

JUVENILES IN JAIL IN KANSAS

REPORT OF THE JUVENILE JAIL REMOVAL IMPACT STUDY COMMITTEE
to the
ADVISORY COMMISSION ON JUVENILE OFFENDER PROGRAMS
and the
JJDP STATE ADVISORY GROUP

2/82

99770

June 8, 1984

U.S. Department of Justice . 99770
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by

Kansas Department of Corrections

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

99770

JUVENILES IN JAIL IN KANSAS

REPORT OF THE JUVENILE JAIL REMOVAL IMPACT STUDY COMMITTEE

to the

ADVISORY COMMISSION ON JUVENILE OFFENDER PROGRAMS

and the

JJDP STATE ADVISORY GROUP

June 8, 1984

EXECUTIVE SUMMARY

The Juvenile Jail Removal Impact Study Committee (JRISC) recommends reforms in detaining juveniles in Kansas, including removing youths from adult jails. JRISC was created by the Advisory Commission on Juvenile Offender Programs and the State Advisory Group. All three groups agree that youths should be removed from adult jails. JRISC spent a year preparing a report on how to reform juvenile detention practices in Kansas.

Youths should be removed from jails for many reasons: the victimization and/or isolation of youths; the incidence of suicides; the lack of staff trained in working with youths; lack of programs designed for youths; and the management problems of jailers. The Federal Juvenile Justice and Delinquency Prevention Act of 1974 calls for the removal of juveniles from adult jails. In addition, the Tewksbury federal court decision declared unconstitutional the holding of juveniles in adult jails in Oregon*.

Jail removal in Kansas will require better coordinated juvenile detention practices and more alternatives to secure detention. JRISC recognizes that youths who present a danger to others require detention in secure facilities with special programs and well trained staff.

According to preliminary KBI statistics analyzed by JRISC, Kansas is presently jailing as many as 1,500 youths over a year's time. Added to the approximately 1,800 youths detained in secure juvenile detention centers, Kansas locks up around 3,300 youths annually. Almost 60% are released within 48 hours.

In response to a JRISC survey, Kansas judges said they need access to secure detention facilities for youths. The judges cited the difficulties of transportation to current facilities, the high cost of new ones, and the limited space available. The judges also said they need more foster homes and runaway/emergency shelters.

JRISC consulted with the Office of Juvenile Justice and Delinquency Prevention and the Community Research Center (CRC) of the University of Illinois, which have extensive experience in jail removal. After receiving Kansas data, CRC suggested that the number of youths in secure detention could be reduced from 49% to 75% by removing non-offenders (children in need of care) and minor offenders. Based on these preliminary findings, CRC noted that the answer in Kansas may be found through providing non-secure alternatives to jail rather than construction of new secure facilities.

JRISC lists seven recommendations. The chief recommendation is to remove youths from adult jails, but jail removal can succeed only if there are alternatives to jails and juvenile detention centers. The recommendations address the full range of reforms needed in juvenile detention practices.

* Since the JRISC report was drafted, the U.S. Supreme Court decided Schall v. Martin, 513 F. Supp 691, 689 F 2d 365, ___ U.S. ___, 52 U.S. Law Week 4681 (1984). The case concerned pre-trial detention in a New York City juvenile detention center. The case did not decide whether it is constitutional to hold juveniles in adult jails.

KEY RECOMMENDATIONS MADE BY JRISC

- A. Legislation should be passed to mandate the removal of all youths from adult jails and to mandate detention criteria that would limit the use of secure juvenile detention.
- B. A statewide mechanism should be developed to encourage, fund and monitor the operation of state and federally funded non-secure alternatives to the jailing of youths and alternatives to secure detention across the State of Kansas.
- C. Operation and funding of secure juvenile detention centers should remain the responsibility of individual counties. Funding of non-secure alternatives should continue to be a state responsibility.
- D. No new secure juvenile detention beds should be established until non-secure alternatives and a transportation system are developed and their impact measured.
- E. The priority for federal Juvenile Justice and Delinquency Prevention funds available in Kansas should be for the jail removal and alternatives to secure detention initiatives.

