development of vocational and educational programs; and establishment of a committee of judges, legislators and executive branch representatives and public sector agencies to study procedural and service innovations.

#### Oregon

- The task force discussed improved relationships between fiscal and substantive committees, possibly through direct appearance of the substantive committee chairman before the fiscal committee.
- It was suggested that legislative intent be more closely monitored through such means as increasing substantive committee staff and involving the legislative council in tracking cases through the courts.
- More efficient bill introduction was considered possible through institution of mechanisms such as prefiling, establishment of deadlines, an increase in the number of House-Senate joint hearings and greater staff continuity.

- Information-gathering systems were considered inadequate for problem-solving and followup. It was suggested within the task force that data-gathering could be improved through closer linkages to educational institutions and through open discussion in joint legislative caucuses.
- Greater public input and the involvement of broadly based advisory committees were identified as means of reducing public hostility to changes in legislation.

#### South Carolina

- The existing state law defines a status offender as a delinquent and authorizes placement of delinquents in training schools, a problem which the task force believed dictates a redefinition of status offenders in order to prohibit their placement in institutions.
- Alternative service programs were considered necessary, as were state-wide probation intake services that would allow uniform practices under the statewide family court system established by the judicial reform legislation.
- Support for planned legislation is to be sought at a training meeting to be attended by representatives from the legislature, the judiciary, the executive agencies, and the law enforcement agencies.

#### Utah

- Allocation of resources was identified as a major issue in legislative problem-solving, and the task force determined that juvenile justice and family service representatives should join in making resource allocation recommendations to the legislature.
- It was decided there was a need to convey to the community the reasons for and results of actions concerning status offenders.
- The group concluded during a discussion of status offense definitions that division of responsibility between the courts and executive agencies should be handled on a phased basis in order to allow the development of services and procedures.
- It was the consensus of the task force that status offenders should not be institutionalized.

#### Virginia

- The task force concluded that various committees working in juvenile justice and youth services should be brought together in an effort to build unified support for passage of a constructive bill to revise the Virginia juvenile code. Members of the state task force were designated to make initial contacts with the different groups.

### Washington.

- The task force decided to schedule a state conference to facilitate understanding of issues involved in proposed juvenile justice legislation, to disseminate information to the public and interest groups, and to increase the legislative understanding of status offender legislation.

### Alabama-Michigan Workshops

#### Arizona

- The Arizona task force identified as a problem the resistance of some members of the judiciary to change in juvenile justice statutes and agreed that efforts for change should be made with the cooperation of citizens groups, members of the community power structure, and the news media.
- The task force discussed the possibility of holding a pre-session orientation program for legislators to inform them of over-all juvenile justice problems and to discuss specific legislation.
- Cooperation of the school system was considered a priority matter in the confrontation of juvenile justice problems.
- The need to educate the general public on the costs of the present existing juvenile justice system was identified.
- Professional staff was discussed as a means of expanding information at the disposal of legislators.

#### Arkansas-Louisiana

- The joint state task force concluded that it was necessary to form a broad-based constituency in support of status offender reform and to involve news media and other public information agencies. Members of the judiciary were considered important elements of such a coalition.
- It was agreed that status offender legislation should be specific and positive.
- Weak legislative organization and inadequate legislative staff, particularly in smaller states, was believed by the task force to compound problems involved in juvenile justice legislation.
- While solicitation of position papers and support from public interest groups was considered an alternative to inadequate legislative resources, the interest groups were described as unsophisticated in the employment of legislative power centers, and therefore likely to be ineffective as lobbyists for juvenile justice legislation.

#### Connecticut

- A legislative study commission is considering the possibility of removing status offenders from court jurisdiction and from detention and training

schools. Experiments will be conducted with three distinct treatment modalities, the results of which will be analyzed by the study commission.

- The task force agreed to share its knowledge with community interest groups, which in turn could approach the legislative study commission.

#### Delaware

- In order to increase public awareness of the juvenile justice questions and to facilitate passage of status offender legislation, it was decided to form a citizens action committee and to continue workshop task force meetings on a regular basis to coordinate plans for introduction and movement of legislation.
- It was decided to re-evaluate programs, in conjunction with the legislative council and the state budget bureau, in order to identify both sources of funding and possible funding allocations as a means of adding specificity to planned status offender legislation.

