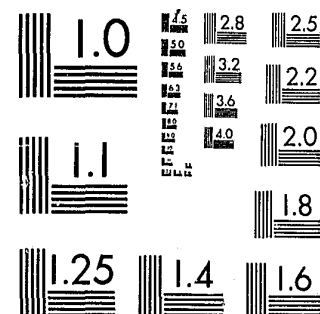


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The General Assembly
State Capitol
Atlanta

TO: THE GOVERNOR, LIEUTENANT GOVERNOR, SPEAKER OF THE
HOUSE OF REPRESENTATIVES, MEMBERS OF THE GENERAL
ASSEMBLY OF GEORGIA AND OTHER INTERESTED PERSONS

U.S. Department of Justice
National Institute of Justice

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REPORT OF THE
STATUS OFFENSES STUDY COMMITTEE

THE COMMITTEE

HONORABLE FLOYD HUDGINS, CHAIRMAN
SENATOR, 15TH DISTRICT

HONORABLE PETER L. BANKS
SENATOR, 17TH DISTRICT

HONORABLE ED BARKER
SENATOR, 18TH DISTRICT

HONORABLE ROBERT H. BELL
SENATOR, 5TH DISTRICT

HONORABLE PERRY J. HUDSON
SENATOR, 35TH DISTRICT

January 1977

Introduction

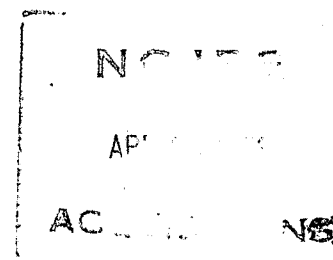
With the passage of the Juvenile Justice and Delinquency
Prevention Act of 1974, Congress has unequivocally expressed its
desire to prevent children from becoming delinquent; to defer a
child's contact with the traditional agencies which make up the
machinery of the juvenile justice system as long as possible; and
to insure that the institutionalization of children takes place
only as a last resort, and then only with a discrete separation
between status and nonstatus offenders.

In order to qualify for federal funds under the Act,
each State must present to LEAA a plan for deinstitutionalizing
such status offenders. In 1975, Governor Busbee committed
Georgia to the provisions of the Juvenile Justice and Delinquency
Prevention Act. In December, 1975, the Governor, as required by
the Act, appointed the Juvenile Justice Advisory Board.
According to the Act, status offenders may no longer be committed
to institutional care for secure detention after August 1, 1977.
According to the Act, each State's plan must "provide within two
years after submission of the plan that juveniles who are charged
with or who have committed offenses that would not be criminal if
committed by an adult, shall not be placed in juvenile detention
or correctional facilities, but must be placed in shelter
facilities."

For Georgia to fully implement the provisions of the
Act, legislation will be needed both to prohibit the
institutionalization of status offenders and to provide for
segregation of juvenile from adult offenders in local jails.

In F.Y. 1977, Georgia is eligible for a total of

- 2 -



\$700,000 in federal funds, and preliminary indications are that Georgia will be eligible for approximately \$480,000 in F.Y. 1978. These monies must be spent within two years of receipt, and, according to the State Crime Commission, the bulk of this money will go toward funding alternatives to secure detention for juveniles.

The Senate Study Committee on Status Offenses conducted a series of seven public hearings throughout the State in order to gain public input and discussion on this problem area. Field visits to youth development centers, regional youth development centers and group homes were also conducted. In addition, a public forum was broadcast on the Georgia Educational Television Network on September 2. The highlight of the broadcast was a debate between Dr. Milton G. Rector, President of the National Council on Crime and Delinquency, arguing for the deinstitutionalization of status offenders and Juvenile Judge Lindsay G. Arthur of the Hennepin County (MN) District Court whose position was that the juvenile court system should retain jurisdiction over status offenses.

Of great importance to this study was the Senate's Advisory Committee. The Advisory Committee was composed of 33 members representing different facets of the professional community. Included were the judiciary, the Department of Human Resources, educators, social workers and many more. The advisory members attended public hearings, participated in field visits and provided the Senate Committee with many concrete recommendations and further insight into the status offender problem. The Senate Committee would like to express its grateful appreciation to every member of the Advisory Committee for their

time and effort concentrated in this study.

