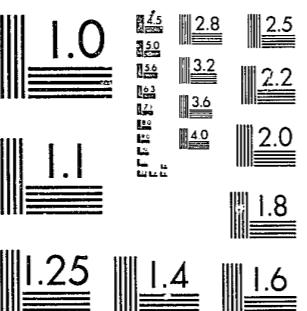


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Department of Justice
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Office of Juvenile Justice and Delinquency Prevention

REMOVAL OF JUVENILES FROM ADULT JAILS AND LOCK-UPS:

A Review of State Approaches and Policy Implications

78755

March 1981

UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION
WASHINGTON, D.C. 20531



FOREWORD

REMOVAL OF JUVENILES FROM
ADULT JAILS AND LOCK-UPS:

A REVIEW OF STATE APPROACHES AND
POLICY IMPLICATIONS

Prepared for

U. S. Department of Justice

The Office of Juvenile Justice
and Delinquency Prevention

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U.S. Department of Justice
National Institute of Justice

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MARCH 1981

The removal of children from adult jails and lock-ups is a priority objective for the office of Juvenile Justice and Delinquency Prevention. Under recent congressional legislation, the Office is mandated to assist the states in achieving total removal over the next five years. This study is one of several steps the Office is undertaking in response to this mandate.

This study examines the experience of several states in their attempts to achieve removal. The states studied were those which have statutes that provide for total or near total removal of juveniles from adult jails and lock-ups. There are lessons to be learned from these states and the study brings them to light. For example, five critical issues which may affect state achievement of full removal are identified. Factors that may impede or accelerate removal are also discussed.

On behalf of the Office, I urge you to read this report and apply the findings as appropriate to your state's efforts to remove children from incarceration in adult jails and lock-ups and to join with the Office in the elimination of this national disgrace.

Charles A. Lauer
Acting Administrator
Office of Juvenile Justice
and Delinquency Prevention

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SUMMARY

The practice of holding juveniles in adult jails and lock-ups has been changing. Historically, this practice was overlooked by the reform movement because of the view that jails were places of short duration and performed a legitimate function within the juvenile justice system. This began to change with passage of the 1974 Juvenile Justice Act which called for the separation of juveniles from adults in jails and lock-ups. More recent legislation has gone even further. The Juvenile Justice Act of 1980, prohibits states from detaining or confining juveniles, "... in any jail or lock-up for adults." (Section 223(a)(14)). The federal government now is committed to a policy of removal.

Implementation of this policy at the state level may prove to be a complex matter. A number of factors can arise which impede a state's compliance with the removal objective. It is the purpose of this study to identify those critical issues which may affect state compliance, and to recommend strategies to deal with these issues. To achieve these objectives, ADL completed the following tasks:

- a survey of state juvenile legislation to identify those states which had or appeared to have prohibitions against holding juveniles in adult jails and lock-ups;
- a visit to selected states to obtain information on the nature, history and practice of their removal legislation;
- a classification of all fifty states according to their removal provisions; and,
- the development and presentation of the study's findings and recommendations.

Five critical issues which may affect state compliance with the removal objective were identified. These issues were considered potential impediments to compliance which must be accounted for if state level action is to result in keeping children out of adult jails and lock-ups. The issues and recommendations for dealing with the problems they pose are:

- the need for alternatives. States may need to develop policy guidelines that govern the holding of juveniles in adult jails and alternatives to jails as holding facilities. Federal technical and financial assistance may be needed in these areas.
- the role of state government. The level of state authority over detention services is important. States may need to develop removal strategies and amend state codes to bring about removal. The federal government can assist by developing guidelines that

require state governments to assume a leadership role, and providing technical assistance to states.

- the level of monitoring and enforcement. A state's level of compliance with the removal objective may depend upon the specific means used to monitor and enforce its removal provisions. Federal requirements and/or guidelines may assist states in developing these mechanisms.
- the remanding of juveniles and age of jurisdiction. State policies governing the transfer of certain juveniles to adult courts and the age of jurisdiction in juvenile court for these juveniles may affect a state's compliance with the removal objective. For example, serious and violent juvenile offenders may be likely candidates for these exemptions. Federal assistance may help the states by demonstrating ways of dealing with such juveniles. This assistance may prevent some states from amending or sustaining their laws in ways which are likely to circumvent the intent of the removal initiative.
- the effects of a general reform movement in the states. General systems improvements appears to be related to a state's status regarding the removal of juveniles from adult jails and lock-ups. Encouragement of greater system's improvement may ease the way for states to comply with the objective of removal.

These issues and recommendations were developed from seven state case studies. The states were selected for study because of statutes which provided for total or near total removal of juveniles from adult jails and lock-ups. These states were diverse enough in their characteristics to provide valuable lessons in accomplishing the removal objective. The states were Pennsylvania, Florida, Maryland, Connecticut, Rhode Island, Washington and Mississippi.

INTRODUCTION

Overview

Historically the U.S. juvenile justice system has been moving towards a policy of removing juveniles from adult jails and lock-ups. This process was slowed by the belief of many federal and state officials that children in jails represent a practical and necessary condition in the dispensing of justice. The movement was given impetus by the generally poor conditions of jails and lock-ups. A major development in obtaining removal was passage of the Juvenile Justice Act of 1980. This act contained a provision explicitly mandating removal of juveniles from adult jails and lock-ups.

Imposition of a uniform standard upon diverse state systems is destined to create difficulties in implementing the 1980 Act. The objective of this study was to identify key issues that could impede or accelerate removal in the states and recommend policy strategies to assist states in compliance efforts. To achieve this end, a number of tasks were completed. These included: (1) a survey of state juvenile legislation to identify states with prohibitions against holding juveniles in adult jails or lock-ups; (2) a visit to . . . /or telephone contact with states selected as having such legislation for the purpose of collecting information on their individual experiences; (3) a classification of all fifty states according to their removal provisions based upon a review of state statutes; and, (4) the identification of key removal issues and recommendations for policy strategies to deal with these issues.

Background

The juvenile justice system has been moving historically towards the removal of children from adult jails (or lock-ups). This proposition, that children not be placed or held in adult jails, is an extension of the logic that initially created a separate juvenile justice system. That logic has been augmented by the conditions of jails, including their environment, purpose and legal status. It has been this combination of factors that have propelled us towards a state, local and national policy of removal.

Reformers in the late 19th Century viewed with alarm the general practice of subjecting juveniles and adults to the same treatment in the criminal justice system. One manifestation of this practice was the confinement of children in adult jails. The solution to this perceived abuse of children was the creation of special juvenile justice systems (including courts and institutions) for the handling of juveniles. By 1920, most states followed the early example of Illinois and established a separate juvenile system in some form.

A very pronounced, philosophical position stood behind this practice of removing juveniles from the adult criminal justice system. Children, it was believed, were not fully accountable for their actions. Because of their age and inexperience, violations of the law by juveniles should not be viewed as criminal acts but as circumstantial events attributable to their youth. It was inhumane, then, to subject juveniles to the same harsh treatment as adults. This was true not only because of the non criminal nature of their acts, but also from the standpoint of exposing a child to such conditions. Further, children were viewed as redeemable. If the child could be redirected away from their former activities, he would become a productive adult. Thus, it was considered rational to protect the child from both the monstrous conditions of the adult system and a future of criminal activity.

Jails have been an institutional impediment to the objective of disengaging juveniles from the adult criminal justice system. Authorities have continued the practice of co-mingling juveniles and adults while other parts of the criminal justice have discontinued the practice. The police, courts and prisons have responded to the attempt through separation. But the holding of children in adult jails has persisted. This may be explained by the unique role that jails play in the criminal justice system, including the juvenile system.

Jails have served the juvenile and adult systems in different ways. Yet it has been the role of jails in the adult system that has shaped their conditions. As adult institutions, jails are and have been places of incarceration for short periods. Adults in jails are there as short term misdemeanants, for pre-trial detention, preventive detention, or awaiting transfer or release. Recently there have been occasions in several states where overcrowding in state institutions has resulted in state prisoners being held in local jails. Still, the length of stay has been relatively short. This short duration has tended to take jails out of the limelight of prison reform. The main emphasis for improving conditions has been on institutions where individuals remain five, ten, twenty years or life. Urgency has not been placed on jails, where the more typical pattern of incarceration is three, six months or one year.

The neglect of jail reform is changing as more emphasis is placed on improving conditions in jails. Despite these recent advances, however, jail conditions remain generally poor. Facilities are often old and physically deteriorating, lack proper sanitation, are overcrowded, and are understaffed or staffed with untrained personnel. Numerous other deficiencies exist that, when combined, produce conditions which adequately can be described as "inhumane." Clearly other institutions possess these qualities. Yet they are particularly characteristic of jails. Furthermore, the local autonomy of many jails makes the application of resources and legal/political sanction necessary for reform complex, difficult and,

in some cases, nearly impossible. It is in this environment that juveniles are frequently placed for what are considered legitimate reasons.

The placement and/or holding of juveniles in adult jails has been accepted by many practitioners as a legitimate function of the criminal justice system. Indeed, the reasons for such placement have fit the short term detention function that jails serve. Juveniles, as most adults, have not been placed in jail as punishment, but merely as a temporary holding situation. Additionally, many of the reasons for holding juveniles appear altruistic. Consider, for example, such reasons as protection from self, protection from others, a danger to others, and awaiting transfer and processing (fingerprinting, photographing, etc.). These are not punitive, and when prefaced with a requirement such as the sight and sound separation of juveniles from adults, create the impression of a necessary function that, while not ideal, is far from harmful. Advocates of juvenile justice reform disagree.

Arguments made in favor of the complete removal of juveniles from adult jails emphasize the negative consequences of exposing juveniles to the jail environment. Exposure to such conditions, even for a short period of time, can be detrimental and numerous incidents of suicide, brutalization and psychological disorder are cited to support this position. Such harm is not always mitigated by separation requirements and in some cases is made even worse. Frequently, the separation requirement results in the isolation of juveniles in facilities intended as a punitive device for adults (i.e., solitary confinement). Even the practical reasons for holding juveniles in adult jails, reformers contend, are not adequate. Alternative means can be found to such problems as overcrowding, uncontrollable behavior and most temporary holding situations. The convenience of jails is not justification for exposing juveniles to such conditions.

In addition to the practical and humanitarian issues in the holding of juveniles in jails controversy, there is also the question of the constitutionality of this practice. These same arguments have been raised as issues concerning the holding of adults in jails and they apply equally to juveniles. Constitutional questions concerning due process, cruel and unusual punishment and equal treatment have been raised relative to jails and both the adult and juvenile populations.* Also, there have been similar cases brought before state courts for violations of state laws. The point that holding juveniles in adult jails may be illegal adds an additional dimension to the issue.

Federal policy has moved towards the goal of removal of juveniles from adult jails and lock-ups. This effort has prodded state systems to follow, and in some cases exceed, federal standards. A major step in the direction of removal began with passage of the Juvenile Justice Act of 1974. This act called for the separation of juveniles from adults after being convicted of a crime or while awaiting trial (Section 223(13)). Some states went beyond this requirement towards the goal of removal.

*For example: White vs. Reid, 125 F. Supp. 649 (D.D.C. 1954); Kent vs. U.S., 383 U.S. 541 (1966).

Rhode Island and Connecticut, for example, had long standing requirements for removal, while others like Maryland, Florida and Pennsylvania passed removal legislation much more recently. Many states focused their attention on the goal of sight and sound separation, and did not address the question of removal. The results have been widely variant policies and practices among the states on the holding of juveniles in adult jails and lock-ups.

Recent developments at the federal level have occurred which may bring about significant changes in the states regarding the holding of juveniles in adult jails. The Office of Juvenile Justice and Delinquency Prevention Programs (OJJDP) announced in Spring 1980, a priority program aimed at the removal of juveniles from adult jails and lock-ups. The objective is to take juveniles out of jails, not just separate them from adults. This program promised to provide those resources and assistance needed to make total removal in the states a reality. This was followed by passage of the Juvenile Justice Act of 1980 (P.L. 96-509) which prohibits states from detaining or confining juveniles "...in any jail or lock-up for adults." (Section 223(a)(14)). The sight sound provision as applied to jails was supplemented by the new act's removal requirement. These events indicate that removal will be an important objective for OJJDP during the 1980's.

State compliance with the removal provision of the Juvenile Justice Act of 1980, is a complex matter. This complexity is derived from two key sources. First, the provision language of the Federal Act is a general policy statement. It is not a precise blueprint for action at the policy application level. This raises questions such as the meaning of compliance and the range of compliance for the states. Such factors will become even more acute as states attempt to comply with the Act. Secondly, the imposition of a uniform standard on diverse state systems will raise a number of issues that affect compliance. Some states, for example, will be much closer or amenable to compliance than others. In order to reach the goal of the total removal of juveniles from adult jails, OJJDP must be sensitive to these issues and the fact that compliance will not be achieved effortlessly.