#### Illinois

- A major part of the Illinois task force discussion centered on means of making theoretically sound laws workable, and the problem was summed up as one of relating the ability to divert children from the juvenile justice system with the ability to cope within the system once the child enters it.
- Problems within the present Illinois statutes which prevent fully effective confrontation of status offender matters were identified as: lack of clearly defined juvenile officer discretion; lack of a legal definition for a preliminary hearing, even though the Illinois Constitution establishes such a hearing as a right; and how to divert children to alternative services when funding resources are inadequate.
- Solutions discussed were an enhancement of volunteerism as an alternative to inadequate resources, and a redefinition of jurisdiction to enable alternative choices at the point of contact with arresting officers, juvenile officers or at the school or family level. The alternative choices presumably would allow an early decision at the community level on whether to place a child within court jurisdiction or to assign the child to a community service.
- The task force believed that a child who must appear before a court should be guaranteed service delivery, and believed such service guarantees would be more workable at the community level than at the bureaucratic or institutional level.

#### Indiana

- A 24-person juvenile justice division of the Indiana Judiciary Study Commission, consisting of judges, prosecutors, legislators, educators,

probation officers, agency representatives and citizens has been charged with drafting a new juvenile code for presentation to the 1978 session of the Indiana General Assembly. The task force identified as problems to be considered: lack of information on the part of the Legislature, the bar association and private citizens of the problems of the juvenile justice system and the need for reform; the controversial nature of the status offender issue; funding; the matter of decentralized or centralized agency responsibilities; lack of alternative programs; and the lack of universal solutions to crime, juvenile delinquency and status offender problems.

- With the problems identified, the task force agreed to seek mechanisms for educating and informing and involving key legislators, citizen groups and the media; to hold joint Senate and House judiciary committee hearings on status offender legislation; and to hold a follow-up planning meeting of the Indiana task force delegation.

#### Iowa

- Iowa, which has decriminalized status offenders, discussed in its task force code-tightening legislation which would approach three basic juvenile justice problems: court procedure and jurisdiction, court structure, and utilization of services.

#### Pennsylvania

- The task force discussed mobilization of public opinion for pending status offender legislation through an existing juvenile justice coalition.
- Opposition to passage of legislation which would limit juvenile court jurisdiction over status offenders was identified as coming from the judiciary, labor unions, and employees within the existing juvenile justice system.

#### Wisconsin

- The Wisconsin task force identified as priority issues the matters of status offender detention, juvenile court jurisdiction, due process, organization of juvenile court services and reorganization of state services and reorganization of state service-delivery mechanisms.
- The development of a political constituency for status offender legislation was identified as the central strategy to be pursued in the state.

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## THE NEED

In October, 1975, the LEAA awarded Legis 50/The Center for Legislative Improvement a grant of \$269,000 to conduct a study of legislative efforts to divert status offenders from the juvenile justice system.

The study consisted of two components: A deep analysis in four states of the political and procedural dynamics involved in the formulation of status offender legislation, and four regional workshops, with the analyses as resource papers, designed to identify ways in which to enhance the process of juvenile justice policymaking.

The study was a success. The findings from each individual state case study offered documented guidance to the legislators charged in each state with the formulation of juvenile justice policy. The findings served also to inform the LEAA of the existing impediments to the achievement of its status offender policy goals. The conclusions of the four workshop task forces, which involved representatives of 24 states, set down individual state action goals and, again, offered evidence to the LEAA of the problems which exist and which still may arise.

The objective results of the two project components were succinctly described by Victor H. Weipert, Jr., a member of the staff of the Michigan House of Representatives Fiscal Agency whose responsibilities also include staff analysis for pending juvenile justice matters. A participant at the Status Offender Project Workshop held in Dearborn, Michigan, Weipert wrote:

"The effects of your case study and seminar...were most notably, for Michigan: 1) an objective documentation of legislative, professional and citizen effort to change public policy; 2) insights as to what works and what does not; 3) some measurement of progress toward policy goals; 4) recognition of the significance of the value of staff, professional and citizen support of the legislative process; 5) recognition of the value

of informed, committed, legislative leadership in forming public policy; and 6) an unusual opportunity to share views with other states' policymakers."

Other participants in the workshops reflected Mr. Weipert's view and supported Legis 50's own conclusion that the Status Offender Project had permitted the most concentrated investigation thus far of the effect of state legislative institutional capacity on the establishment of laws governing juvenile behavior.