TABLE OF CONTENTS

| | <u>Page</u> |
|---|-------------|
| Executive Summary | iii |
| Committee Membership | vii |
| Preface | ix |
| I. The Juvenile Jail Removal Issue | 1 |
| The National Context | 2 |
| The 1970's - The JJDP Act | 3 |
| The 1980's - The JJDP Act Amendments of 1980 | 3 |
| The Courts | 3 |
| State Actions and the Jail Removal Initiative | 4 |
| The Kansas Context | 5 |
| The Philosophy and Activities of JRISC | 6 |
| II. Analysis of Data Surveys, Reports, and Existing Resources | 7 |
| Introduction | 8 |
| Judges' Survey | 8 |
| The KBI Statistics | 10 |
| Community Research Center's Study | 11 |
| Existing Resources | 14 |
| III. Recommendations of the Committee | 15 |
| Summary of Recommendations | 16 |
| Mandated Removal and Detention Criteria | 16 |
| State Mechanism for Funding and Oversight | 22 |
| County Responsibility | 26 |
| No New Secure Juvenile Detention Beds | 26 |
| JJDP Funding Priority for Jail Removal | 28 |
| Statewide Education | 28 |
| Future Role of JRISC | 29 |
| Appendices | |
| A. The JJDP Act and Regulations | |
| B. The Judges' Survey and Judges' Remarks | |
| C. The KBI Statistics Report | |
| D. Map of Catchment Areas and Regional Profiles | |
| E. The Community Research Center Report | |
| F. Non-Secure Resources Map | |
| G. Interim Committee Request | |

NCJRS
 NOV 25 1985
ACQUISITIONS

JUVENILE JAIL REMOVAL IMPACT STUDY COMMITTEE

Lynn Zeller Barclay, Perry
Michael Boyer, Topeka
Jan Buerge, Kansas City
Terry Campbell, Leavenworth
Robert Clester, Topeka
Ben Coates, Topeka
Representative Wanda Fuller, Wichita
Patricia Ireland, Lawrence
Lois Jebo, Topeka
Denise Kilwein, Topeka

Cathy Leonhart, Topeka
The Honorable Lee Nusser, St. John
David O'Brien, Topeka
Senator Nancy Parrish, Co-Chair, Topeka
Keven Pellant, Topeka
Cynthia Robinson, Shawnee Mission
Rudy Serrano, Topeka
Terry Showalter, Chair, Kansas City
Steve Wiechman, Topeka

ADVISORY COMMISSION ON JUVENILE OFFENDER PROGRAMS

Robert C. Barnum, Topeka
Warren Bell, Topeka
Representative Wanda Fuller, Co-Chair,
Wichita
Brenda Hoyt, Topeka
Patricia Ireland, Lawrence
Cathy Leonhart, Topeka, ex-officio
The Honorable Richard Loffswold, Girard

Representative Anita Niles, Lebo
Sally Northcutt, Wichita
The Honorable Lee Nusser, St. John
Senator Nancy Parrish, Chair, Topeka
Senator Elwaine Pomeroy, Topeka
Cynthia Robinson, Shawnee Mission
Stanley Rowe, Topeka

JJDP STATE ADVISORY GROUP

Terry Campbell, Leavenworth
Cynthia Robinson, Shawnee Mission
Sarah Mays, Topeka
The Honorable Robert L. Morrison, Wichita
Sally Northcutt, Wichita
Senator Joseph Norvell, Hays
Senator Nancy Parrish, Chair, Topeka
Lawrence Penny, Atchison

Jim Murray, Topeka
Rudy Serrano, Topeka
Glorine Shelton, Salina
Terry Showalter, Kansas City
Paul Sterrett, Topeka
Lena Ruth Speer, Co-Chair, Dodge City
Charles Wilcox, Topeka

Preceding page blank

PREFACE

In June, 1983 the Advisory Commission on Juvenile Offender Programs and the State Advisory Group, acting as the supervisory authorities for the administration of the Juvenile Justice and Delinquency Prevention Act, adopted the philosophy of removing youth from adult jails while recognizing the need to study the fiscal and social impact of implementing the philosophy. To that end, the Juvenile Jail Removal Impact Study Committee (JRISC) was created and charged with developing a report exploring the issues surrounding removal of youth from Kansas jails. This action was shortly followed by a supporting resolution of the Children and Youth Advisory Committee, which is the other public body charged with oversight of children's programs in the State of Kansas.