Objective

ADL's goal in this study is to identify and analyze key issues that may affect state compliance with the jails' removal provision of the Juvenile Justice Act of 1980. These issues provide OJJDP with crucial information for constructing policy strategies to assist states and achieve the goal of removal through state compliance with the Act. Several, more immediate objectives constitute this goal. These are:

- Survey of States - A survey of all fifty states and federal jurisdictions to obtain some baseline national information on the status of removal. This information will provide an

overview of which states allowed or prohibited the holding of juveniles in adult jails, circumstances under which they can be held, and other relevant factors such as separation requirements and age of eligibility for transfer to adult court.

- Identify removal states - States which are in compliance with the removal provisions of the 1980 Federal Act or those near compliance are valuable sources of information. These states have had long and short term experiences with the practical consequences of removal. Through them some major lessons can be learned and issues identified that are useful in other states.
- Issue Identification - There are several key issues that pertain to removal compliance. These may affect a state's capability of achieving compliance with the 1980 act. Some of these will be peculiar to individual states. Others, however, may transcend a particular state and be applicable to all states or some large subset of states. These key issues will be the basis for recommended policy strategies.
- Recommendations - Based upon the above information, recommendations are made for possible policy directions OJJDP may take to achieve state compliance. These are not specific policy choices, but are primarily concerned with the major issues that impede compliance and what can be done to overcome these.

Methodology

In order to meet the stated objectives, the following tasks were completed:

- TASK 1: Survey of States - A survey of state juvenile legislation and policy was conducted. This was to identify those states which had or appeared to have prohibitions against holding children in adult jails. Secondary sources were used in this identification process. These included federal government agency reports, state juvenile justice plans and state agency reports. From this survey six states and the District of Columbia were identified as having a policy of total removal of juveniles from adult jails. The states initially selected were Maryland, Pennsylvania, Rhode Island, Connecticut, Washington and Mississippi.
- TASK 2: State Reconnaissance - A telephone query of the selected states and D.C. was made to verify the removal provisions in their legislation. Based upon this contact, a visit was planned to each jurisdiction. All jurisdictions were visited by ADL staff with the exception of Washington State. Conditions in that area (eruption of Mount St. Helen) made travel difficult during the study visitation period.

As an alternative, extensive telephone interviews were conducted with individuals in Washington.

The purpose of these visits was to obtain information on each jurisdiction's status and history regarding removal. This information was acquired through personal interviews and documentation. The sources of this information varied by jurisdiction. However, these sources usually included the following:

I. Personnel

- State Planning Agencies
- State and/or local police
- Juvenile or Family Court Judges
- State Legislators and Staff
- Youth Advocacy groups
- State Youth Services Departments
- Juvenile Institutional Staff

II. Documents

- State Agency reports
- State Budgets
- State Data Archives

Following these visits further contact was maintained with these sources by telephone and mail. One additional visit was made to Florida. During this study that state adopted a more stringent removal provision. Consequently, Florida was incorporated into the study. At the same time it was decided to eliminate the District of Columbia from the study because of its unique status as a Federal district.

TASK 3: State Classification - All fifty states were classified according to their removal provisions. This was based upon a review of state statute by ADL. This classification rated states by the following criteria:

- Permits holding of juveniles in adult jails
- Circumstances under which a state permits holding including age, offense, lack of juvenile detention facility space, etc.
- Sight/sound separation requirements
- Time limits on detention
- Permits holding of status offenders
- Permits holding of non-offenders
- Age of juvenile court jurisdiction
- Juvenile court jurisdiction over traffic offenses
- Age at which a juvenile can be waived to adult court.

This information was designed to highlight major issues in the quest for removal and to provide a synopsis of all states relative to the removal of juveniles from adult jails.

TASK 4: Findings and Recommendations - Following the acquisition of information from the seven selected states, several critical issues were identified by ADL. These issues represented key factors that must be accounted for in a successful removal initiative. They represent possible impediments to achieving a national system which excludes juveniles from adult jails. The issues identified were:

- Alternatives to Jail Placement
- State Role In Detention Services
- Monitoring and Enforcement
- Transfer and Age of Jurisdiction
- General Reform

These issues then were analyzed for their potential effect upon state and federal attempts to bring about removal. This analysis provided the basis for recommended policy directions.

The following section reports the results of our issue analysis.

FINDINGS AND RECOMMENDATIONS

Summary

This section presents a number of key issues that relate to the question of achieving the removal of juveniles from adult jails through compliance with the Juvenile Justice Act of 1980. These issues were found to be potential impediments to that effort. They focus upon situations and factors that must be accounted for if compliance with the act's removal provision truly results in keeping children out of adult jails. Ignoring these can mean that compliance will be no more than an empty gesture. The issues are:

Alternatives - The development of less restrictive and/or community based alternatives has been a key factor in developing state legislation removing juveniles from adult jails and lock-ups.

State Role - The degree of detention authority assumed by the state was instrumental in determining the extent to which that state moved towards total removal.

Monitoring and Enforcement - Two factors appear to influence a state's level of removal. First is the degree to which a state

monitors compliance with its removal criteria. The second is the severity and type of sanctions a state can invoke in enforcing compliance with its removal criteria.

Remanding and Age of Jurisdiction - The provisions a state has for remanding juveniles to adult jurisdiction and the age at which a juvenile becomes an adult may have some impact upon compliance with state and federal removal criteria.

General Reform - An atmosphere of "general reform," highlighted by the 1974 OJJDP Act, prompted states to adopt removal legislation of various degrees.

These issues were developed from information obtained in seven state case studies. The case studies are presented in the following section. While these issues may not be generalizable to all remaining states, our information suggests that they will be important factors in most. Any program initiative designed to assist states in their removal effort should address these issues. The issues and recommendations based on these issues follow.

Alternatives

The development of less restrictive and community-based alternatives has been a significant factor in the implementation of legislation prohibiting the jailing of youths in adult facilities. Two instances of the importance of alternatives in the removal movement are seen in Maryland and Pennsylvania. In Maryland the lack of regional detention centers and community-based alternatives to institutionalization was the primary obstacle in the acceptance of the revised juvenile code between 1969 and 1978. Enactment of the legislation was postponed for two 3-year periods, implemented and immediately withdrawn, and finally enacted three years later, nine years after original passage. During the period of postponements, the Department of Juvenile Services worked to establish a number of regional detention centers and funded transportation services for those counties which did not have and/or did not want local detention services.

The establishment of alternatives played a different role in Pennsylvania. Act 41 (Juvenile Act), passed in August, 1977, had a deliberate adjustment period until December 31, 1979 so that counties could develop alternatives to institutionalization and detention in adult facilities. By infusing funds into the counties through funding reimbursement incentives favoring the least restrictive community-based alternatives, providing technical assistance to county agencies in developing their action plans under the new laws, and providing information about the types of alternatives already operating in the state, they were able to ease the load to full implementation of the Act. The emphasis on developing alternatives began prior to drafting and passage of the Act and continued once the Act was passed.

Several conclusions can be drawn about the role of alternatives in the removal of youth from adult jails and lock-ups. These are:

- 1) Support for removal legislation can be enhanced greatly by establishing or expanding alternative services. In Maryland and Pennsylvania, different approaches were taken to provide counties and localities with alternatives. However, both provided a range of alternatives from community-based group homes and other non-secure settings to secure regional detention centers. It is likely that a failure to provide both secure and non-secure alternatives would have resulted in pockets of resistance to the legislation.
- 2) Not all counties or communities are willing to establish alternatives within their jurisdiction. Some counties declined to establish alternatives even though state resources were available. In Maryland, there was resistance both to establishing separate juvenile detention centers as well as to transporting youth to counties with juvenile detention centers, in favor of the traditional practice of jailing youth in the county lock-up. Ultimately, the Department of Juvenile Services negotiated either detention facilities or transportation services throughout the state.
- 3) The establishment or expansion of alternatives should be based upon concrete knowledge of the need for particular alternative settings and the resources necessary to establish them. Pennsylvania calculated the number of secure and non-secure spaces needed to deinstitutionalize status offenders and remove juveniles from jails and lock-ups and mounted a statewide effort to fund them. On the other hand, they did not determine the ultimate amount of funds they would and could provide, and currently owe greater reimbursements to the counties than they have funds to provide. They also are confronted with a statewide budget crunch resulting in a 35% decrease in child welfare funds.

• Recommendations

If states are going to accomplish the removal of juveniles from adult jails and lock-ups, the establishment or expansion of alternative settings is essential. Policies and guidelines consistent with state statute should be developed and should be supported with technical and financial assistance to state and local agencies affected by removal.

1. Policies and Guidelines

As in the movement to deinstitutionalize status offenders, states and localities may anticipate a tremendous financial burden and impact on the youth service system resulting from the removal of juveniles from adult jails and lock-ups. This apprehension can be diminished, in part, through policies and guidelines. In particular, a policy supporting the use of a range of alternative settings to achieve removal should be promulgated. This policy should recognize the need to determine the appropriate mix of programs, settings and procedures necessary to eliminate the future use of adult jails and lock-ups to detain juveniles.

2. Technical Assistance

States can enhance the use of alternatives to achieve removal through technical assistance in planning for removal and in improving some existing juvenile justice and youth service system operations. Planning assistance should include helping states in the following areas:

- conducting a detailed needs assessment to determine the number and type of services and facilities necessitated by removal;
- developing means of determining the capability of existing resources and processes to achieve removal;
- determining the funds necessary to establish or expand services;
- designing an action plan to achieve removal. This plan may include drafting legislation and agency rules and regulations supporting the use of alternatives to achieve removal and designing a funding program which will make alternative resources available.

Systems improvement technical assistance may focus on improving the processes in existing alternatives for handling juveniles in the justice system. For example, improvement of intake and placement decision-making procedures, specification of detention criteria, and, monitoring procedures in jails and lock-ups can contribute to reduction in jailing juveniles.

3. Financial Assistance

Financial assistance to state efforts at establishing alternatives linked directly to the removal of juveniles from adult jails and lock-ups should be given high priority.

State Role

In the examination of the factors related to removing juveniles from adult jails and lock-ups it becomes apparent that the willingness of the state to assume more responsibility for detention services is important. In all but one of the states in which legislation has been enacted and implemented, the state has assumed increased responsibility for secure facilities. In Rhode Island, Connecticut, Florida, and Maryland the state has assumed operating responsibility for juvenile detention centers. In Pennsylvania, the state made provision for financial incentives. Washington State did not increase the state's role in providing detention services and in this state, even though the legislation has existed for almost twenty years, there are still several adult jails and lock-ups that continue to detain juveniles primarily in less populous areas. In Mississippi one of the reasons given for eliminating the language requiring juveniles to be removed from adult jails and lock-ups was an unwillingness of the state to become more involved in a traditional responsibility of county government.

• Recommendations

In view of the experiences in these states it may be prudent for the Office of Juvenile Justice and Delinquency Prevention to consider the following:

- development of planning guidelines that require each state to consider and delineate clearly the extent of the state's role in bringing about removal of juveniles from adult jails and lock-ups;
- establishing technical assistance to state agencies designed to implement removal strategies found to be effective in the states included in this study (e.g., regionalization of detention facilities, state subsidy programs and state assumption of detention service responsibility);
- providing model legislation that incorporates removal requirements into state juvenile codes and which mandates a state agency responsibility for the implementation of the provisions.

Monitoring and Enforcement

In addition to providing operational and financial support implementing the removal of juveniles from adult jails and lock-ups, another important element is monitoring. For example, in Rhode Island, the Family Court judges fulfill this function. Anytime a juvenile is detained, a judge of the Family Court must be contacted and must give authorization for the child to be detained. In Pennsylvania, the Attorney General has a unit assigned from his office to review the inappropriate placement of a child needing detention.

None of the states included in this study established any civil or criminal penalties for detaining a child in an inappropriate facility. It was indicated that in Rhode Island the judges would hold through their powers, an official accountable who had the temerity to fail to get authorization to detain a child. In Pennsylvania, the Community Advocate Unit has all the power to prosecute violations of state law inherent in the Attorney General's office. However, the CAU chose to rely on negotiation rather than legal action to gain cooperation. In other states, the individual child must seek redress for civil rights violations as was done successfully in Mississippi in the Federal Court.

• Recommendations

The 1980 Amendments to the JJDP Act change the monitoring and reporting requirements in section 223(a)(14) [changed to 223(a)(15)] to read,

" provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to insure that requirements of paragraph (12)(A), paragraph (13) and paragraph (14) are met, and for annual reporting of the results of such monitoring to the Administrator; except that such reporting requirements shall not apply in the case of a state which is in compliance with the other requirements of this paragraph, which is in compliance with the requirements in paragraph (12)(A) and paragraph (13), and which has enacted legislation which conforms to such requirements and which contains, in the opinion of the Administrator, sufficient enforcement mechanisms to ensure that such legislation will be administered effectively."