Findings

During the public hearings, testimony was provided by numerous professionals and specialists in the field of juvenile justice and treatment, social services and education. One basic conclusion can be drawn from the testimonies: virtually none of the working professionals concerned with the status offender felt that the removal of the status offender from ultimate juvenile court jurisdiction was a responsible move. However, detention of a status offender in jail, and even institutionalization of a status offender, is another issue over which there is much controversy.

It is significant that there is no commitment exacted by the federal statute that participating States must or even should seek to remove status offenders from the jurisdiction of the juvenile courts. Thus, the key issue in this study is that of deinstitutionalization and its ramifications.

There are several reasons supporting the concept of deinstitutionalization. Foremost is the financial burden of institutionalization. Institutionalization, either pretrial or post-adjudication, is the most expensive method of dealing with a human being, juvenile or adult, who is a "community problem." The greatest expense is that for capital outlay for construction of such a facility, equipment and furnishings, and maintenance and operations - to say nothing of the additional programatic costs for medical care, recreation, diagnostic and counseling services needed if rehabilitation rather than mere warehousing is

to occur.

The average program cost per child in Georgia in 1974, comparing those detained in institutions, those served in community-based programs and those remaining in their family homes, was as follows:

Regional Youth Development Centers (including initial Construction costs)	<u>Pretrial Detention</u> (Annual Figures)	
	<u>Community Attention Homes/ In-home Detention Programs</u>	<u>Parent's Home</u>
\$436/per child	\$220/per child	\$0 cost (to public)

<u>Commitment</u>	
<u>Youth Development Centers</u>	<u>Community-based Treatment Centers</u>
\$2,600/per child	\$1,200/per child

According to statistics based on F.Y. 1975 case loads, \$400 was the average annual cost for every child institutionalized in this State. If all the status offenders institutionalized in 1975 had remained in their homes, a savings of \$1,340,000 would have been realized. Had these same status offenders been detained in community-based programs, \$670,000 would have been saved.

Despite the financial burdens of institutionalization, the point was repeatedly made in public forums that institutionalization - particularly pretrial detention - serves a valuable and even essential purpose for rehabilitation. It should be noted that according to the 1971 Georgia Juvenile Court Code Section 24A-1401, the only reasons justifying the pretrial detention of any juvenile, both delinquent and unruly, are the

safety and protection of the child or community and the likelihood of the child's appearance at trial.

However, according to Georgia statistics, institutionalization is not always occurring as a result of a thoughtful plan tailored to meet the needs of an individual child. Apparently, detention centers tend to be used simply because they have been built and are operational and available for use. Across the State, the Georgia juvenile courts detain 48% of all juveniles (both delinquents and the unruly) and 34% of all status offenders. Such action is more than double the national rate of detention and three to five times the recommended professional standard. Despite this extraordinarily high detention rate of status offenders, Georgia does not demonstrate a decrease in juvenile recidivism.

Furthermore, pretrial detention of status offenders is also being used for purposes not authorized under the Georgia Juvenile Court Code. Of all status offenders who have been ordered detained prior to trial, all but 4% are ultimately returned home or to community-based programs. It seems highly unlikely that the legitimate reasons thought sufficiently compelling to justify initially holding a child would somehow fail to exist at the time of trial.

There seems to be little, if any, justification for the detention of children in Georgia jails. However, in 1974, 702 status offenders were jailed. Moreover, the facts do not sustain the argument that most of these children were held only briefly in jails due to law enforcement manpower shortages - the average length of stay for these juveniles was 2.8 days.

Inconsistent institutionalization of status offenders

provides yet another argument in favor of deinstitutionalization. For example, the juvenile courts of 55 counties made no use of jail as a detention facility in 1975. However, in contrast, one juvenile court judge during this same year ordered 145 juveniles held in jail despite the fact that there was available to him within the borders of the county a regional youth detention center. The Youth Services Division of the Department of Human Resources has found no pattern to explain the disparate use of jailing - not rural/urban, type of offense, past record, nor availability of alternative community resources - except the attitude of law enforcement officials or the juvenile court judge.

There is no indication that institutionalization of status offenders in Georgia works in terms of rehabilitating a child. To the contrary, there are considerable risks of harm to the child in terms of dislocation from his community, enforced association with the adult offender or delinquent and the ostracism which can result from his having been "sent away" for whatever period.

Another major problem area encountered in the study was in relation to the methods of dealing with truancy problems. Here a basic discrepancy is presented in that removal from school (suspension or expulsion) constitutes the present solution in truancy cases. Testimony was repeatedly heard throughout the State favoring the institution of uniform "In-house Suspension Programs." These programs would collectively place the truants in special classes and thus keep them within the confines of the educational system. Several school systems in Georgia have already initiated programs of this type with favorable results.