JRISC, chaired by Terry Showalter, Director of Wyandotte County Juvenile Court Services, met in working sessions on numerous occasions and enlisted the expertise and assistance of the Office of Juvenile Justice and Delinquency Prevention and the Community Research Center of the University of Illinois, which have extensive experience in the area of jail removal and were able to provide advice and numerous studies and other materials. The Committee also contracted with Jan Buerge of Heartland Associates to provide research services.

The Committee solicited information and views from judges through the Office of Judicial Administrator, and through presentations at the annual Judges' Conference in Manhattan. Data used in the report was provided by Michael E. Boyer of the Kansas Bureau of Investigation. The membership of the Committee and invited attendees represented the Courts, Court Service Officers, Juvenile Detention Facilities, the Department of Corrections, the Department of Social and Rehabilitation Services, the Sheriff's Association, the Kansas Association of Counties, Kansas Action for Children, Kansas Children's Service League, the Menninger Foundation, and the Kansas House and Senate.

The report was written and edited by Terry Showalter, Jan Buerge, Dave O'Brien, and Lynn Zeller Barclay. Final typing and preparation of the report was accomplished by Norma Morton. All of these activities were important, but without the participation of individual Committee members in routine time consuming meetings, no product would have been possible. All data, subcommittee reports, resource materials, consultant information, and draft reports were funneled to the Committee and placed on the table for discussion and recommendations. This activity included fifteen major meetings involving 75 hours of work and time commitment on the part of individual members.

CHAPTER I

THE JUVENILE JAIL REMOVAL ISSUE

THE JUVENILE JAIL REMOVAL ISSUE

The National Context

The debate about the conditions under which children should be locked in adult jails has been a matter of national and state legislative and judicial attention for at least 20 years. Detention represents a harsh deprivation of rights for children and adults, but in the case of the former, it generally involves deprivation without recourse to the right of bail guaranteed adult citizens by the constitution. Children are held in secure detention without having been judged guilty, and in many instances, they are released after a period of confinement without further action. Thus, their confinement often represents punitive detention.

National data reflects the fact that many of the youth detained in the United States are detained for reasons which have nothing to do with the commission of acts for which an adult could be found criminally responsible. The bulk of these youngsters are runaways, many of whom are fleeing abusive or exploitive environments. Many of the rest of the children held in secure detention are there because of the commission of minor crimes such as disorderly conduct and petty theft. National data indicates that of the youth in adult jails in the United States, perhaps as few as 10% are charged with serious crimes.

For a number of reasons to be explored below, the debate about the use of secure detention of youth has focused on adult jails and lockups. Well managed juvenile detention centers with programs focused on the special needs of youth and staffs trained in working with youth are suitable places for the detention of youngsters charged with serious crimes.

The conditions in many jails are detrimental for adults, much less for youth. Youth experience the problems of any jail inmate; they experience special problems because of their youth; and they create problems for jailers. In our legal system young people are a special population deserving of special treatment under special laws. Instead, youths in jail are subject to a potentially dangerous and damaging experience. Many jails are unsanitary and lack basic amenities. Many lack adequate medical attention, exercise facilities, education resources, and supervision.

Potential dangers for youth in adult jails go beyond inadequate programs and facilities. The youth who is exposed to adult inmates may be in conditions that are brutal and sadistic. The youth who is isolated from other inmates may experience sensory deprivation, a loss of sense of time, and a tendency to hallucinate. Under these conditions a youth may lose a sense of belonging, and the ensuing stress may lead to self-destructive actions. National data indicate that youth in adult jails commit suicide at a rate almost five times that for children in society and nearly eight times that for children in juvenile detention facilities.

Thus, youths in jail present peculiar problems not presented by adults. Not only are they subjected to detrimental conditions similar to adult inmates, but they are more likely to fall victim to other prisoners or the dangers of isolation.

Youths in jail are a management problem for jailers. Sight and sound separation required by the federal government means shifting adult, juvenile and female inmates in smaller jails. Jailers must know the requirements for medical consents and confidentiality on juvenile matters. Juvenile inmates often have more visitors than adult inmates. One jailer commented that juveniles "don't know how to do time", meaning that they cannot settle into the jail routine. Jailers have no specialized training to deal with juveniles.

Against the backdrop of growing evidence that adult jails are not a suitable alternative for the detention of youth, many national organizations, including the American Bar Association, the National Sheriff's Organization, the National League of Cities, and the Commission for the Accreditation of Corrections, have called for the removal of youth from adult jails.