OJJDP should consider the development of a policy memorandum which specifically defines "sufficient enforcement mechanisms." This memorandum should contain: 1) an outline of the criteria the Office will use in making its determination; and 2) examples of how these criteria may be used by the state units monitoring and enforcement activities.

Technical Assistance may be needed to assist states in the replication and implementation of such programs as the Community Advocate Unit used in Pennsylvania and in the development of juvenile court rules as occurred in Rhode Island.

Transfers and Age of Jurisdiction

Two areas that need to be addressed in a discussion of removing juveniles from adult jails and lock-ups is transfers of juvenile cases to adult courts and the age of jurisdiction in juvenile courts.

As documented in a study conducted by the National Center on Institutions and Alternatives, the numbers of youth under 18 years of age in adult prison increased 37.7% between 1973 and 1979. (Sentenced Prisoners Under 18 Years of Age in Adult Correctional Facilities: A National Survey. March, 1980, p.12) This study indicates that there has been an overall increase in the numbers of juveniles remanded to adult courts and therefore the adult jails and corrections system. The question may be asked if removing juveniles from adult jails and lock-ups will result in more transfers of juveniles into the adult system. The answer is probably no. Incidents of waivers appear to be increasing in many states not requiring removal and there may be a perceived relationship in states enacting removal legislation as they also have revised other portions of their codes at the same time. The two issues, removal and remanding, appear to be unrelated. Transfers to adult courts appear to be a function of community tolerance or, in some states, volume of cases (e.g., Washington State motor vehicle violations, and fish and game law violations).

A related issue is age of jurisdiction. In Connecticut juvenile court jurisdiction expires at 16 years of age in delinquency matters. This has been a long established age and, as a result, a number of 16 and 17 year olds are in the adult system. There does not appear to be a direct connection between prohibiting the detention of juveniles in adult jails and lock-ups and the age of court jurisdiction. It was indicated, however, in Connecticut that if the Juvenile Justice and Delinquency Prevention Act was interpreted to require removing all minors under 18 years of age from the adult facilities, they would experience significant difficulties.

• Recommendations

The age of jurisdiction and transfers to adult courts are perceived as only indirectly related to the removal issue. It is, however, important that the activities of states in these areas be monitored. Removal of juveniles from adult jails and lock-ups, to the extent required by the Act, may require states to amend their juvenile codes. This may cause some states to revise age limits and/or transfer provisions. Should this happen, the ability of the Office to intercede would be questionable.

A proactive stance by the Office demonstrating effective measures available to states for dealing with serious and/or violent offenders, the usual remanded population, is recommended.

CASE STUDIES

General Reform Movement

The most common factor in those states recently enacting removal legislation is the attempt to comply with the Juvenile Justice and Delinquency Prevention Act of 1974. Although there were movements afoot in Maryland and Pennsylvania prior to the passage of the JJDP Act, the Act provided compliance requirements that solidified and focused those movements more directly than before. Both of these states were moving to less restrictive and community based facilities for youth and the reduction in the institutionalization of youth. With the enactment of the JJDPA they charted different courses to achieve compliance and further the attainment of their original goals.

In virtually all of the states, the removal provisions were part of a more comprehensive code revision and for that reason the removal of juveniles from adult jails and lock-ups did not emerge as a significant issue or one around which opposition focused.

• Recommendations

The Office may find an effective strategy for the implementation of the removal requirements to be as a part of a general reform movement. In this scenario, the issue of removing delinquents from adult jails or lock-ups may become a subset of a larger effort such as overall jail reform or redrafting of the state's juvenile code.

An alternate scenario would be to specifically focus on the prohibition to placement of juveniles in adult jails and lock-ups from which more generalized reforms of the system may be generated. For example, examination of intake and detention criteria could lead to scrutiny of all intake and detention policies and processes leading to more reforms than removing youth from adult jails.

Introduction

Seven state case studies were conducted by ADL to determine the problems associated with and the impediments to the removal of youth from adult jails. These states were selected because of statutes which provided for total or near total removal of juveniles from adult jails. It was felt that the experiences and lessons learned in these states would be valuable to OJJDP in constructing policies and programs to assist states in their removal efforts.

These case studies do not constitute a representative sample. Therefore, our ability to generalize from them is limited. We do believe, however, that the states are diverse enough in size, geography, history and population to provide a valid example of the types of situations and problems that will be encountered in a national effort towards removal. The seven states are Pennsylvania, Florida, Connecticut, Rhode Island, Washington, Maryland and Mississippi. A case study for each state follows.

PENNSYLVANIA

Introduction

In August, 1977, the Pennsylvania Legislature passed Act 41, the Juvenile Act, which constituted revision of their laws governing the handling of juvenile offenders and non-offenders. Section 14 of Act 41 stipulates the conditions under which youth can be detained. The law prohibits the placement of juveniles who are under juvenile court jurisdiction in any jail or lock-up which also contains adults. This report describes:

- the parts of the Act relevant to this prohibition;
- the drafting and passage of the Act;
- the factors contributing to the legislative movement and key actors and agencies involved in the process; and
- the apparent impacts of the legislation on the juvenile justice and youth serving systems in the state.

Although the Act was passed in August, 1977, it did not require full compliance until December 31, 1979. Thus, its effects will become more evident as counties and localities gain more experience in implementing its requirements.

Legislative Requirements

Act 333 of 1972, as amended by Act 41 of 1977, constitutes the Juvenile Act in the State of Pennsylvania. Within the Act is specific language which stipulates the requirements for detaining youth. The Act specifically states those facilities which may be used for the detention of alleged delinquent youth:

Section 14. Place of Detention - (a) A child alleged to be delinquent may be detained only in:

- (1) A licensed foster home or a home approved by the court;
- (2) A facility operated by a licensed child welfare agency or one approved by the court;
- (3) A detention home, camp, center or other facility for delinquent children which is under the direction or supervision of the court or other public authority or private agency, and is approved by the Department of Public Welfare; or
- (4) Any other suitable place or facility, designated or operated by the court and approved by the Department of Public Welfare.

Act 41, defines "child", i.e., juvenile, as an individual who is: (i) under the age of eighteen years, or (ii) under the age of twenty-one years who committed an act of delinquency before reaching the age of eighteen years...." The Department of Public Welfare defines an adult as "a person who is 18 years or older; or a person who is fourteen or more years and less than 18 years, who has been certified as an adult to stand trial in criminal Court, unless the court orders that the juvenile, if unable to be released on bail, be detained as a juvenile." A delinquent child means specifically "a child ten years or older whom the court has found to have committed a delinquent act and is in need of treatment, supervision or rehabilitation." Such children must be dealt with in the Family Court Division or by a judge of the court assigned to conduct juvenile hearings, with several exceptions.

Section 14 further contains an absolute prohibition against detaining such children in adult jails and lock-ups. Specifically, it states:

Under no circumstance shall a child be detained in any facility with adults, or where he or she is apt to be abused by other children. Until December 31, 1979, a child may be detained in a facility with adults if there is no appropriate facility

available within a reasonable distance or a contiguous county, whichever is nearer, for the detention of a child in which case the child shall be kept separate and apart from such adults at all times and shall be detained under such circumstances for not more than five days.

(b) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be under the age of eighteen years is received at the facility and shall bring him before the court upon request or deliver him to a detention or shelter care facility designated by the court.

(b.1) After December 31, 1979, it shall be unlawful for any person in charge of or employed by a jail knowingly to receive for detention or to detain in such jail any person whom he has or should have reason to believe is a child. Until such time, a jail may be used for the detention of a child who is alleged to be delinquent only if such detention is necessary for the safety of the public and if such jail has been approved for the detention of such child by the Department of Public Welfare in good faith and such detention has been ordered by the court. The Department of Public Welfare shall approve for use for purposes of and in accordance with the provisions of this section any jail which it finds maintains, for the detention of any such child, any appropriate room under adequate supervision; provided, that the Department of Public Welfare shall, no later than sixty days after the effective date of the act, by regulation promulgate standards governing the operations of such provisions of such jails as are used for the detention of children pursuant to this section and shall cause such jails to be inspected by the Department of Public Welfare at least once every six months until this confinement is terminated in accordance with provisions in this Act.

Although the Act calls for absolute prohibition against detention of youth in adult jails and lock-ups, a grace period was established where youth could be detained in the same facility with adults for a maximum of five days and only if sight and sound separation was maintained. This grace period was a part of the implementation strategy which was devised to facilitate county's compliance by allowing them some limited flexibility in meeting legal requirements (only one jail was so approved).

Act 41 is unusual in its specificity. It not only stipulates what facilities may be used to detain juveniles, and allowable detention practices during the period of adjustment to the legislation (the Act was passed in August, 1977 and became fully effective on December 31, 1979), it also gives authority to the Department of Public Welfare to promulgate standards for and approval over adult facilities which might be used during the grace period. The Act also gives DPW the authority to negotiate with counties the establishment of regional detention facilities.

Section 14.1 Regional Detention Facilities - (a) Where the operation of an approved detention facility by a single county would not be feasible, economical or conducive to the best interest of a child needing detention care, the Department of Public Welfare shall: (1) make provisions directly or by contract with a single county for the implementation and operation, in accordance with the regulations promulgated by the Department of Public Welfare of regional detention facilities serving the needs of two or more counties.

(b) The Department of General Services shall make available any vacant Commonwealth building which the Department of Public Welfare certifies as appropriate for renovation as a regional detention facility.

The above sections of Act 41 provide the foundation upon which the effort to remove youth from Pennsylvania's adult jails and lock-ups is built. The Judicial Code, Title 42, Chapter 63, Juvenile Matters (July, 1978), Section 6327, Place of Detention repeats the prohibition language contained in Act 41 of 1977. Furthermore, Section 6352, Disposition of delinquent child, states:

(b) Limitation on place of commitment -- A child shall not be committed or transferred to a penal institution or other facility used primarily for the execution of sentences of adults convicted of a crime (April 28, 1978, No. 53, eff. 60 days)

Additionally, Section 6353 (c) Notice of available facilities and services, states:

Immediately after the Commonwealth adopts its budget, the Department of Public Welfare shall notify the courts and the General Assembly for each Department of Public Welfare region of the available:

- (1) Secure beds for the serious juvenile offenders.
- (2) General residential beds for the adjudicated delinquent child.
- (3) The community-based programs for the adjudicated delinquent child. If the population at a particular institution or program exceeds 110% of capacity, the department shall notify the courts and the General Assembly that intake to that institution or program is temporarily closed and shall make available equivalent services to children in equivalent facilities. (April 28, 1978, No. 53, eff. 60 days)

Act 53 of 1978 further provides, in Section 27, Required county detention services, that:

(a) General rule -- Each county, acting alone or in conjunction with other counties as provided in section 28, shall by December 31, 1978, submit to the Department of Public Welfare for approval a plan for the removal of children from adult facilities. If no such plan is submitted or accepted by the department within the allocated period, the department, after determining the detention needs of individual counties, shall thereafter take whatever steps it deems necessary to provide the required detention services for any such county or counties; including the construction of a regional detention facility to meet the needs of the counties insofar as is consistent with prohibitions against the use of adult facilities for juvenile offenders as provided in Chapter 63 of Title 42 of the Pennsylvania Consolidated Statutes (relating to juvenile matters). The department, after exhausting all other available funds including Law Enforcement Assistance Administration funds and any other Federal or State funds available for such purposes, shall charge the cost of establishing the necessary regional detention facilities to the counties that will utilize its services.

As seen above, the effort to prohibit jailing youths with adults in Pennsylvania has involved more than the passage of legislation. It was aided greatly by the development of departmental rules and regulations and court codes which all contain similar language regarding detention placement decisions, procedures and planning. This uniformity of approach and the casting of requirements in written laws, rules and procedures facilitated the movement of all affected organizations to comply with legal requirements.

The following sections of this report describe the key actors involved in this process and the major steps taken to achieve drafting and implementation of prohibition. Although the jail prohibition requirements were drafted and passed as part of a total code revision, our attention will focus on activities directly related to the absolute removal of youth from adult jails and lock-ups.

Factors Contributing to the Jail Prohibition Effort

A variety of organizations, individuals and circumstances contributed to the drafting and implementation of Act 41 and the emphasis on the prohibition against detaining any youth under juvenile court jurisdiction in adult jails and lock-ups. These include:

- the Juvenile Justice Center, a youth advocacy group active in the state since 1971;
- the State's participation in the JJDP Act, of 1974;
- the determination by the Governor's Justice Commission (now Pennsylvania Council on Crime and Delinquency) Juvenile Justice Office to focus singlemindedly on compliance with the Act and the conclusion by them that absolute prohibition was more feasible than establishing sight and sound separation;
- the utilization of the Juvenile Justice Advisory Committee as the mechanism through which to accomplish major milestones in solidifying the removal effort; and
- the interest and the commitment of a legislator who sponsored the legislation.