Recommendations

The Senate Committee has concentrated much time and deliberation into all facets of the controversy over status offenders. Based on the information collected and presented to it, the Committee makes these recommendations:

(1) The juvenile court shall retain jurisdiction over status offenders.

(2) Twenty-four hour intake procedures should be provided. The juvenile court judge, probate court judge, referee or other person appointed by the judicial court judge shall determine whether or not a child taken into custody shall be detained and, if so, the appropriate place of detention. Furthermore, if transportation for the child is necessary, the political subdivision in which the child was taken into custody shall bear the costs of such transportation.

(3) A maximum of 72 hours' detention (including weekends and holidays) shall be allowed before an informal detention hearing is held. Uniform records shall be maintained on all children in pretrial detention.

(4) The placement of any status offender in a common jail or in any room of detention with adult offenders shall be prohibited.

(5) The facilities to be utilized for the detention of status offenders shall include only the following: licensed foster homes or homes approved by the court, a facility operated by a licensed child welfare agency or a detention home or center for delinquent children under the direct supervision of the court or other authorities approved by the court. No child shall be

placed in secure detention unless the facilities listed above are not available, the court determines that secure detention is necessary to insure that the child will not harm himself or others, or such detention is in a room separate and removed from those for adults.

The Committee also makes these general recommendations for future consideration:

(1) A uniform type of "In-house Suspension" program should be instituted in Georgia's educational system. However, the Department of Education should be involved in formulating the structure and details of such a program.

(2) A different method of selecting juvenile judges should be developed. Under the present system, juvenile judges are appointed by superior court judges. One possible alternative would be to establish by law a Council of Juvenile Court Judges for the review and selection of juvenile judges.

(3) It has been noted that many times juvenile judges are not fully aware of all alternative detention facilities and diversion programs available to them. To remedy this situation, juvenile judges could be mandated to attend annual in-service instructional seminars in which all alternative possibilities would be presented to them.

(4) There is a significant disparity in the amount of funds allocated to the juvenile justice system. Because 45% of all crimes are committed by juveniles, a much larger portion of available funds should be spent in this area. However, such is not the case and only a small percentage of the allocated funds are used in the area of juvenile justice.

In conclusion, this Committee recommends the

introduction of the attached bill during the 1977 session of the General Assembly to implement the recommendations outlined herein.

Respectfully submitted,

/s/ FLOYD HUDGINS, CHAIRMAN
FLOYD HUDGINS, CHAIRMAN
SENATOR, 15TH DISTRICT

/s/ PETER L. BANKS
PETER L. BANKS
SENATOR, 17TH DISTRICT

/s/ ED BARKER
ED BARKER
SENATOR, 18TH DISTRICT

/s/ ROBERT H. BELL
ROBERT H. BELL
SENATOR, 5TH DISTRICT

/s/ PERRY J. HUDSON
PERRY J. HUDSON
SENATOR, 35TH DISTRICT

A BILL TO BE ENTITLED

AN ACT

1 To amend Code Title 24A, the Juvenile Court Code, 26
 2 as amended, so as to define certain terms; to change the 27
 3 provisions relating to the apprehension, custody and release 28
 4 of children; to provide for certain types of detention prior 29
 5 to a court hearing; to provide for release of certain
 6 juveniles after a certain period of time; to provide for 30
 7 cost of transporting children to places of detention; to 31
 8 change the provisions relating to places of detention; to 32
 9 prohibit the placement of certain children with adult
 10 offenders; to require certain records concerning children 33
 11 held in pretrial detention; to limit the number of hours in 34
 12 which a child alleged to be delinquent may be held prior to 35
 13 the informal detention hearing; to repeal conflicting laws;
 14 and for other purposes. 36

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA: 39

16 Section 1. Code Title 24A, the Juvenile Court 42
 17 Code, as amended, is hereby amended by adding at the end of 43
 18 Code Section 24A-401 a new subsection to be designated 44
 19 subsection (k) to read as follows:

20 "(k) 'Juvenile court intake officer' means the 46
 21 juvenile court judge, referee, court service worker or 47
 22 person employed as a juvenile probation or intake 48
 23 officer designated by the juvenile court judge, or where
 24 there is none the superior court judge, which person is 49
 25 on duty for the purpose of determining whether any child 50
 26 taken into custody should be released or detained, and 51
 27 if detained, the appropriate place of detention. Each

1 superior or juvenile court judge shall provide for one 52
 2 of the above persons to be on duty or on call as an 53
 3 intake officer during each 24-hour period."