It should not be inferred from such a sanguine judgment, however, that the LEAA/Legis 50 Status Offender Project was a culmination of the search for reason and common sense in juvenile justice practices. It was not. While the Status Offender Project accomplished its immediate goals, it at the same time underscored a fact with which the LEAA must be concerned: The problem of status offender institutionalization is an inseparable part of a more complex juvenile justice problem, a problem whose ramifications can neither be wholly understood nor effectively approached in many states because of systemic legislative institutional weaknesses.

Unlike many emerging policy demands whose perimeters can easily be defined, the complex of issues surrounding the juvenile justice question confuses and, at times, confounds state legislators. There is difficulty, apparent in the case studies and workshops, of finding agreement upon a definition of status offenders, or of categorizing them in such a way that programs can be developed for them. There is the deeply institutionalized adversary relationship between many social service agencies and juvenile courts. There is the problem of defining constituencies and of finding resolutions to specific questions which strike an accommodation between conflicting, but legitimate points of view among the constituencies. There is the parallel problem of finding means of building constituencies for the support of sound legislative efforts, and the persistent problem of gathering information from diverse and sometimes antagonistic sources in order to be able to draft even the most rudimentary legislation.

It must be concluded from these and other dilemmas discussed throughout the Status Offender Project that the LEAA, if it is to achieve its juvenile justice objectives, must be willing to drop the second shoe. It must be willing to participate actively in the state legislative capacity-building process in a manner which will allow state legislatures to deal effectively, innovatively, and efficiently with juvenile justice matters.

The challenge which Legis 50 perceives to be that before the LEAA is not unique. On the contrary. It is a challenge that must be met by any federal entity seeking to pursue mandated policies which require action at the state and local levels. It is a challenge which at its roots is based upon an imbalance within the American federal system.

The lawmaking power of the state government is lodged in the legislature. Governors and others, including the many state departments and agencies concerned with juvenile justice programs, may propose, urge, persuade, or influence, but only legislatures may enact laws. Within constitutional limits, it is the legislature which mandates organization, structure and procedure, grants substantive authority and allocates resources to state agencies. Almost without exception, national policies on domestic matters are carried out in the states and require the enactment of state laws which establish complementary or supplementary state programs, authorize local government participation and appropriate state funds.

Unfortunately, the capacity of state legislatures to understand and cooperate with federal programs is too frequently limited, and the reason is historic.

About half-way through the life of the country, for a variety of reasons, the state legislatures -- endowed with so much promise by the founding statesmen -- became for all practical purposes dormant. They had defected to a number of special interests. They were complacent. They were outdated and unequal to increasingly complex tasks. They became governmental junior partners, plagued by inadequate facilities, suffocated by archaic rules and left behind by advancing technology.

Inevitably, the executive branch became dominant and its dominance was a perversion of the state governmental process and character. The public, represented by legislators who were satisfied to remain puppets, manipulated by the executive branch and special interests, was denied its proper role in government. The result was a gradual and debilitating flow of power and money to the federal government. By the onset of the 1960's, the intricate modern issues rightfully the responsibility of state legislatures were beyond the procedural capacities of all but a few.

The imbalance in the governmental system had grown to significant and serious proportions and the matter was placed in perspective by Terry Sanford, former governor of North Carolina and now president of Duke University. In his book, Storm Over the States, Governor Sanford wrote:

"Do we want a single national government, or a federal government which combines a national government with governments of the several states. The answer depends on our willingness to look for the faults and to find the illnesses of state government."

At about the time the words were written, Legis 50 (then The Citizens Conference on State Legislatures) was in its first years of the search for cures for the state's illnesses. The organization's goal, established in its charter in November, 1964, was the enhancement of the capacity of state legislatures to produce sound policy. In seeking to identify means of performing that mission, Legis 50 conducted basic and sometimes ground-breaking research. It was found that the institutional legislative weaknesses fell generally into one area: state legislatures needed basic resources and procedures and needed to know how to use them effectively.

They needed clear and explicit rules to guide the flow of legislative business.

They needed legislative sessions of adequate length, flexibility and frequency.

They needed committees active during the interim between sessions so that sessions could be conducted and concluded efficiently, and so that complex problems

such as status offender jurisdiction could be confronted in a logical and productive manner.

They needed facilities for conducting public hearings and for meeting with constituents. They needed adequate compensation and allowances, in order to attract individuals of high caliber.

Most of all, they needed assistance from professional, trained staff, particularly at the committee level, who could gather and analyze and interpret information upon which to base legislative actions.