The Juvenile Justice Center of Pennsylvania had long been pushing for juvenile justice reforms, especially deinstitutionalization of status offenders (DSO) and removal. As early as 1971, the Juvenile Justice Center was providing training to citizens who were to visit and inspect youth serving facilities. In 1974, they trained citizens who participated in the DPW Southeast Regional Office's inspection process. Citizens trained by the Center "took part, with DPW personnel, in a statewide inspection and survey for LEAA"¹ in 1976.

The Juvenile Justice Center continues to train citizens for inspection and surveys, but increasingly we are working with the coalition groups developing need assessment, planning, and most importantly, monitoring capability.²

The Juvenile Justice Center Coalition recognizes that a monitoring mechanism is imperative and is working toward fulfilling that function.³

The Juvenile Justice Center has been instrumental throughout the decade in the movement toward DSO and removal. Their original impact was in sensitizing and educating citizens about the problems and needs of youth and the system. Another emphasis was in motivating citizens to action predicated on the belief that a well informed citizenry could contribute greatly toward the improvement of services for youth. They have been very thorough in educating citizens about youth needs and services and in recommending actions which citizen groups could take. The 1977 legis-

lative conference was an extremely effective forum in which to involve citizens. The conference focused on the new Juvenile Act, related Federal legislation, and alternative services. It also provided some warnings about the negative system reactions which citizens might encounter in attempting to monitor or affect the delivery of services to youth.

The Juvenile Justice Center remains an active youth advocacy organization lobbying for improvements in the operation of the juvenile justice system and the laws that govern it.

With the passage of the JJDP Act of 1974, the Juvenile Justice Office of the Pennsylvania State Planning Agency (SPA) established as its overriding priority compliance with the JJDPA, especially with respect to DSO and detention. The SPA, in conjunction with the Juvenile Justice Advisory Committee, developed a detailed strategy to achieve the implementation of Act 41 focusing on legislative, regulatory, program funding, and public education and technical assistance activities to facilitate implementation and compliance.

In 1975 the new director of the Juvenile Justice Office made some critical decisions which contributed significantly to the movement. He decided to direct his total effort to adherence to the JJDP Act, and specifically to concentrate on the issues of DSO and removal. He also determined, through discussions with the Department of Public Welfare and other agencies, that the specific JJDPA requirement for sight and sound separation of juveniles from adults in the same facility was not feasible in Pennsylvania facilities, and therefore, complete removal was the only realistic alternative.

History

By mid-1975, the Pennsylvania Council on Crime and Delinquency (then known as the Governors Justice Commission) began to respond to the requirements of the Juvenile Justice and Delinquency Act of 1974. Their attention to the issues of deinstitutionalization of status offenders (DSO) and the removal of youth from adult jails and lock-ups was preceded by efforts of the Juvenile Justice Center of Pennsylvania, a youth advocate group. In addition, a "radical new legislator" from Pittsburgh, Representative Joseph Rhodes, exhibited his interest in the DSO and removal issues. The interest of these key individuals and others resulted in the formulation of Act 41 which was ultimately passed in August, 1977. The passage of the Federal JJDP Act enhanced the movement to DSO and removal in Pennsylvania and the establishment of legislation to meet that end.

A critical ingredient in solidifying the DSO and removal movement, in drafting the legislation, and in getting affected agencies and individuals to accept the movement was the Juvenile Justice Office of the State

¹ Citizen/Professional Partnership, Juvenile Justice Legislative Implementation Conference, December 14, 1977, p.67

² Ibid, p. 68

³ Ibid, p. 68

Planning Agency. A sequence of events occurred in mounting the effort to DSO and removal. The first was a proposal to Dr. Jerome Miller, then the Director of the Department of Public Welfare to move toward the absolute deinstitutionalization of status offenders and the complete prohibition against placing juveniles in adult jails and lock-ups. Miller recently had directed the complete DSO of youth in the Commonwealth of Massachusetts in favor of the establishment of a network of community-based services and was immediately supportive of the DSO/removal proposal.

The second step was the passage of a motion through the SPA which contained a policy statement from the SPA Supervisory Board identifying DSO and removal as top concerns of the SPA. It announced that SPA resources would be made available to support DSO and removal, and additionally, that juvenile justice funds of the SPA be limited to these goals until they were met. The motion was carried unanimously by the Supervisory Board.

The next step was establishing a political constituency to support the movement. The Juvenile Justice Advisory Committee (the governor appointed state advisory group) was used as the basis for this constituency. Under the direction of the SPA Juvenile Justice Office, the Advisory Committee became deeply involved in developing a strategy to accomplish the DSO and removal goals. They used a process of forced field analysis to develop the key elements for a strategy. The results of this effort constituted the juvenile justice portion of the SPA's 1976 Comprehensive Plan. They also identified key supporters and opposers of the goals. The strategy had four key elements.

- A legislative strategy. It was deemed essential to posit the move to DSO and removal in state legislation although it was recognized that this alone was not sufficient to achieve their goals.
- Regulatory action. It was planned to use the existing regulatory authority of the Department of Public Welfare and the Bureau of Corrections to provide the enforcement mechanisms for existing and new legislation.
- Program funding. It was felt that legislation and regulations would be received better if funds were made available to support the development of alternatives to incarceration and detention.
- Public education and technical assistance. In addition to financial support to counties, the SPA provided information about alternative, less restrictive settings already working in the state, as well as technical assistance in determining county needs and establishing alternative facilities.

Task forces were created within the Advisory Committee to determine what was necessary to carry out each component of this strategy. The SPA emphasized the provision of funds and technical assistance. They set up a state initiative funding program for alternative facilities for

status offenders and alleged delinquents. A program announcement was written and disseminated stating specific program criteria and requiring a strong commitment to DSO and removal from applying counties.

Funding of programs under the Juvenile Justice and Delinquency Prevention Act in Pennsylvania has been limited by a Governor's Justice Commission Policy Statement to implementation of programs designed to insure compliance with these two objectives. The funding guidelines which follow have been developed and adopted by the Juvenile Justice and Delinquency Prevention Advisory Committee and the Governor's Justice Commission pursuant to that policy. They provide a strategy for the development of community-based alternatives for treatment and diversion of status offenders and for alternatives to detention in county jails for all youth.¹

They also conducted an analysis of what the DSO and removal of every youth in placement would cost. They projected the costs for slots in various alternative settings and established daily rates for services to youth in such facilities, as well as program start-up costs. They projected that two million dollars would be needed to effect complete DSO and removal. Counties were guaranteed that funds for alternatives would be available from the Office of Juvenile Justice and Delinquency Prevention and the SPA.

In addition to the program announcement, they prepared a public relations booklet providing a:

"sampling of types of alternative approaches which the Advisory Committee thinks meet the intent of their guidelines and the Bayh Act. The materials are not intended to be comprehensive, but only to indicate the range and variety of resources which could be developed to provide the services necessary to bring Pennsylvania into compliance with the Federal Act. Their purpose is to serve as a base from which planning to meet individual community needs can be initiated."²

¹ Program Guidelines for Implementation of the Juvenile Justice and Delinquency Prevention Act in Pennsylvania, Governor's Justice Commission, Juvenile Justice and Delinquency Prevention Advisory Committee, July, 1976, Introduction.

² Alternative Programs for Status Offenders and Detained Juveniles, Governor's Justice Commission, Juvenile Justice and Delinquency Prevention Advisory Committee, and the Pennsylvania Joint Council on the Criminal Justice System, Summer, 1976, page 1.

This booklet was widely distributed across the state. Further public information and education was achieved through eight regional workshops to which were invited juvenile judges, juvenile probation officers, police, child welfare workers and others. The workshops were co-chaired by an Advisory Committee member from the area as well as the Regional Advisory Committee (RPU) to demonstrate, as much as possible, local commitment to DSO and removal. During each workshop, the participants were asked to identify what services and facilities they would like to see for youth with or without the passage of new legislation. They were then asked to work through a strategy to achieve DSO and removal knowing that Federal and state funds would be available to support their efforts.

The next focus of the constituency building effort was on major groups in the state that had responsibility for or vested interest in youth and the juvenile justice system. These included:

- the Juvenile Court Judges Commission;
- the County Commissioners Association;
- youth services coalitions; and
- legislative committee members

The most powerful and potentially least cooperative of these groups was the juvenile court judges. Because the judges were not comfortable with the DSO and removal objectives, the SPA and Advisory Committee sought to concentrate their first efforts on the County Commissioners and other groups. If successful in gaining their support, they would have a stronger position from which to engage the Judges Commission. To establish the support of the County Commissioners Association, Commissioners from the major counties were involved in the activities of the Advisory Committee. They were attracted also by the funds available to them through Act 148 which provided reimbursement to counties for youth placements with the greatest incentive for less restrictive community-based settings rather than for institutional settings. The sheriffs also were solicited as supporters of DSO and removal. They were natural allies because they were well aware of the dangers and difficulties of housing youth in their facilities, including the possibility of abuse from adult inmates, isolation and trauma experienced by youth separated from adults in jails, the lack of services, suicides, and the additional work involved in maintaining adequate surveillance of youth in their custody.

The SPA and the Advisory Committee achieved accord with the judges on the DSO/removal issue through a series of detailed negotiations. Initially the judges vehemently opposed the movement either on the basis of conservative philosophical positions or hesitancy to relinquish any of their current authority over youth. The first approach to the judges was through interaction of the SPA and Advisory Committee with the Juvenile Court Judges Commission. The Director of the SPA's Juvenile Justice Office and the Chairperson of the Advisory Committee attended meetings of the Judges Commission. Through this interaction with the judges, they determined that the philosophical differences between them would diminish as an issue if the judges

were assured that they still had some meaningful way of intervening with troubled youth. Two major factors appeared to be pivotal. These were informal adjustment and the establishment of a separate appropriation, outside of the Act 148 funds, for state reimbursement of probation office services. From a philosophical perspective, the judges were most troubled with the deinstitutionalization of status offenders. They supported the removal of youth from adult jails, if the SPA assured the provision of detention and alternative facilities. They conducted a survey among themselves which estimated the costs of DSO and removal to be five million dollars. The SPA estimate was about two million dollars. Both parties accepted a compromise estimate and the SPA committed funds for detention and alternative facilities.

By the beginning of 1976, the SPA had designed its funding program and had begun funding and providing technical assistance to establish the network of services and facilities necessary for the implementation of DSO and removal requirements. The first major step in implementing the program was the formulation of a policy statement by the Supervisory Board that required from every county a plan to DSO and remove youth from adult jails. The plan had to contain the number of youth held in detention, the types of alternatives necessary, the costs of establishing the needed alternatives, and what steps were being taken (including requests for funds). Technical assistance was provided by the SPA to help counties develop their plans. Those counties not submitting plans would not be eligible for any SPA funds, neither the JJDPA or Crime Control Act maintenance of effort funds.

Determining secure detention needs was a major issue. The SPA made some basic assumptions about the number of secure detention beds needed. These were:

- that the number of secure beds to be maintained under the new legislation could not exceed the number currently in existence; and
- in order to get the judges support, they had to have credibility on the detention issue.

The SPA had to wage a two-sided battle - one with the judges demanding more secure detention, and one with the youth advocates demanding more alternatives to secure detention. By estimating the number of secure beds in use at that time (imposing that figure as a ceiling and building in a formula for regional detention facilities), they established a target number of beds for each county. Invariably, there was disagreement over the estimates, with counties wanting more beds than the formula would allow. Eventually the SPA struck agreements with counties on the allowable number of secure beds. They also got agreements signed by the county commissioners who would be participating in regional detention centers.

By the time that Act 41 passed, the SPA was already certifying DSO/removal plans submitted by the counties, programs were being funded and technical assistance was being delivered. A major aid to the implementation of

the Act was the cooperative relationship the SPA had with the Bureau of Corrections. Through its regulations, a reporting mechanism was established which required all facilities (i.e., the county jails) under its jurisdiction to record information on any individual they knew or suspected to be a juvenile.

Once the legislation was implemented, the issue of an enforcement mechanism was addressed. Interestingly, the legislation itself does not stipulate enforcement authority or procedures. The SPA initially considering utilizing a private advocacy group comprised of legal experts who would oversee energetically compliance with the law. The funding program guidelines promulgated by the SPA in 1976 to support the implementation of the JDDP Act in Pennsylvania indicated the availability of funds for such programs:

Other program strategies not aimed at direct youth services, which will impact the juvenile justice system treatment of status offenders, can include legal advocacy, detention monitoring, legislative reform, or technical assistance. These strategies must conform with the program goals and objectives outlined in the 1976 Juvenile Delinquency Comprehensive Plan for Pennsylvania.¹

People and groups were hesitant to submit applications for funding of those types of activities. After receiving only a couple of applications, the SPA Supervisory Board eliminated that part of the funding program. Also, the Attorney General was not comfortable with the idea of enforcement of the legislation by a private group and recommended that the responsibility be placed within the Department of Justice (the location of advocate units for monitoring and enforcement purposes is an established procedure in Pennsylvania).