The 1970's--The Juvenile Justice and Delinquency Prevention Act

The growing concern about children in jails led the Congress and several states to take action during the 1970's. Congressional action took the form of the Juvenile Justice and Delinquency Prevention Act (JJJPA) of 1974. That Act mandated the removal of all youth charged with status offenses (acts which would not constitute a crime if committed by adults--runaway, truancy, etc.) from places of secure detention. The Act called for the removal of juveniles from adult jails but did not mandate their removal. Instead it mandated that where juveniles were placed in adult jails there be sight and sound separation between adults and juveniles. Some states, most notably Pennsylvania, Connecticut and Rhode Island, proceeded to adopt statutes which in fact prohibited the housing of youth in adult jails.

The 1980's--The Juvenile Justice and Delinquency Prevention Amendments of 1980

While many states made good faith efforts to comply with the mandates of the Act, compliance was far from complete. In particular, sight and sound separation was impossible to achieve in many rural jails without expensive building or renovation programs. Evidence was presented that in many jurisdictions former status offenders were being charged with minor criminal offenses so that the traditional pattern of locking up troubled or troublesome youths was continuing. Documentation was presented that sight and sound separation led to the isolation of youngsters with dire consequences for their emotional and physical well being. Sight and sound separation, particularly in smaller communities, was deemed a failure.

As a result of mounting evidence that the JJJPA had not solved the problems associated with jailing of youth, Congress in 1980 reauthorized the Act with a new emphasis. The effect of the new mandate (see Appendix A for JJJPA provisions) was to ban the holding of status offenders in adult jails for any length of time and to restrict the holding of youths charged with criminal offenses to six hours with certain exceptions, and then only when sight and sound separation is present. The effective date of the jail removal requirement is December 1985 with an additional two years for states to reach full compliance.

The Courts

The constitutionality of detaining children in adult jails has been the subject of court action in recent years. In cases of limited scope, such as Baker v Hamilton and Lollis v New York State Department of Social Services,

courts ruled that conditions in jails have constituted cruel and unusual punishment. In 1982 federal Judge Helen Frye found that the holding of juveniles in adult jails in Oregon was unconstitutional. Judge Frye, ruling in the case of D.B. v Tewksbury, found that "To lodge a child in an adult jail pending adjudication of criminal charges against that child is a violation of that child's due process rights under the Fourteenth Amendment to the United States Constitution." Similar suits are awaiting findings in several other states. In a case related to the detention of juveniles the Supreme Court is about to rule on Martin v Schall.

The central issue in this case involves the detention practices in New York State. The ruling of a federal judge that practices in New York constitute arbitrary preventive detention were upheld by the federal court of appeals. The ramifications of this case are such that all states may have to consider their detention practices and establish objective criteria for the secure holding of juveniles prior to adjudication.

State Actions and the Jail Removal Initiative

Following the passage of the 1980 amendments to the JJDPa a number of states, including Tennessee, North Carolina, Oregon, Washington, Oklahoma and Missouri, have passed legislation banning the detention of youth in adult jails. In addition, the Office of Juvenile Justice and Delinquency Prevention promoted 17 Jail Removal Initiatives mostly in rural areas with histories of locking up large numbers of youth.

Two key elements in those states and regions attempting to remove youngsters from adult jails have been the use of detention criteria and alternative non-secure placements. The use of detention criteria has been predicated on the belief that most youth in secure detention do not require detention either for the safety of themselves or society. Only those accused of the most serious crimes have been viewed as needing detention. The result of justice system cooperation and the use of detention criteria led to a reduction in the Upper Peninsula of Michigan of youth in adult jails from 500 to 35. Similarly, on the Western Slope of Colorado there was a two-thirds reduction in the number of securely confined youth after the establishment of a 24 hour intake system based on criteria. There are numerous other examples of the success of the use of criteria to reduce the number of youth placed in secure detention. One critical factor which many opponents feared did not appear i.e. increased numbers of youths not showing up for court hearings. The drastic reduction in youths confined in secure detention based upon strict criteria can be proven to have no ill effects on the juvenile justice system, in fact, it has a positive effect in that youngsters are removed from life threatening situations and the costs of secure detention may be reduced.