Legis 50 has designed its projects for legislative improvement with these needs in mind, and since the 1960's there has been measurable progress in the reform of state legislatures nationally. Legis 50 does not take full credit for the progress, although it has been a major catalyst for reform, nor does it believe that the progress has reached the plateau envisioned in the Constitution. On the contrary, it is the persistence of legislative failure to acquire and use resources that is the point of this discourse and the point of many of the Status Offender Project findings and workshop discussions. While the level of employment of resources is greater than at any point in state legislative history, it is not yet adequate in many states, and the LEAA can best pursue its own objectives through the stimulation of more effective state legislative performance -- through the assumption for itself of a catalytic role. Specifically, guided by the knowledge gained during the Status Offender Project and its own experience, Legis 50 believes the LEAA should direct its efforts to the establishment of resources -- specifically staff resources -- for legislative committees charged with juvenile justice policymaking.

The need for availability of staff resources and the proper and efficient utilization of staff was expressed throughout the workshops conducted during the Status Offender Project. Participants specifically cited the need to build constituencies for juvenile justice issues and the need for deeper analysis than individual

legislators are capable of conducting of the issues and problems. Both are proper functions of professional committee staff. Moreover, the need for staff resources was implicit in the general workshop discussions of the frustrations met by participants in seeking to develop and implement effective policy for the treatment and deinstitutionalization of status offenders.

The case studies themselves demonstrated the efficacy of committee staff use. The New Mexico case study showed the lack of organized committee staff work to be a major legislative institutional weakness, and it was apparent that the lack of communication between the judiciary and the legislature could have been repaired by the presence of professional staff. Because the Legislature did not have its own resources, private interest groups were able to exert great influence. In Alabama, there was another problem. While the dominant judicial branch succeeded in developing and pressing through sound legislation, its dominance was nonetheless evidence of a systemic imbalance in Alabama state government. Agencies such as the LEAA cannot work effectively through judicial systems to achieve policies which by law are the responsibility of the legislative branch of government. In Alabama, a stronger staff system could have helped to equalize the relative strengths of the legislative and judicial branches. Strong staff presence, on the other hand, was reflected in the Florida and Michigan case studies, which showed the legislative branch to be properly co-equal with the judicial.

The LEAA, through the establishment of a multi-state demonstration staffing project, described in The Proposal section of this report, not only could achieve direct and early benefits through the passage of legislation that would advance federal status offender policies, but it also could demonstrate to non-project states the soundness of the assumption that policy quality increases correspondingly with a legislature's ability to employ staff wisely and effectively.

## THE RATIONALE

In 1971, Legis 50 (then the Citizens Conference on State Legislatures) published the findings and recommendations of its 50-state Legislative Evaluation Study (LES) in a book entitled The Sometime Governments. The book attracted wide attention to the issues of legislative reform and served as both a guide and a source of motivation for much of the legislative modernization which took place in the early 1970's.

At the time of publication, most legislatures had few, if any, professional staff persons. Even in the few legislatures that had professional staff, there were not enough of them and they were spread too thinly. Accordingly, the major staffing recommendations of the LES focused primarily upon providing staff for members, committees and leaders where none existed and upon improving the distribution of staff resources where they already existed to some extent.

Among the staffing recommendations, as cited in The Sometime Governments, were:

- Legislative research, fiscal, legal and planning agencies should be adequately staffed to full utility and at suitable salary levels for professional qualification. Professional staffing should be at a level to enable the legislature to conduct continuous, year-round examination of state resources and expenditures as well as program review and evaluation of state agencies. This staff should also prepare fiscal notes accompanying all appropriation bills, evaluating their fiscal impact over the short and long term. Staff agencies should be upgraded to the level at which competent and timely service can be provided to every member of the legislature.
- Standing committees should be staffed on a permanent, year-round basis.
- Staff assistance should be provided to all leaders of both the majority and minority parties. Such assistance should include a secretary and an administrative assistant at the professional level, with space to work reasonably adjacent to the offices of members and leaders.
- Rank-and-file members (majority and minority party on an equal basis) should be provided with individual staff assistance consisting of a minimum of an administrative assistant at the professional level and a secretary. Eventually, this should increase to the stated level of support both in the capitol and in the district office.

It is the second recommendation -- for the staffing of standing committees -- which is central to this report, just as it has been central to efforts of Legis 50 to improve the capacity of state legislatures to respond to both constituency and federal initiatives.