Monitoring: The Community Advocate Unit

The Community Advocate Unit-Youth Project, (CAU) operating out of the Pennsylvania Department of Justice Attorney General's Office, was created to monitor and enforce the Pennsylvania Juvenile Act. It is 90% funded by a federal grant from the Office of Juvenile Justice and Delinquency Prevention, through the SPA.

When Act 41 was passed in Pennsylvania, the Juvenile Justice Advisory Committee realized that an enforcement/monitoring unit would be essential in ensuring compliance with the new law. Initially, private agencies were considered, and applied for the job. The Advisory Committee, upon further consideration of the problems and situations involved in monitor-

¹ Program Guidelines for Implementation of the Juvenile Justice and Delinquency Prevention Act in Pennsylvania, Governor's Justice Commission, and Juvenile Justice and Delinquency Prevention Advisory Committee, July, 1976, p. 5.

ing and enforcing the law, decided that private agencies would be neither financially nor politically feasible. After further deliberation, a grant was written applying for funds for a state-wide monitoring unit, to be operated out of the Attorney General's Office; the Community Advocate Unit - Youth Project. This was an astute move as the CAU operating under the auspices one state agency, had the capacity to tap into other state and local agencies for information and cooperation. Additionally, this supported monitoring with all of the prosecutorial power of the Attorney General's office. The possibility of litigation gave further impetus to compliance with the Juvenile Act.

The CAU operates through negotiation, agency coordination, and litigation if necessary, to eliminate the incarceration of juveniles in adult jails and to deinstitutionalize juvenile offenders. The staff of the CAU Youth Project is comprised of two attorneys (Assistant Attorney Generals), two investigators (Juvenile Enforcement Officers) and two clerical workers. Three members of the staff (one attorney, one investigator and one clerical worker) are located in Philadelphia and three in Pittsburgh.

The CAU began operation in July of 1978. It sent an introductory letter to all the county jail wardens, sheriffs, and commissioners in Pennsylvania on July 13, 1978. A total of 260 letters were sent. This letter informed the sheriffs, wardens and commissioners that (a) according to the new law, juveniles could not lawfully be held in jails, (b) if their jails were in the practice of holding children they should stop doing so and begin making alternative plans for holding of juveniles, which the CAU would be willing to assist them in, and (c) a visit would be made to their facility in the near future. This letter also advised that compliance or non-compliance with the Pennsylvania Juvenile Act could effect Pennsylvania's eligibility for \$5 million per year in federal funds for juvenile programs.

The Juvenile Act required the Department of Public Welfare to develop guidelines under which jails could hold juveniles in the interim period between passage and full enactment of the law (August 31, 1977 to December 31, 1979). The CAU worked closely with DPW to establish these guidelines. Only one of the state's sixty-seven counties asked for approval to detain youth in jail. Although approval was granted, no youth were ever detained in the approved facility.

In addition to maintaining close contact with the central and regional offices of the Department of Public Welfare, CAU also established good working relationships with all other agencies involved in working with juveniles, e.g. Child Hotline, Juvenile Justice Center of Pennsylvania, Pennsylvania Association of Child Welfare Workers, Juvenile Court Judges Commission, Juvenile Justice Advisory Committee, and the Bureau of Corrections. CAU made it a point to contact everybody directly involved in juvenile activities, from the top down to the street level, and to disseminate information and assistance. CAU also contacted and visited a number of associations and citizen's groups who were concerned with children, and made them aware of the new Juvenile Act and the efforts to enforce it.

From July thru September of 1978, CAU inspected 24 county jails and 15 detention facilities. They identified the jails with the highest juvenile populations and concentrated their initial efforts on them. When going out into the local areas, CAU always contacted the regional Public Welfare office first. When inspections of the jails were made, citizen monitors who were members of the local community accompanied CAU. (These citizen monitors were referred and trained by the Juvenile Justice Center of Pennsylvania). CAU did not inspect only the jails, they also spoke with the local people involved with and affected by Act 41. They offered concrete alternatives to incarceration in adult facilities and avenues of funding them, provided facts and figures, encouraged regional efforts, and generally were open and helpful to local officials dealing with the problem. If some of the other local agencies were not performing responsibly and the jail consequently was getting stuck with the juveniles, CAU went to those other agencies and negotiated with and pressured them to uphold their responsibilities. In addition to the inspections, meetings were held with the relevant local officials and citizens. A follow-up letter was then sent to the county outlining the meeting, and summarizing the points agreed upon by all in attendance.

Simultaneous with the establishment of the CAU Youth Project, all jails were notified that, should they find themselves detaining juveniles, they were required to call a Hotline Number, and provide full details, (a) when the juvenile was brought in, and (b) when the juvenile was released from the facility. CAU set a time limit of four hours for juvenile detention during the interim implementation period only. Use of the Hotline number provided an immediate means of monitoring placement of juveniles in adult facilities because the CAU followed up immediately on every call placed. The four hour detention period and the Hotline also provided the local jails with a "breathing space" - time to work out the detention problems and still remain within the guidelines established by CAU.

On October 25, 1978 CAU sent another letter to all sheriffs, wardens and commissioners reminding them of their obligation to terminate holding juveniles in their jails. This letter also mentioned the recent deaths of two juveniles in adult facilities, indicating "the need to remove juveniles from county jails has been emphasized" by these deaths, and noting that CAU hoped to have all jails inspected by the end of 1978.

The CAU, through the authority of the Attorney General's office, investigated the suicides of two juveniles, one in a county jail and one in a county juvenile detention home. They sent edited copies of their reports on the suicides to judges, heads of detention centers and jails, chief juvenile probation officers and public defenders. What this said in effect was "don't let this happen in your area." This was a very effective means of providing information and impetus to comply with the new law.

By December of 1978, CAU had visited 58 out of 67 counties. By November 1978, 26 counties seemed to be in full compliance with Act 41, and five were determined to be exemplary. Eleven counties were in serious non-compliance and CAU planned to make follow-up visits and phone calls, to send letters, and file litigation if necessary to move them toward compliance. Eleven counties were also in partial compliance and were being followed up.

By March of 1979, the Youth Project had inspected 63 county jails, with four remaining to be inspected. As mentioned, most of the inspections were on-site visits by CAU staff and citizen monitors. From January of 1978 to March of 1979 there was a noticeable decrease in the number of jail detentions of juveniles, a decrease in the number of jails detaining juveniles, and the length of stay of those juveniles who were detained in jail also was reduced. CAU figures indicate that the total number of juvenile detentions in county jails was 315 from January-June 1978, 198 from July-December 1978, and 33 from January-March 1979. By March of 1979 only nine counties out of sixty-seven were using their jails for juvenile detention. Of those 9 counties, three had special circumstances which accounted for the use of the jail.

In addition to the above mentioned activities, the Youth Project met with the Pennsylvania State Police and a directive was sent to all state police restricting transportation of juveniles to adult facilities. A number of meetings with the Department of Public Welfare and the Juvenile Court Judge's Commission were held to develop policies for 24-hour holding rooms for juveniles in rural counties and to establish teams to provide help to counties with an usually high detention rate. It also was decided to cut off county reimbursement under Act 148 for illegal detentions.

By the end of its first year in operation, the CAU Youth Project had inspected all of the county jails. Some follow-up visits had been made to counties to clarify interpretation of Act 41 and also to assist new county officials with the law. A review of all county files was done to assess each county's compliance with Act 41 and to determine problems which still existed. Plans were developed for dealing with them. The Project's primary goal of elimination of placement of juveniles in adult jails had been substantially accomplished by August of 1979, although there was still some work to be done.

The goals for the Youth Project's second year were (a) to continue to monitor its first year's efforts (b) to eliminate the placement of juveniles in police lock-ups, and (c) to provide legal assistance to providers of service in establishing community-based services.

On August 28, 1979, a total of 307 letters introducing the CAU were sent to police chiefs throughout Pennsylvania. Some of the letters indicated that, according to Pennsylvania Department of Justice records, particular police departments had held juveniles in their lock-up within the last two years. They noted that "... this practice is a violation of the Juvenile Act and should be terminated. We may be able to assist you in this effort." Other letters simply commanded police chiefs who weren't holding juveniles. Mention was again made of maintaining Pennsylvania's eligibility for federal funds for juvenile programs. The letters noted that there had been a suicide of a juvenile in a police lock-up in Pennsylvania in the previous year, and civil suits were being filed against the municipality and the police department involved. The letters went on to clarify the legal restriction upon placing juveniles in lock-up; and noted that CAU would be visiting the station soon to assure compliance with the Juvenile Act. A follow-up letter was sent in October 1979, requesting that those police departments who had not responded initially now respond to the Youth Project regarding their compliance or non-compliance with Act 41. By December of 1979, 135 responses had been received, with 94 of the departments stating they did not hold or detain juveniles in their police station lock-ups.

In summary, the Community Advocate Unit-Youth Project was an essential ingredient in developing and assuring compliance with Pennsylvania's new Juvenile Act. The CAU accomplished this through judicious use of and cooperation with relevant state and local agencies and concerned citizens groups, by making themselves highly visible immediately to jails and police lock-ups, by making use of current events (e.g., juvenile suicides) to inform and shock local authorities, by being actively helpful to those authorities needing assistance in making the change, and by encouraging local and regional interest and cooperation. Even should the Youth Project terminate at the end of its third year, it is felt this will not affect substantially the status of juveniles in jail in Pennsylvania. The alternatives to incarceration in adult jails/lock-ups will have been established, and utilization of them become a practice.

Conclusions

The movement to eliminate the placement of juveniles in adult jails and lock-ups in Pennsylvania has been very successful because of key decisions and activities involving relevant public and private organizations. These were:

- assurance of a source of funding for alternatives;
- foregoing other areas of improvement of the juvenile justice system until DSO and removal were achieved;

- having a strong State Advisory Committee and state level department responsible for youth services as allies;
- garnering the support of the key power brokers involved with the juvenile justice and youth service systems;
- creating a comprehensive constituency group;
- waging a comprehensive public education and information dissemination program; and
- establishing a monitoring capability within the Attorney General's office.

The experience in Pennsylvania demonstrates a carefully orchestrated plan to garner support for and achieve implementation of the provisions of the Juvenile Act. By allowing a grace period between enactment and full implementation, providing funds, technical assistance and knowledge during the interim, and combining monitoring with a helping hand from the Attorney General, the SPA and the Juvenile Justice Advisory Committee were able to successfully overcome obstacles and pockets of resistance which might otherwise have undermined the effort. The primary lesson learned from Pennsylvania's approach is that a coordinated effort which offers both benefits to localities while imposing constraints upon them, and which allows ample time for jurisdictions and agencies to adjust to the new requirements can result in an orderly and effective movement to eliminate the use of adult jails and lock-ups to detain juveniles.

FLORIDA

Florida Law

The new Florida law regulating the holding of juveniles in adult jails and lock-ups became effective on 1 July, 1980. This new law, originating as Senate Bill 409, speaks directly to this issue in several areas.

The changes made by SB409 bring Florida closer to complete removal status by eliminating a number of circumstances in which a juvenile could be held in a jail or lock-up. These changes are discussed below.

Perhaps the most significant and controversial change appears in Section 39.032(5) of the new law. This section allows the court discretion in placing a child in an adult facility who has been transferred for criminal prosecution as an adult. It reads,

"The Court may order the delivery of a child to a jail or other facility intended or used for the detention of adults when the child has been transferred for criminal prosecution as an adult pursuant to this chapter."

The new version of this section caused two basic changes. First, the law no longer requires the court to order juveniles to jail when they have been transferred for prosecution as adults. Secondly, under the new law the superintendent of the juvenile facility holding a child can no longer initiate a recommendation to the court that the juvenile be transferred to an adult jail because he or she is beyond the control of facility staff. These changes greatly reduce the probability that a juvenile be held in an adult jail. They impact two juvenile populations. The first change affects those juveniles who have been waived to adult status. The latter, however, touches a much broader segment of the juvenile population, those held in institutions who legally maintain their status as minors.

Other sections of the new law address the holding of children in adult jails. Section 39.03(4) permits law enforcement officials to arrange holding a juvenile in an adult jail or detention center for the purpose of fingerprinting, photographing, or to await transportation. This section also specifies the conditions under which the child can be held in such a facility, specifically separation and supervision criteria. This provision was added by the new law.

The new law maintains the specific language of the previous law governing the placement of juveniles at intake. This section reads:

"Under no circumstances shall the intake officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults."

Additionally, however, the new law deleted a subsequent provision from this paragraph which enabled the court to place a juvenile in an adult jail before the state attorney filed a direct information or before the case has been referred to the grand jury. This was a major change in the law, further restricting the circumstances under which a juvenile can be held in an adult jail or lock-up.

Changes also were made in the law affecting the placement of runaway youth in jails at intake. The previous law permitted the placement of runaways who met specific criteria in an adult jail. This was allowed only when juvenile facilities were unavailable, and the conditions and period were specified. The new law, Section 39.402(4), deleted this option. Unavailable juvenile facilities no longer can be used to justify the placement of runaway youth in adult jails at intake.