4 Section 2. Said Code Title 24A is further amended 56
 5 by striking Code Section 24A-1402 in its entirety and 57
 6 inserting in lieu thereof a new Code Section 24A-1402 to 58
 7 read as follows:

8 "24A-1402. Release, delivery to court, detention. 60
 9 (a) A person taking a child into custody, with all 61
 10 reasonable speed and without first taking the child 62
 11 elsewhere, shall:

12 (1) forthwith release without bond the child 64
 13 to his parents, guardian or other custodian upon 65
 14 their promise to bring the child before the court
 15 when requested by the court; or 66

16 (2) forthwith deliver the child to a medical 68
 17 facility if the child is believed to suffer from a 69
 18 serious physical condition or illness which
 19 requires prompt treatment and upon delivery shall 70
 20 promptly contact a juvenile court intake officer. 71

21 Immediately upon being notified by the person
 22 taking a child into custody, the intake officer 72
 23 shall determine if such child should be released, 73
 24 detained or brought before the court. Prior to an
 25 informal detention hearing or committal hearing 75
 26 authorized under Chapter 27-24, such child shall be
 27 placed in detention, if necessary, only in such 76
 28 places as are authorized by Section 24A-1403; or 77

29 (3) bring the child immediately before the 79
 30 juvenile court or promptly contact a juvenile court 80
 31 intake officer. The intake officer shall determine
 32 if such child should be released or detained. 81
 33 Prior to an informal detention hearing, such child 82

1 shall be placed in detention, if necessary, only in 82
 2 such places as are authorized by Section 24A-1403; 83
 3 or
 4 (4) bring the child who is suspected of 85
 5 committing a delinquent act before the superior 86
 6 court of the county where the delinquent act
 7 occurred if the act is an act over which the 87
 8 superior court has concurrent jurisdiction as 88
 9 provided in Section 24A-301(b); however, pending a
 10 committal hearing authorized under Chapter 27-4 or 89
 11 indictment, such child shall be returned and placed 90
 12 in detention, if necessary, only in such places as
 13 are authorized by Section 24A-1403. 91
 14 (b) If a parent, guardian or other custodian, when 93
 15 requested, fails to bring the child before the court as 94
 16 provided in subsection (a), the court may issue its 95
 17 order directing that the child be taken into custody and
 18 brought before the court. If it is necessary to place 96
 19 the child in detention prior to his appearance in court, 97
 20 such child shall be placed in a facility as authorized 98
 21 by Section 24A-1403.
 22 (c) The person taking a child into custody shall 10
 23 promptly give written notice thereof, together with a 10
 24 statement of the reason for taking the child into 10
 25 custody, to a parent, guardian or other custodian and to
 26 the court. Any temporary detention or questioning of 10
 27 the child necessary to comply with this Section shall 10
 28 conform to the procedures and conditions prescribed by 10
 29 this Code and rules of court.
 30 (d) All juveniles subject to the jurisdiction of 10
 31 the juvenile court and alleged to be delinquent or 10
 32 unruly, on application of the parent or guardian, shall 10
 33 have the same right to bail as adults and the judge 11
 34 shall admit to bail all juveniles under his jurisdiction

1 in the same manner and under the same circumstances and 111
 2 procedures as are applicable to adults accused of the 112
 3 commission of crimes.
 4 (e) With respect to a child suspected of being 114
 5 unruly as defined in Code Section 24A-401(q) and (h), a 116
 6 person taking such a child into custody shall not
 7 exercise custody over such child except for a period of 117
 8 12 hours. If a parent or guardian or juvenile court 118
 9 intake officer has not assumed custody of the child at
 10 the end of such period or if the child has not been 119
 11 brought before the juvenile court, the child shall be 120
 12 released from custody. In no case shall such a child in 121
 13 custody be detained in a jail."
 14 Section 3. Said Code Title 24A is further amended 124
 15 by striking in their entirety paragraphs (4) and (5) of 125
 16 subsection (a) of Code Section 24A-1403 and inserting in 126
 17 lieu thereof a new paragraph (4) to read as follows:
 18 "(4) any other suitable place or facility 128
 19 designated or operated by the court; provided, however, 129
 20 that the court shall not designate a place of security
 21 unless:
 22 (A) the facility in paragraph (3) is not 131
 23 available; and
 24 (B) the court determines that detention in a 133
 25 place of security is necessary to insure that the 134
 26 child will not harm himself or others; and
 27 (C) the detention is in a room separate and 136
 28 removed from those for adults and constructed in 137
 29 such a way that there can be no physical contact
 30 between a child and an adult offender; provided, 138
 31 however, that a child shall not be incarcerated in 139
 32 such a facility for more than 18 hours."