The founding directors of Legis 50 and subsequent trustees have relied on three clusters of arguments in stating the claims of such state legislative reform efforts.

The first set of arguments stems from consideration of balance within the federal system. The Legis 50 view is that the relative weakening of state government, associated with massive increases in the resources and authority of the federal government, is undesirable and that state legislative improvement is justified, in part, as a deliberate effort to establish a balanced distribution of policy authority.

The second set of arguments hinges on considerations of the efficiency of governmental operations. Most governmental programs which spring from federal initiatives require effective state action for their operation. The number, size and importance of such intergovernmental programs, therefore, dictates that more competent state government must be favored even by those who do not feel the force of arguments based upon balance within the federal system.

Finally, Legis 50 and many other organizations have noted concurrent increases in the volume and complexity of legislative work and in the level of popular expectations regarding standards of state governmental performance. From these observations, it is argued that some degree of legislative professionalization is necessary to meet the growing demands of policy formulation and both policy and program review.

If the importance of state governments and state legislatures is acknowledged on the basis of any or all of these arguments, a second set of arguments applies in establishing the significance of professional staff in the complex process of strengthening state legislatures. They are:

- Committees are central to the work of legislatures with respect to bill review, bill amendment and screening. The committee apparatus also is the primary device for gathering and making public the view of interested parties and initiating the work of compromise and settlement typical of the legislative process. Because committee work is by definition specialized, specialized staff help is essential if committee members are to have independent sources of information and analysis and independent agents for the identification and utilization of applicable outside knowledge and judgment. Without capable committee level staff, committees are hardly capable of effective bill review, let alone creative policy formulation or policy coordination.
- In all legislatures, and particularly in those characterized by high member turnover, staff and staff agencies can serve as corporate memories and provide continuity to the consideration of policy issues over a period of time.
- Under full-time or part-time conditions of legislative service, it is unrealistic to expect legislators to limit their efforts and productivity to those things they can do alone and within time allocations. Some forms and levels of individual staff support are essential for minimum levels of performance as well as higher levels. Assistance in bill drafting or analysis are examples in point. It is also likely the legislators will make more productive use of their time if less urgent activities can be delegated or assigned to staff.
- Legislative program review and evaluation is among the most important functions of state legislatures. Alan Rosenthal, in his authoritative Legislative Performance in the States: Explorations of Committee Behavior, said: "A legislature surely has a stake in learning what works and what does not work, whether a program's objectives are being achieved and at what costs, and how effective a program is and whether it is more or less effective than some other program with the same or similar objectives." Although the use of technical audits of expenditure and program results is the prerogative of legislatures, the conduct of such studies must be a staff responsibility and one in which expertise in particular subject matter fields is combined with appropriate analytical skills.
- A legislative committee's capacity to gather and handle information is vital. The Legis 50 Legislative Evaluation Study confirmed that a legislature dependent for information solely on interest groups or executive agency representatives, for example, compromises its vitality as an independent branch of government. Legislative information-handling capacity includes the identification and assembly of law and authoritative testimony; maintenance and use of records of deliberation and voting, and careful design of bill documents to indicate the status of amendments and deletions, as well as the more mechanical treatment of budget changes and schedules. Most, if not all, of these central elements of legislative functioning depend critically on staff support.

Knowledge of the importance of professional, full-time legislative committee staffing led to the development by Legis 50 of the model committee staffing concept that is the basis of this report's proposal.

Two such projects now are under way: The Model Committee Staff Project in Health and the Legislative Professional Staff Project on Drug Abuse and Alcoholism.

The Model Committee Staff Project in Health was inaugurated in 1973 with a grant from The Robert Wood Johnson Foundation. The project was conducted during its first two years in Connecticut, Louisiana, Michigan, Minnesota, New Jersey, Texas, Washington and Wyoming under the auspices of the foundation, and in West Virginia with funding from the West Virginia Regional Medical Program. The success of the program in demonstrating enhancement of the policy-formulation process through the use of professional staff led to a second two-year grant from The Robert Wood Johnson Foundation in 1975. Under the extension grant, the program has operated in Connecticut, Iowa, Louisiana, Michigan, Minnesota and in West Virginia, again with West Virginia participation funded by the Regional Medical Program.