SB409 significantly changes the practice and holding juveniles in adult jails in several ways. First, it no longer is mandatory that juveniles being tried as adults be placed in an adult jail or detention facility. This now is left to the discretion of the court. Secondly,

juvenile detention superintendents no longer can request the court to transfer unmanageable youth from their facilities to adult jails. Also, the law clearly prohibits the placement of youth in adult jails by intake workers, and, the courts now are prohibited from placing juveniles in jails before filing by the state attorney or the case is referred to a grand jury. Finally, runaway youth no longer may be held in jail when juvenile facilities are unavailable.

These changes in the law do not mean that Florida totally and completely prohibits the placement and holding of juveniles in adult jails. There are two major exceptions. First, juveniles being prosecuted as adults may be held in jail. While this is no longer mandatory as in the old law, it is allowable. Secondly, juveniles may be held in adult jails for processing and/or awaiting transportation. They may be held for up to 4 hours. However, with exceptions for weekends and holidays, the time can be considerably longer. It should be noted that the law provides no penalty for noncompliance.

Legislative History

The Juvenile Justice Act (Chapter 39 of the Florida Statutes) was written and adopted in 1978. This legislation was prompted and influenced by a number of factors. Primarily the philosophy of the federal Juvenile Justice Act of 1974 and the needs of juvenile service providers in Florida initiated and shaped the direction of the new Florida act. While the removal of juveniles from adult jails was not ignored, the emphasis of the 1978 act was on deinstitutionalization and the development of community based programs.

The 1978 Florida Act permitted the placement and holding of children in adult jails under a number of circumstances. These are enumerated below:

1. Children transferred to be tried as adults through a waiver hearing;
2. Children indicted by a grand jury who are awaiting trial;
3. Children transferred to be tried as adults at their own request;
4. Children against whom the state attorney has filed a direct information;
5. Children referred by the state attorney who are awaiting trial by a grand jury;
6. Children determined by the court to be beyond the control of detention facility staff; and,
7. Children who are runaways.

Additionally, children could be held in leased jail space at the request of U.S. immigration officials or U.S. Marshalls. Children also could be held "temporarily" (up to 24 hours) for booking (fingerprinting and photographing) and awaiting transportation.

Between June 1, 1978, and June 30, 1979, a study of children in Florida jails was undertaken by a children's advocacy group, the Florida Center for Children and Youth (FCCY). The purpose of this study (Juvenile Injustice: The Jailing of Children In Florida) was to assess Florida's level of compliance with federal guidelines governing the separation of juveniles from adults in jail. The results of this study initiated a call for changes in the 1978 act during the 1980 legislative session. A state senate initiated committee consisting of legislative committee personnel from the House and Senate, a representative from the State Court, staff from the State Department of Health and Rehabilitative Services (HRS), and a representative of FCCY recommended changes to the act. These changes were made by the State Legislature in the 1980 session and became effective on July 1, 1980.

There was some opposition to the changes within the committee. HRS officials felt that the removal of mandatory jail placement of waived juveniles would overburden their facilities. They felt that there should be complementary changes in detention criteria in order to prevent this occurrence. The changes were not opposed in the legislature. Some of this lack of opposition can be attributed to Gubernatorial support for the changes. They also were supported by the county sheriffs association. After passage, however, several judges and state attorneys voiced concern over the reduction in the discretionary powers of these two groups regarding jail placement.

A backlash against those changes appears to be developing for the 1981 legislative session. The judicial and state attorney opposition has grown and solidified. This can be seen in the State Court Administrators request for an impact study of the current law. Youth advocacy groups led by FCCY continue to support the law. It is anticipated that there will be attempts to amend the current law in the 1981 legislative session.

Conclusions

The recent enactment of the Florida law makes assessing its impact on the juvenile justice system difficult. It is hard to determine at this time if the new act has eliminated the holding of juveniles in Florida's adult jails and lock-ups, or what effect it has had. There are some important lessons, however, that can be learned by other states from Florida's experience.

First, it is clear in viewing the enactment of the Florida law that its impetus was the 1974 Federal JJDP Act. Florida's Juvenile Justice Act of 1978, was an attempt by that state to comply with the federal act. The 1980 state act was an extension of that effort. It was an admitted attempt by state youth advocacy groups to "tie-up loose ends." States which are in compliance with provision of the 1974 federal act may find removal easier to achieve.

Secondly, a broad spectrum of interests were involved in formulating the 1980 state act. Representatives from the courts, legislature, advocacy groups and juvenile service departments participated. This coalition was embellished further by endorsements from law enforcement groups and the Governor. As a result, the act passed easily and there was substantial support for removal. The opposition that emerged after passage of the act appears not to have participated in its formulation. This experience suggests the need to enlist the support of major interest groups in any removal effort.

Finally, the consequences that removal can have in other juvenile services areas is demonstrated in this example. Representatives from HRS were concerned that the state's removal law would place an additional burden upon their facilities as juveniles were directed away from jails. They expressed an interest in preparing for this impact by arranging for alternatives or increasing the capacity of state juvenile facilities. This highlights the need to consider the effects removal legislation may have on other service areas and how this can affect support.

CONNECTICUT

Legislative History

The Connecticut laws require that, "In no case shall a child be confined in a community correctional center or lock-up, or in any place where adults are or may be confined, except in the case of a mother with a nursing infant; nor shall any child at any time be held in solitary confinement...." (Section 17-63 General Statutes of Connecticut, 1958 rev.) This section dates back to 1930, and, if there were any controversy over its provisions, it has long since dissipated.

Age of Jurisdiction

One provision of the Connecticut juvenile code which perhaps facilitates the removal provisions contained in the above cited section is that the jurisdiction of the juvenile court extends only until the child is sixteen years old, at which time he or she is considered an adult for most purposes of legal processing. The members of the ADL study team were informed that the state would have great difficulty removing older teenagers from other adults in jails, lock-ups and other correctional facilities.

Implementation

The state judiciary operates three regional juvenile detention centers. The 1979 Monitoring Report submitted to the Office of Juvenile Justice and Delinquency Prevention by the Connecticut Justice Commission shows two juveniles placed in secure facilities with adult offenders. These were found by the ADL study team to be adjudicated juveniles administratively transferred by the Division of Children and Youth Services to the

Department of Corrections pursuant to Connecticut General Statutes
17-420, Appendix A.

There are three juvenile detention centers in operation. A fourth center is undergoing renovation and is expected to reopen soon. There are 51 beds in the three operating facilities. No local jurisdictions operate juvenile detention centers in Connecticut and have not since the juvenile court was established some thirty years ago. Transportation to the state facilities is the responsibility of the local police department. Once the child is delivered to the detention center, the state judiciary is responsible for all subsequent transportation.

According to the Connecticut Justice Commission, the average daily population in the Connecticut juvenile detention centers for calendar year 1979 was 29.7. Of these 20.2 were males and 9.5 were females.

The ADL study team was told that the capacity of the juvenile detention system would need to be increased greatly if youth (defined by Connecticut statutes as being between 16 to 18 years of age) were to be included. The study team also was told that the 16 year age limit is not an issue in the state and it dates back to 1921.

Conclusions

Connecticut, although a uniquely small state, demonstrates one model of state operation of regional detention facilities, e.g., they are operated by the judiciary. This may be important in other geographically larger states as many judicial districts transcend the geopolitical boundaries of counties. It may be possible to regionalize detention facilities to correspond with judicial districts, especially where populations are less than would require a county facility.

RHODE ISLAND

State Laws

The General Laws of the State of Rhode Island state, "The board of police commissioners, or other corresponding police authority, of each city and town, and the city council of each city and the town council of each town when no board of police commissioners, or other corresponding police authority, exists may provide and maintain in their respective city or town, a suitable place or places not directly connected with any jail or lock-ups, wherein children temporarily detained awaiting the action of the court may be kept so long as detention is necessary." (14-1-23 GL 1956)

The statutes also require, "In case a delinquent or wayward child is taken into custody or detained before or after the filing of a petition, or pending a hearing thereon, such child shall not be confined in any prison, jail, lock-up or reformatory, or be transported with, or compelled or permitted to associate or mingle with, criminal, vicious or dissolute

persons, but such child shall be kept under the care of the person arresting such child, or of a police matron as herein provided, until by order of the court other disposition is made of the child as provided in this chapter; and if such child is ordered to be detained, or confined in any of the institutions mentioned in this chapter, such child shall not be conveyed to or from such institution with adult offenders." (14-1-26 GL 1956)

Legislative History

The Rhode Island code was enacted in 1944 and if any controversy was encountered at the time of this enactment, it long since has dissipated.

Implementation

The 1979 Rhode Island Monitoring Report prepared by the Governor's Justice Commission in response to the requirements of Section 223(a) (14) of the Juvenile Justice and Delinquency Prevention Act indicate that no juveniles were detained for more than twenty-four hours in a facility that can be used for the detention of children and adults. The Arthur D. Little, Inc., study team, through interviews with Family Court officials, obtained information that indicates most juveniles requiring detention are held at the detention center which is part of the State Training School at Cranston, Rhode Island. This fourteen-bed, state-operated facility provides a secure facility for males; females are detained with adjudicated females in another section of the training school. Court officials indicated that judicial consent must be obtained prior to detaining a juvenile. A family court judge is on-call at all times for this purpose. At times, generally if the time the juvenile is arrested is late, authorization may be given to hold the child at the local detention facility until the detention hearing the next judicial day. These facilities must be approved by the Family Court and provide sight and sound separation from adult inmates.

Providence is the jurisdiction most often requesting authorization to detain a juvenile in their juvenile detention section. The ADL study team learned that a common sense approach was attempted; e.g., if a child is picked up at 3:00 a.m., the court will most likely authorize detention at the city facility. On the other hand, if it is Friday evening and Monday is a judicial holiday, the court most likely will direct that the juvenile be transported to Cranston. The ADL study team learned that the geographical smallness of the state was one factor facilitating their system. The maximum transportation time for a juvenile to the state operated facility is less than one hour.

Conclusions

Rhode Island, a small state, provides an example of a state executive agency operating the detention facility with an extremely active

judicial control over detention decisions. While not specifically mentioned, it is suspected that one must have good reason to detain a child if he or she is willing to wake a judge at 3:00 a.m. to obtain authorization. It is probably due to the diligence of the Rhode Island family court judges that the state can operate their detention system with so few beds. The emphasis in Rhode Island appeared not to be on alternatives to detention but on the criteria for detention.

WASHINGTON

Statutory Provision

The Washington State Basic Juvenile Court Act states, "No court or magistrate shall commit a child under sixteen years of age to a jail, common lock-up, or police station; but if such child is unable to give bail, it may be committed to the care of the sheriff, police officer, or probation officer, who shall keep such child in some suitable place or house or school of detention provided by the city or county outside the enclosure of any jail or police station, or in the care of any association willing to receive it and having as one of its objects the care of delinquent, dependent or neglected children. When any child shall be sentenced to confinement in any institution to which adult convicts are sentenced, it shall be unlawful to confine such child in the same building with such adult convicts, or to bring such child into any yard or building in which such adult convicts may be present." (RCW 13.04.115)

In addition the Act provides that "Counties containing more than fifty thousand inhabitants shall, and counties containing a lesser number may, provide and maintain at public expense, a detention room or house of detention, separated or removed from any jail, or police station, to be in charge of a motion or other person of good character, wherein all children within the provision of this chapter shall, when necessary, be sheltered..." (RCW 13.04.135)

Legislative History

Each of these sections have been long standing parts of the Washington statutes. The prohibition against placing children in adult jails or lock-ups dates back to about 1961 and the requirements for counties of more than fifty-thousands residents to have a juvenile detention facility dates to 1945.

Neither of these provisions appears to be a significant issue in the State. In 1977, the Washington State juvenile laws were revised significantly and updated. The revised statutes placed emphasis on non-secure facilities for families in conflict and made specific reference to the Juvenile Justice and Delinquency Prevention Act and the Deinstitutionalization of Status Offenders requirements in that Act. The other major changes related to the seriousness of the offense and due process requirements.

Analysis of Detention Requirements

While the legislative intent in Washington clearly has been to prefer the placement of a juvenile in a facility other than adult jails or lock-ups, the reality is that the legal prohibition extends only to juveniles fifteen years of age or younger. The revision enacted in 1977, also established a requirement for the administrator of juvenile court, probation services and detention services to adopt standards for the regulation and government of detention facilities for juveniles (RCW 13.04.07). These standards are developed in consultation with the State Planning Agency.

It is interesting to note that the requirements for removing juveniles under 14 years of age has been the law in Washington State for 19 years but children continue to be detained in facilities that are clearly prohibited by State law. This law does not have enforcement provisions. This is not to say that progress and improvement in the detention conditions for juveniles have not been made. The state monitoring report for 1979 shows a 78.7% reduction in juveniles inadequately separated.