There are a large variety of non-secure alternatives which have been utilized across the nation in states and in the jail removal initiative areas. They include various family centered programs involving intensive in-home supervision or family crisis counseling, programs (such as that in Michigan) where an adult sits with a youth in a public non-secure place for a period of time, specialized emergency foster care, non-secure group homes, and variations on these. In general, these kinds of programs have proven to be more than adequate to meet the needs of the youths and to ensure their appearance in court. They are generally far less costly than secure alternatives.

In conclusion, those states and regions which have approached jail removal in a positive manner, utilizing detention criteria and non-secure alternatives, have found that the needs of youth and society are well served at a lower cost than if massive new construction of juvenile detention centers were begun. Where youth must be locked up, it is usually less expensive to develop transportation services to existing juvenile detention centers than to build new ones to serve sparsely populated regions.

The Kansas Context

Kansas currently has a county administered juvenile detention system. The four largest counties (Sedgwick, Johnson, Wyandotte and Shawnee) have separate juvenile detention facilities. Sedgwick and Shawnee take youths from other counties on a contractual basis; Johnson and Wyandotte do not. The other 101 Kansas counties rely upon adult jails and lockups to detain children in need of care, alleged juvenile offenders, and adjudicated juvenile offenders prior to placement. Payment for this system comes from county general funds except in cases involving adjudicated juvenile offenders where the Division of Juvenile Offender Services has approved the plan for a juvenile offender and agrees to pay for juvenile detention center services.

Kansas law does cover some very general criteria (KSA 38-1632) for arrest and detention but does not currently have mandated objective detention criteria for youth. As a result, there are widely varied practices across the state as to what types of offenses will result in the detention or jailing of a youth. Under state law children in need of care may be held in secure facilities for up to 24 hours. Some counties do jail children in need of care; some do not; and there is clear evidence that some jail them in excess of the 24 hour limit. In the case of alleged juvenile offenders, some counties place youth in detention or jail for minor offenses such as disorderly conduct and misdemeanor theft; others jail only those charged with more serious crimes. It is clear that the treatment of youth with regard to whether or not they are placed in detention or jail is dependent upon local variables such as the attitudes of the local judge and law enforcement community, and the availability of non-secure resources.

There are about 100 county jails and police lockups and holdings which are utilized for detention of both youth and adults. Many are 50 to 80 years old and some are fairly new, having been constructed or renovated within the past decade. Based upon a projection of the data in Chapter Two of this report, there are approximately 1500 youth held each year in county jails and local lockups for periods ranging from a few hours to over 30 days.

Jail conditions vary widely and are dependent upon a number of factors. Some of the facilities have sight and sound separation and some do not--in some it is a matter of the population mix on any given day. If there is a wrong mix of youth, adults, males and females, sight and sound separation may not be possible. None have the proper combination of staff trained to deal with youth and programming oriented toward them. Many of the conditions which have been described in a previous section as adversely impacting upon the well being of youth apply to Kansas jails. In many of the smaller jails, youth find themselves in isolation, and as a result, there have been several suicides in Kansas jails in recent years with the last reported one occurring in the summer of 1983. It is difficult to document what is occurring to youth in Kansas jails because there is no mandated reporting system for incidents, nor is there a system for unannounced monitoring.

The Philosophy and Activities of the Juvenile Jail Removal Impact Study Committee

The Committee began to undertake its mission by reviewing its charge, analyzing the situation in Kansas with regard to state juvenile justice options, available resources, and available data. This was followed by review of national legislative and judicial actions, as well as experiences of other states and regions with removing youngsters from secure detention settings in adult jails.

The Committee determined that any assessment had to answer a primary question: Can juvenile jail removal be accomplished in Kansas within acceptable parameters and, if so, in what manner? Answering this question, in as specific language as possible, became the goal of the Committee.

Over time, the philosophical stand of the Committee incorporated several points of consensus. The Committee became united in its belief that youth should be removed from jails and that Kansas can solve the problems involved in removal. It was felt that successful change would require (1) extensive cooperation from and planning by a number of people representing state and local agencies involved in the juvenile justice and child protection systems; (2) a commitment to changes for reasons other than protecting Kansas' participation in the federal Juvenile Justice and Delinquency Prevention Act; (3) that any plan examine the complete pretrial system for youth and not just the jail removal issue; and (4) an understanding that "jail removal" does not mean that secure detention is not an appropriate placement for some alleged juvenile offenders.