The Legislative Professional Staff Project on Drug Abuse and Alcoholism began in 1974 and is under way in Oklahoma, Oregon, Pennsylvania, Virginia and Wisconsin. Funding originally was by the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Highway Traffic Safety Administration. The last agency ended its participation with the 1975 fiscal year, while funding from the other agencies continues.

In each committee staffing project, a legislative generalist and a subject area specialist for each participating state were chosen from nationally solicited applications. The staff members chosen after screening by both Legis 50 and the participating states were assigned to substantive committees of the state legislatures which deal with the specific policy issues around which the programs were formed.

The professional staff members are supervised by Legis 50 but work at the direction of the committee chairmen. The dual project goals are the improvement of the committees' capacity to formulate policy and a demonstration to non-project committees of the improvements in capacity which occur.

The projects have received national recognition as a major innovative legislative reform effort and have resulted in major legislation. A similar project

would advance the juvenile justice policy goals of the Law Enforcement Assistance Administration. Support of the project also would assist the LEAA in responding to the 1976 congressional directive that state legislatures be granted a central role in the development of comprehensive law enforcement and criminal justice planning.

Other courses of action were considered. Among them:

- A second state policymaking study of status offender deinstitutionalization, to carry forward the work of the Status Offender Project;
- Additional workshops for state legislators in juvenile justice policymaking to reinforce the impact of the status offender project workshops;
- A multi-state monitoring of legislative review of the general goals, priorities and policies set down by the mandated State Planning Agencies.

While each of these programs would have merit and beneficial results for the LEAA, it is Legis 50's opinion that none could offer the long-term advantages to the LEAA of the model committee staffing demonstration.

## THE PROPOSAL

Virtually all legislatures have central staff assistance, but only a handful support standing committees with full-time professionally qualified staff members. In those states which do employ adequate staff resources, the quality of the legislative product is improved, for staff members permit the effective conduct of activities basic to the legislative process. Staff members:

- Collect, analyze and interpret available data and carry out necessary original research;
- Arrange public hearings and assist in generating public support for legislative issues through constituency formation;
- Develop alternative policy positions and translate substantive recommendations into proposed legislation;
- Monitor the progress of legislation through the lawmaking process;
- Conduct program evaluation and review following the passage of legislation;
- Serve as an institutional memory resource to compensate for committee membership turnover;
- Train committee members to act in concert as policy formulators rather than passive reactors to the initiatives of other institutions.

Professional staffing of standing legislative committees therefore is a logical step in equipping legislatures to function more efficiently in specific policy areas such as juvenile justice, the complexities of which defy solution by part-time legislators whose energies and attention are divided among differing substantive areas.

Legis 50 therefore proposes to the LEAA that it conduct, in cooperation with Legis 50, a Model Committee Staff Project in Juvenile Justice, under which appropriate substantive legislative committees in selected states would be furnished the full-time assistance of two staff members: a legislative generalist and an authority on juvenile justice policymaking.

The major objectives of the project would be:

- To assist state legislatures in the formulation of sound and effective policies governing the disposition and treatment of juvenile offenders, as well as policies ancillary to solution of juvenile problems;
- To demonstrate the enhancement of policy formulation that occurs when standing legislative juvenile justice committees have the assistance of professionally qualified, full-time staff.

### Project Components

#### Advisory Committee

Throughout the course of the Model Committee Staff Project, an advisory committee would provide general advice and guidance. The committee would include members who have earned national recognition for their leadership in juvenile justice matters as well as members who have extensive state government experience and close familiarity with the environment in which public policies are formed.

#### Selection of Demonstration States

In the selection of states to participate in the program a number of criteria would be considered: Is the subject matter of the proposed committee inquiry recognized as urgent? Are there indications that the legislature is willing to consider positive action? Are significant legislative results likely to flow from the effort? Is there an understanding on the part of the legislative leaders of both parties in both houses of the purposes of the model committee effort? Is there a substantial commitment of support on the part of the leadership? Is there reasonable assurance that the membership of the model committee would remain virtually unchanged throughout the duration of the project? Is the legislature ready to consider professional staffing of major committees as a next logical step in improving its capability to function as the policymaking branch of state government? What professional and lay organizations are available to provide public support? As an indication of interest and commitment, would the legislature cover overhead costs and

and provide back-up research capacity, bill drafting expertise, and other resources that may be available from existing central legislative service agencies?