There are three reasons given for this decline:

1. Status offenders no longer may be placed in detention facilities.
2. Detention criteria have been made more strict and "due process oriented."
3. More juvenile detention facilities have been constructed to replace sub-standard jails and lock-ups.

At the same time, juvenile traffic violators have been removed from the jurisdiction of the juvenile court as have violators of the State's fish and game laws. This allows these juveniles to be detained and incarcerated in adult jails and lock-ups without reference to monitoring requirements. There are indications that very few juveniles are so detained.

Conclusions

In this state the problems of enforcement of the state statutes and the existence of loopholes in removal requirements are evident. This state is also one in which the state did not expand state level responsibility for implementing its law. It is important to recognize that even when state law appears to require removal of juveniles from adult jails and lock-ups, exceptions and lack of enforcement provisions can negate legislative intentions.

MARYLAND

Introduction

The Maryland State Legislature enacted removal legislation in 1969 as part of major revisions to their juvenile code. There were a series of delays in implementation of the new code between that time and 1978. A primary factor in the delays was the lack of alternative facilities and services to those in existence when the legislation was drafted. The State used the time between enactment and implementation to create alternatives to detention of juveniles and to establish a transportation system that would meet the needs of counties where detention centers were not feasible.

Legislative Requirements

Title 3, Subtitle 8, Section 3-815, Juvenile Causes contains the relevant provisions pertaining to the detention of juveniles in the State of Maryland. This section stipulates who can authorize detention, the conditions under which detention or shelter care is required, detention and hearing procedures, and prohibitions. Specifically, the law states:

Section 3-815 -- Detention and shelter care prior to hearing.

- (a) Only the court or an intake officer may authorize detention or shelter care.
- (b) If a child is taken into custody, he may be placed in detention or shelter care prior to a hearing if:
 - (1) Such action is required to protect the child or person and property of others;
 - (2) The child is likely to leave the jurisdiction of the court; or,
 - (3) There are not parents, guardian, or custodian or other person able to provide supervision and care for the child and return him to the court when required.
- (c) If the child is not released, the intake officer shall immediately file a petition to authorize continued detention or shelter care. A hearing on the petition shall be held not later than the next court day unless extended by the court upon good cause shown. Reasonable notice, oral or written, stating the time, place, and purpose of the hearing shall be given to the child, and if they can be found, his parents, guardian, or custodian. Detention and shelter care shall not be ordered for a period of more than 30 days unless an adjudicatory or waiver hearing is held.

- (d) After January 1, 1978, a child alleged to be delinquent may not be detained in a jail or other facility for the detention of adults, or in a facility in which children who have been adjudicated delinquent are detained.
- (e) A child alleged to be in need of supervision or in need of assistance may not be placed in detention. If the child is alleged to be in need of assistance by reason of a mental handicap, he may be placed in shelter care facilities maintained or licensed by the Department of Health and Mental Hygiene or if these facilities are not available, then in a private home or facility approved by the court. If the child is alleged to be in need of assistance for any other reason, or in need of supervision, he may be placed in shelter care facilities maintained or approved by the Social Services Administration, or the Juvenile Services Administration, or in a private home or shelter care facility approved by the court.

Paragraph (d) of Section 3-815 prohibits the placement of alleged delinquents in either adult jails and lock-ups or in facilities with adjudicated delinquents. This appears to be an absolute prohibition against jailing youth in adult facilities since no other youth (i.e. those in need of supervision or assistance) can be detained in any secure facility. There is an exception to the detention of youth in adult facilities. Paragraph (e) of Section 3-815 allows the detention of youth determined to be in need of assistance because of a mental handicap in private facilities, some of which are classified as secure.

Section 3-816. Transfer to other facilities, governs the behavior of jail officials who are confronted with a youth for detention. This section states:

- (a) The Official in charge of a jail or other facility for the detention of adult offenders or person charged with crime shall inform the court or the intake officer immediately when a person, who is or appears to be under the age of 18 years, is received at the facility and shall deliver to the court upon request or transfer him to the facility designated by the intake officer or the court, unless the court has waived its jurisdiction with respect to the person and he is being proceeded against as an adult.
- (b) When a case is transferred to another court for criminal prosecution, the child shall promptly be transferred to the appropriate officer or adult detention facility in accordance with the law governing the detention of person charged with crime.

- (c) A child may not be transported together with adults who have been charged with or convicted of a crime unless the court has waived its jurisdiction and child is being proceeded against as an adult.

The Maryland Code establishes Juvenile Court jurisdiction over persons under 18 years of age. The court has no jurisdiction over:

- 1) A child 14 years old or older alleged to have done an act which if committed by an adult would be a crime punishable by death or life imprisonment, as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed pursuant to Section 594A of Article 27;
- 2) A child 16 years old or older alleged to have done an act in violation of any provision of the Transportation Article or other traffic law or ordinance except an act that prescribes a penalty of incarceration;
- 3) A child 16 years old or older alleged to have done an act in violation of any provision of law, rule or regulation governing the use or operation of a boat except an act that prescribes a penalty of incarceration;
- 4) A child 16 years old or older alleged to have committed the crime of robbery with a deadly weapon as well as all other charges against the child arising out of the same incident, unless an order removing the proceeding to the court has been filed pursuant to Section 594A of the Article 27.

If the court obtains jurisdiction over a child, that jurisdiction continues until that person reaches 21 years of age unless terminated sooner.

Section 3-817 of the Annotated Code of Maryland states that the Juvenile Court may waive exclusive jurisdiction with respect to a petition alleging delinquency if:

- the child is 15 years or older; or,
- the child under 15 is charged with committing an act which, if committed by an adult, would be punishable by death or life imprisonment.

Jurisdiction can be waived only after the court has conducted a waiver hearing and has determined from a preponderance of the evidence presented at the hearing that the child is an unfit subject for juvenile rehabilitation measures. The court considers the following criteria in making its determination:

- age of the child;
- mental and physical condition of the child;
- the child's amenability to treatment in any institution, facility, or program available to delinquents;
- the nature of the offense and the child's alleged participation in it; and,
- the public safety.

If the court has once waived its jurisdiction with respect to a child in accordance with this section, and that child is subsequently brought before the court on another charge of delinquency, the court may waive its jurisdiction in the subsequent proceeding after summary review.

History

In 1967, the Department of Juvenile Services was established. Previously, juvenile services were administered by each county and the juvenile institutions were run by the Department of Public Welfare. The decentralized juvenile services had resulted in each county having a different approach to handling juveniles. The law revisions enacted in 1969 placed the Department of Juvenile Services under the Department of Mental Health and Hygiene and centralized juvenile services under one state level organization. Major revisions to the laws governing the handling of juveniles were made beginning July 1, 1969. At this time, intake was established and status offenders were distinguished from delinquents. By January 1, 1974, the deinstitutionalization of status offenders went into effect. This paralleled the closing of a separate boys status offender facility. At this same time, the girls school was closed also, and then used as a co-educational training school for delinquents. In 1975, the Boys' Village was closed. In March 1979, the Maryland Children's Center was closed and became a diagnostic center. This was not considered originally in the 1974 DSO law revisions. After the deinstitutionalization of status offenders in 1974, and the closing of Boys' Village, the number of securely confined youth reduced drastically but has since increased.

The revisions in the law and the subsequent closing of secure facilities reflected a growing movement in the state toward the deinstitutionalization of all youth. However, the actual carrying out of the legislation once it was passed posed some major difficulties. Implementation of the detention requirements was postponed several times. It first was delayed for three years, until 1972. Then it was postponed three more years. It finally was implemented in 1975, and held in effect for four months, when it was again postponed for three more years.

There were several reasons for the string of postponements and the aborted implementation. The lack of detention alternatives was a major obstacle, especially in the rural areas of the state. Each county has a lock-up. Traditional practice and law allowed the use of these facilities for the detention of youths (both alleged status offenders and delinquents). Many of the counties did not have available alternatives to these settings to detain juveniles. The requirements of the new law meant that some counties would have to establish other detention facilities if they were to continue to confine those youth who met secure detention criteria. Some areas of the state resisted the creation of separate detention centers in their areas or even refused to transport youth to facilities in neighboring counties. Eventually, however, the Department of Juvenile Services was able to negotiate the establishment of two regional detention centers (a 15-bed rural center and a 30-bed center in Montgomery County), two 4-bed 72 hour holdover detention centers, and transportation corps to meet the secure detention needs across the state. The result of the movement toward separate detention facilities has been the elimination of jailing of youths in adult facilities (not yet adequately verified by records) and the transition from large, centralized detention facilities to smaller regional, multi-purpose facilities.

Conclusions

Several lessons can be learned from Maryland's experience in the removal of juveniles from adult jails and lock-ups. First, the passage of legislation does not ensure that removal will or can be accomplished. The series of postponements from 1969 through 1975 demonstrate that legislation not supported with the right conditions can have little or no chance of implementation. While the repeated attempts to enact the legislation portray a continuing commitment to reform, success was delayed until a network of alternative facilities and procedures was established.

The second lesson we learn from Maryland is the passage of legislation and its implementation can be a long term process. While there were many proponents for removal and the improvement of the juvenile justice system overall, there were other influential individuals and organizations who were not as supportive of the measures necessitated by the removal legislation (i.e. the establishment of juvenile detention and non-secure facilities). This suggests the need to spend considerable time gathering support and preparing the juvenile justice system for modification. Although time consumed by such preparation may frustrate proponents for change, lack of preparation can result in an even greater passage of time and conceivably could undermine a removal movement altogether.

The third lesson we learned is that the key missing ingredient in

Maryland was alternative settings. It is important for each state to identify and assess the obstacles it will encounter in accomplishing removal. Maryland may have saved considerable time and effort if the establishment of alternatives had paralleled rather than followed the creation of the new legislation. On the other hand, it is possible that the battle over alternatives could not have been won without the force of legislation. Maryland made a clear decision to accomplish the change in policy through legislation and then to push for the establishment of necessary alternatives. What ever direction a state chooses should result from careful consideration of the opportunities for successful policy change.

MISSISSIPPI

The 1979 Mississippi State Legislature enacted a new Youth Court Act that included in its provisions the following language.

"Unless jurisdiction is transferred, no child shall be placed in any jail or place of detention of adults by any person or courts, but in any event the child shall not be confined with persons not subject to the jurisdiction of the youth court."
(Section 39 (2))

The inclusion of this language in the Youth Court Act was due to a malfunction of the automatic word processing equipment used to type the legislation. Although this language was enacted, the Attorney General issued an opinion that negated its effect and the 1980 legislature revised the Act so that the current law limits contact between children and adults detained in the same facilities basically requiring sight and sound separation.

The immediate effect of the 1979 provision was a reduction by approximately two-thirds of the numbers of children taken into custody. This reduction was attributed to reluctance on the part of law enforcement officials to take a child into custody without having an appropriate detention facility available in their jurisdiction.

As was apparent from the Attorney General's opinion, there was no mechanism to enforce the removal provisions during the time they were in effect. Even when the State Legislature revised the Youth Court Act to requiring only prohibiting "substantial contact" between juveniles and adults, there is no enforcement provision and no penalty for violating this standards.

The lack of penalty and enforcement was attributed to a reluctance on the part of the State to become more involved in areas that are perceived to be the responsibility of local governments especially counties. Child advocates in Mississippi indicate an ongoing concern about the inadequate financial support from this State for all children's services, including public education.

There were some jurisdictions that made an attempt to implement the requirements of the 1979 Act. The larger population centers have their own juvenile detention centers. In some cases arrangements were made to purchase services from these by less populous, adjacent counties. One county redesignated an unused adult facility as a juvenile center. The lack of resources to create alternatives to the county jail was used as the basis to avoid having to comply until the Act was amended.

The juvenile justice system in Mississippi is strongly county oriented. Juvenile probation officers are for the most part county employees. Some JPO's are paid by the State Division of Youth Services. In all cases, the Youth Court Judge designates the duties of the probation officers.

Under the Mississippi Youth Court Act, jurisdiction may be transferred to the court that would have jurisdiction had the alleged offense been committed by an adult. This transfer can be made once the child has attained the age of thirteen years. The law calls for a bifurcated transfer process consisting of a hearing to determine probable cause and a separate hearing to determine prospects of rehabilitation in the juvenile court. Any child accused of an offense for which the punishment would be either life imprisonment or death is automatically under the jurisdiction of the adult court. Given the rigorous legal process required by the Youth Court Act, it is doubtful that jurisdiction would be transferred to avoid violation of either the removal provisions or the current sight - sound separation requirements. It should be noted that if a child is convicted of a misdemeanor he or she could be sentenced to a term in the county jail not to exceed one year. The trial judge also would have the discretion to commit the child to "any state institution now or hereafter established for delinquents." The Youth Court Act establishes the following criteria for taking and keeping a child in custody: 1) there is probable cause to believe the child is within the jurisdiction of the court; 2) the child is endangered or any person would be endangered by the child; 3) to insure the child's presence in court; 4) a parent, guardian, or custodian is not available to provide for the care and supervision of the child; and, 5) there is no reasonable alternative to custody.