1 Section 4. Said Code Title 24A is further amended
2 by striking in its entirety subsection (e) of Code Section
3 24A-1403 and inserting in lieu thereof three new
4 subsections, to be designated subsections (e), (f) and (g),
5 to read as follows:

6 "(e) A child alleged to be unruly may be detained
7 or placed in shelter care only in the facilities stated
8 in paragraphs (1) and (2) of subsection (a) or in a
9 secure juvenile detention facility for a period not to
10 exceed 72 hours.

11 "(f) A child alleged to be deprived may be detained
12 or placed in shelter care only in the facilities stated
13 in paragraphs (1) and (2) of subsection (a) or in a
14 shelter care facility operated by the court.

15 "(g) All facilities that detain juveniles for
16 pretrial detention shall maintain the following data on
17 each child detained:

- 18 (1) name;
- 19 (2) date of birth;
- 20 (3) sex;
- 21 (4) race;
- 22 (5) offense(s) for which being detained;
- 23 (6) date of and authority for confinement;
- 24 (7) date of and authority for release or
25 transfer;

26 (8) where transferred or to whom released.
27 Such data shall be recorded and retained by such
28 facility for three years and shall be made available for
29 inspection by any court exercising juvenile court
30 jurisdiction, by the Department of Human Resources and
31 by the Georgia Council of Juvenile Court Judges during
32 normal business hours."

33 Section 5. Said Code Title 24A is further amended

1 by striking in their entirety subsections (b) and (c) of 182
2 Code Section 24A-1403 and inserting in lieu thereof new 183
3 subsections (b) and (c) to read as follows:

4 "(b) A child alleged to have committed an offense 185
5 over which the superior court has concurrent 186
6 jurisdiction under Code Section 24A-301(b) shall be
7 detained pending a committal hearing under Code Chapter 187
8 27-24 or indictment only in a facility described in 188
9 paragraphs (1) through (3) of subsection (a) unless it 189
10 appears to the satisfaction of the juvenile court that
11 public safety and protection reasonably require. 190
12 detention in the jail and the court so orders, but only 191
13 where the detention is in a room separate and removed
14 from those for adults. 192

15 "(c) Following an indictment for an offense over 194
16 which the superior court has jurisdiction under Code 195
17 Section 24A-301(b) or following the transfer of a case 196
18 to any court for criminal prosecution under Code Section
19 24A-2501, the child shall be transferred to the 197
20 appropriate officer or detention facility in accordance 198
21 with the law governing the detention of persons charged
22 with crime."

23 Section 6. Said Code Chapter 24A is further 201
24 amended by striking subsection (c) of Code Section 24A-1404 202
25 in its entirety and inserting in lieu thereof a new 203
26 subsection (c) to read as follows:

27 "(c) If a child alleged to be delinquent is not so 205
28 released, an informal detention hearing shall be held 206
29 promptly and not later than 72 hours (excluding weekends 207
30 and holidays) after he is placed in detention to
31 determine whether his detention or shelter care is 208
32 required under Section 24A-1401; provided, however, that 209
33 with respect to any child alleged to be unruly, the

1 informal detention hearing shall be held promptly and 210
2 not later than 72 hours. Reasonable notice thereof, 211
3 either oral or written, stating the time, place and
4 purpose of the detention hearing, shall be given to the 212
5 child, and if they can be found, to his parents, 213
6 guardian, or other custodian. In the event the child's
7 parents, guardian or other custodian cannot be found, 214
8 the court shall forthwith appoint a guardian ad litem. 215
9 Prior to the commencement of the hearing, the court 216
10 shall inform the parties of their right to counsel and
11 to appointed counsel if they are needy persons, and of 217
12 the child's right to remain silent with respect to any 218
13 allegations of delinquency or unruly conduct."

14 Section 7. All laws and parts of laws in conflict 221
15 with this Act are hereby repealed. 222

END