#### Staff Recruitment

Simultaneously with the state-selection process, a nationwide staff recruiting program would be conducted. Discussions also would be initiated with educational institutions that may be able to provide interns to work with the model committee staffs. Final selection of staff personnel would involve full participation and concurrence by the chairmen of the demonstration committees.

#### Staff Training

With the states selected and the staff recruited, an intensive training program would be conducted for the staff members.

#### Orientation of Demonstration Committee Legislators

A seminar for the demonstration committee legislators would be held to reinforce legislator knowledge of juvenile justice issues and acquaint them with sources of advice and assistance. The seminar also would provide a forum for the exchange of information about objectives, plans of operation and schedules of activities.

#### Continuing Legis 50 Consultation

Throughout the period of the project, Legis 50 would maintain close and continuing contact with the demonstration committees and their staffs. The continuous monitoring would provide evaluation information needed for program management purposes.

Technology Transfer Seminars

Legis 50 would conduct one or more regional seminars designed to transfer knowledge gained in participating states to states which do not participate.

Project Management

Management of the project would be conducted by Legis 50 in consultation with the LEAA.

PROJECT DURATION AND COSTS

In order to achieve maximum benefits from a project of this nature, the project should operate in at least five states for two complete years -- two legislative sessions. Start-up activities for a model committee project such as the one proposed requires at least six months of effort before on-site activities can begin. The proposed project time frame is 2½ years.

Project Start-Up

Start-up activities and their estimated costs:

Staff Recruitment	\$ 67,500
Staff Training	37,000
Staff Relocation	20,000
State Identification	22,000
Contract Negotiation	33,000
Advisory Committee	19,500
Project Orientation Session	<u>39,000</u>
Total	<u>\$238,000</u>

Continuing Project Costs

Continuing project costs consist of on-site activities of the field staff, necessary staff replacement and relocation, and oversight of the project by Legis 50. The activities and costs for 24 months are:

	<u>1st 12 months</u>	<u>2nd 12 months</u>
On-site operations	\$500,700	\$542,500
Staff Replacement and Relocation	23,000	13,000
Management and Coordination by Legis 50	<u>196,000</u>	<u>206,000</u>
Total	<u>\$719,700</u>	<u>\$761,500</u>

Total Project Costs (2½ years)

Project Start-up	\$238,000
Continuing Project Costs	<u>\$1,481,200</u>
Grand Total	<u>\$1,719,200</u>

#### Budget Notes

Direct project costs are estimated by actual computations from similar experiences with the two currently operating Legis 50 model committee projects. Indirect cost rates are calculated at 100 per cent of central office salaries and wages and 33 per cent of field salaries, including fringe benefits. These are the provisional rates approved by the U.S. Department of Health, Education and Welfare, "from January 1975 until amended."

More detailed budget data is available to support these figures and some components are more vital to the success of the project than others. The total budget, however, reflects the real costs of operating a demonstration project at its maximum level of efficiency.

## SUMMARY

All 50 state legislatures are not alike, nor will they ever be alike, nor should they be alike. Each state legislature is governed by its own traditions, and by the history, geography and demography of the state. It is not the mission of Legis 50 to seek to standardize all state legislatures, but to help develop the capacity of legislatures to deal with problems fairly, equitably and openly.

Legis 50 does not delude itself that there are final solutions to human problems, whether the problems be those of juvenile justice or of other critical concerns. The best one can hope for are resolutions or settlements of issues as they arise. The arena where resolutions are found and where legitimate conflicting viewpoints are reconciled is the state legislature, however, and it is critically important that the state legislature have the capacity to be effective in the public interest.

Legis 50 is certain that these views are shared by the Law Enforcement Assistance Administration, and it is this certainty of a shared purpose that led Legis 50 to propose the Model Committee Staff Project in Juvenile Justice as a means of furthering the objectives already pursued with such diligence by the administration.

Just as the legislature as a body is the arena where resolutions to problems are found, it is the substantive committee that is the key element of the legislative process. It is in the committee where the divergent points of view are heard, where the conflicting demands are reconciled, where all legitimate interests have an opportunity to have their story told, and where the legislators, who are the generalists, have an opportunity to weigh all evidence before it. It is the committee which must demonstrate initiative, set priorities, develop and execute policy, evaluate existing programs and demand fulfillment of legislative intent.

It follows, therefore, that the LEAA can increase the likelihood of achieving its objectives if it assists legislative committees in developing the staff capacity necessary for the effective formulation of juvenile justice policy.

**END**

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