These criteria are established and subject to court review within time frames established by the Youth Court Act. If a child is taken into custody pursuant to a court order, there is a time limit of 48 hours for judicial review at a detention hearing. If the child is taken into custody without a court order, there is a time limit of 24 hours. In either case, this time limit is exclusive of weekends and statutory holidays.

The impetus for the passage of the Youth Court Act in Mississippi appeared to be a group of youth court judges working with a group of State Senators. One of the State Senators instrumental in the passage of both the original Youth Court Act in 1979 and the amendment to the Act in 1980 is the law partner of one of the Youth Court Judges who was on the judges committee. The Act reflects a strong judicial orientation.

Conclusions

Although the passage of the removal provisions was due to a processing error, there are some lessons that may be gained from the experiences there. The most dramatic is the greatly reduced number of children that were placed in detention once the law became known. Also contributing to the reduction was the presence of advocates willing to press the issue in the federal courts.

Notably lacking, however, was the whole hearted support of the State to implement the removal provision, to provide resources, and to create alternatives for the local jurisdictions. Each of these elements was eventually in place in the other states with recently enacted removal legislation.

APPENDIX

The following chart represents the status of legislation regarding detention of juveniles in adult jails and lock-ups as of October 1980. The "no" category indicates those states whose legislation absolutely prohibits jailing of juveniles. It should be noted that in these four states, Connecticut, Maryland, Pennsylvania and Rhode Island, any juvenile who is transferred to adult court for prosecution can be incarcerated in adult facilities. The "yes" category shows those states who permit detention of juveniles in jails, regardless of age or circumstance. These ten states all require some form of separation.

The "yes-qualified" category identifies those states who do permit detention of juveniles in adult jails/lock-ups, but the juvenile may not be incarcerated unless certain criteria are met. The criteria vary from state to state, but the broad categories of circumstances under which juveniles may be jailed are: (1) being over a certain age; (2) being over a certain age and meeting other criteria; (3) if a danger or menace to themselves or others; (4) if charged with a specific crime; (5) if no other facilities are available or no other provisions can be made; (6) by court order; (7) if a juvenile detention official so decides; (8) if the Division for Youth approves--this applies to New York State only; (9) in a jail, lock-up or police station for processing or to await transportation elsewhere. In some states, several criteria must be met simultaneously before a juvenile can be detained.

The "status offender" and "non-offender" categories reflect the states which still allow these classes of juveniles to be legally detained in adult jails and lock-ups. Some criteria may have to be met, as in the case of the delinquents. Some states still classify status offenses as delinquency--Connecticut, Indiana, Minnesota, New Hampshire.

In eight states--Connecticut, Georgia, Illinois, Nebraska, New York, North Carolina, South Carolina and Vermont--the age up to which juvenile court has jurisdiction varies according to whether the court is dealing with a non-offender, a status offender, or a delinquent. The court's jurisdiction terminates at an earlier age for delinquents in all of these states.

The category, "Juvenile Court jurisdiction excludes all or most traffic offenses" was included because it was assumed that those juveniles arrested for traffic violations (and fish and game violations, where applicable) were not afforded the protection of juvenile status, and therefore could be detained with adults. This particular issue is not addressed directly in any of the statutes. In nine of the thirty-one states included in this category, the exclusion applied only to those juveniles above a certain age.

The last category indicates the age at which juveniles can be waived to adult court for prosecution as adults. In most cases, they may be incarcerated in adult jails with the adult population.

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All states but seven require some separation of adults and juveniles in the jail. The type and degree of separation varies however, and often the statutes governing separation are unclear. Those states which do not require separation, according to statute, are Delaware, Hawaii, New York, South Dakota, Utah, Vermont and Washington.

Twelve states which permit detention of juveniles in adult facilities do set a time limit on this detention. The limits vary from three hours at a police station in Oregon to thirty days in a jail in Michigan. The other states which set time limits on juvenile detention are Arkansas, Colorado, Georgia, Iowa, Kansas, Maine, Minnesota, Missouri, Nevada and New Jersey. It should be noted that actual practice in some states, whose statutes do not prohibit jailing of juveniles, is to detain juveniles and adults in separate facilities, for example, Arizona, Massachusetts, New Jersey, New York and Washington.

STATES	NO	YES	YES-Qualified	Status Offenders	Non-Offenders	Juvenile Court Jurisdiction Up to Age	Juvenile Court Jurisdiction Excludes All or Most Traffic Offenses	Age at Which Can Be Waived to Adult Court
Alabama		•	•			18	•	14
Alaska	•	•	•	•	•	18		Unspecified
Arizona	•	•	•	•	•	18		Unspecified
Arkansas	•	•	•	•	•	18	•	No Statute
California		•	•			18		16
Colorado		•	•	•	•	18	•	14
Connecticut	•					16		14
Delaware		•	•			18	•	16
District of Columbia		•	•			18	•	Varies
Florida		•	•			18	•	Varies
Georgia		•	•			17	•	Varies
Hawaii		•	•	•	•	18		16
Idaho	•	•	•			18	•	15
Illinois		•	•			17	•	13
Indiana	•	•	•			18	•	Varies
Iowa		•	•			18	•	14
Kansas		•	•	•	•	18	•	16
Kentucky		•	•	•	•	18	•	Varies
Louisiana		•	•			17		15
Maine	•	•	•			18		Unspecified
Maryland	•	•	•			18	•	Varies
Massachusetts		•	•			17		14

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STATES	NO	YES	YES-Qualified	Status Offenders	Non-Offenders	Juvenile Court Jurisdiction Up to Age	Juvenile Court Jurisdiction Excludes All or Most Traffic Offenses	Age at Which Can Be Waived to Adult Court
Michigan		•	•	•	•	17		15
Minnesota		•	•	•	•	18		14
Mississippi	•	•	•	•	•	18	•	13
Missouri		•	•	•	•	17	•	14
Montana		•	•	•	•	18	•	16
Nebraska		•	•	•	•	16	•	No Statute
Nevada		•	•	•	•	18		16
New Hampshire		•	•	•	•	18		Unspecified
New Jersey		•	•	•	•	18	•	14
New Mexico	•	•	•	•	•	18	•	Varies
New York		•	•	•	•	16		Varies
North Carolina		•	•	•	•	16		14
North Dakota		•	•	•	•	18		16
Ohio		•	•	•	•	18		15
Oklahoma		•	•	•	•	18		Unspecified
Oregon		•	•	•	•	18	•	16
Pennsylvania	•	•	•	•	•	18	•	14
Rhode Island	•	•	•	•	•	18	•	16
South Carolina	•	•	•	•	•	17	•	Unspecified
South Dakota		•	•	•	•	18	•	Unspecified
Tennessee		•	•	•	•	18	•	Varies
Texas	•	•	•	•	•	17	•	15
Utah		•	•	•	•	18	•	14
Vermont		•	•	•	•	16		No Statute

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 (Continued)

STATES	NO	YES	YES-Qualified	Status Offenders	Non-Offenders	Juvenile Court Jurisdiction Up to Age	Juvenile Court Jurisdiction Excludes All or Most Traffic Offenses	Age at Which Can Be Waived to Adult Court
Virginia		•	•	•	•	18		15
Washington		•	•	•	•	18	•	Varies
West Virginia		•	•	•	•	18	•	Varies
Wisconsin		•	•	•	•	18	•	16
Wyoming		•	•	•	•	19	•	Unspecified

CODE REFERENCES FOR CHART ON JAILING OF JUVENILES

1. Alabama - Code of Alabama 12-15-1, 12-15-34, 12-15-61; Rule 10 of Rules of Juvenile Procedure
2. Alaska - Alaska Statutes 47.10.060, 47.10.130, 47.10.140
3. Arizona - Arizona Rev. Stat. 8-201, 8-202, 8-226
4. Arkansas - Juvenile Code of 1975 45-403, 45-420, 45-422
5. California - California Welfare and Institution Code: Sec. 207, 208, 507, 601, 602, 707
6. Colorado - Colorado Rev. Stat. 19-1-103, 19-2-103
7. Connecticut - Connecticut Gen. Stat. Ann. 17-53, 17-63, 17-64, 466-131, 466-132
8. Delaware - Delaware Code Ann. 901, 921, 927, 938, 933, Family Court Rules #50
9. District of Columbia - D.C. Code Encyclopedia 16-2301, 16-2313, 11-1553
10. Florida - Florida Senate Bill 409; 39.01, 39.03(4), 39.02, 29.032, 29.402
11. Georgia - Georgia Code Ann. Ch. 24A-301, 14A-4d, 24A-1403
12. Hawaii - Hawaii Rev. Stat. 571-2, 571-32
13. Idaho - Idaho Code 16-1802, 16-1803, 16-1806, 16-1812, 16-1812A
14. Illinois - Illinois Juvenile Court Act 702 2-2, 702-7 2-7, 702-8 2-8
15. Indiana - Indiana Juvenile Code 31-6-1-1-2, 31-6-2-1, 31-6-2-4, 31-6-4-1, 31-6-4-6.5
16. Iowa - Iowa Code Ann. 232.2, 232.22, 232.45
17. Kansas - Kansas Stat. 38-802, 28-808, 28-819, 38-841
18. Kentucky - Kentucky Senate Bill No. 309 208A.3, 208D.68, 208E. 82, 208E.86
19. Louisiana - Louisiana Juvenile Code of Procedure Art. 13, 34, 41

20. Maine - Maine Rev. State Ann. 3003, 3103, 3203, 3501
21. Maryland - Maryland Courts and Juvenile Procedures Code Ann. 3-801, 3-804, 3-815, 3-817
22. Massachusetts Ann. Law, Ch. 119, Sections 25, 52, 61, 66, 67, 68
23. Michigan Compiled Laws Ann. 764.71, 712A.2, 712A.16
24. Minnesota Stat. Ann. 260.015, 260.111, 260.125, 260.173
25. Mississippi Senate Bill # 2586 43-21-157, 43-21-159, 43-21-315, 43-21-309
26. Missouri Ann. Stat. 211.021, 211.031, 211.071, 211.141, 211.151
27. Montana Youth Court Act 41-5-103, 41-5-203, 41-5-206, 41-5-306
28. Nebraska Rev. Stat. 43-202, 43-2-2-d, 43-206-02, 43-212
29. Nevada Rev. Stat. 62.040, 62.080, 62.170
30. New Hampshire H.B. 831, ch. 361(.79) 169-B-24, 169-B:15, 169-B:25
31. New Jersey Stat. Ann. 2A:4-43, 2A:4-44, 2A:4-48, 2A:4-57
32. New Mexico Stat Ann. 32-1-3, 32-1-25, 32-1-29, 32-1-80
33. New York - Consolidated Laws of NY Ann., Art. 7-712, 720; Penal Law 180.75; Crim. Proc. Law 510.15; Fam. Ct. Act 712
34. North Carolina Juvenile Code, House Bill 474 - 7A-507, 7A-541
7A-539, 7A-557
General Statutes of N.C., Ch.7A, Article 23, Section 7A-286(3)
35. North Dakota Century Code Ann. 27-20-02, 27-20-16, 27-20-34
36. Ohio Senate Bill 106 - 2151.15(c), 2151.24, 2151.26, 2151.29
37. Oklahoma Stat. Ann. 10 Section 1112, Section 1107, Section 1116
38. Oregon Rev. Stat. 419.476, 419.533, 419.535, 419.575
39. Pennsylvania Stat. Ann., Tit. 42, 6302, 6327, 6355
40. General Laws of Rhode Island 14-1-3, 14-1-7, 14-1-20, 14-1-21, 14-1-23, 14-1-26
41. Code of Laws of South Carolina 14-21-20, 14-21-510, 14-21-515, 14-21-540, 14-21-590, 14-21-600
42. South Dakota Compiled Laws Ann. 26-8-1, 26-8-7, 26-8-29
26-8-22.7, 26-11-4
43. Tennessee Code Ann. 37-202, 37-216
44. Texas Family Code Ann., Tit. 3, 51.02, 51.03, 51.12, 51.13, 54.02
45. Utah Code Ann. 55-10-49, 78-3a-2, 78-3a-16, 78-3a-25, 78-3a-29, 78-3a-30
46. Vermont Stat. Ann., Tit. 33, 632, 642
47. Virginia Code 16.1-249, 16.1-228, 16.1-269
48. Washington Rev. Code Ann. 13.04.030, 13.34.060, 13.04.115, 13.04.110
49. West Virginia Code, 49-1-2, 49-1-4, 49-5-1, 49-5-10, 49-5-8, 49-5-16
50. Wisconsin Stat. Ann. 48.02, 48.17, 48.18, 48.208, 48.209
51. Wyoming Stat. Ann. 14-6-203, 14-6-207, 14-6-237, 14-1-101

END