Numerous other questions arose in the course of the Committee's work. Some of them were and are: (1) Who is responsible for the pre-trial stage of the juvenile justice system; (2) Who is responsible for payment; (3) Should criteria be used to determine which youth are eligible for secure detention and if so, what should they be; (4) Can costs and level of usage of resources be determined if criteria are not used; (5) How can low population areas be best served at a reasonable cost; (6) How can current space in the existing juvenile detention centers best be utilized; and (7) What type of changes should be made in statutory language and what type of timetable should be established for any mandatory changes?

The Committee sought information and gained education through a variety of activities such as: (1) attending a national conference on the subject; (2) assistance and information from national experts; (3) extensive study and analysis of data prepared by the Kansas Bureau of Investigation; (4) visits to local sites; (5) the study of other states' experiences related to changes resulting from jail removal; and (6) communication with experts from Kansas including judges, sheriffs, detention staff, court services officers, child advocates, and social service administrators.

This approach and these activities were designed to assess the feasibility for jail removal within the general philosophical framework stated above and to provide preliminary answers to a number of questions. The remainder of this report represents the result of that labor.

CHAPTER II

ANALYSIS OF DATA, SURVEYS, REPORTS, AND EXISTING RESOURCES

ANALYSIS OF DATA, SURVEYS, REPORTS, AND EXISTING RESOURCES

Introduction

Three separate evaluation models/strategies were used by the JRISC to obtain specific information about present detention philosophies and practices in the State of Kansas and existing secure and non-secure resources. A survey containing identifying information, a detention criteria table and narrative questions was mailed to the Administrative Judges in Kansas and is discussed below as the Judges' Detention Survey. Statistics from the KBI regarding juveniles held in secure detention were analyzed from a two month period to provide some preliminary data for the JRISC. This helped channel discussions toward some preliminary goals and program ideas. The result of this work is discussed in the KBI Data Analysis Section.

The Community Research Center at the University of Illinois used much more detailed information from the KBI, covering a larger time frame, for analysis and for development of recommendations. The CRC analysis appears in the third section. Committee time was also spent identifying existing secure and non-secure facilities, and these will also be discussed.

These evaluations were developed as separate components although they directly impacted each other and the discussions that followed. The reports below analyze the data, discuss weaknesses in the data or design, and identify issues rising out of the data and discussions. These separate analyses were important to the Committee and helped identify the wide variety of issues involved and possible solutions. The sections which follow include some excerpts from and summaries of these reports. The major findings are outlined and discussed. The complete reports are located in the Appendices. Efforts have been made to state whether information relates to youth being held in adult jail facilities or in one of the four secure juvenile detention facilities in the state.

Judges' Survey

The JRISC developed a survey that was sent to the Administrative Judges of all of the State Judicial Districts to solicit input about secure juvenile detention needs and related issues. A total of 45 responses was received with 26 of the 31 Judicial Districts sending in responses from one or more judges. Five responses came from urban districts and 40 from rural districts. More detailed information is included in the complete report in Appendix B.

The survey included a table of offense categories crossed with some detention situations/legal histories to which respondents were asked to indicate the need for secure detention. The following list reflects the combinations on the chart where 50% or more of the respondents indicated the need for secure detention:

1. Detention needed on the current offense alone:
 - a. ABC Felony Against Persons
 - b. Fugitive/Escapee from a Secure Facility
 - c. Runaway from a Court Ordered Placement

2. Detention needed on the current offense if the juvenile has also been convicted of a felony type crime against persons within the past 24 months.

3. Detention needed for almost all offenses with a "record of willful failure to appear in court, or has threatened to flee or ignore court appearance." One exception to this was for misdemeanor type offenses against property. A fugitive/escapee was also not marked in this category since a majority had marked that as an offense on which to detain on the current offense alone.
4. Almost all the offenses when a history of violent behavior was also present were determined to be in need of detention.

Over half of the respondents, however, indicated that juveniles charged with misdemeanor type offenses against property should not be placed in secure detention for the current offense, even with a past felony in their history. The above information might indicate some trends about detention use. However, due to incomplete data, JRISC felt that on the whole the table was of limited usefulness for determining actual detention patterns and for establishing proposed detention criteria.

The Committee determined that of the whole survey, the individual responses to the narrative questions would be the most useful for the Committee and for use in future planning with individual counties or regions. The narrative remarks were divided by subject matter and type of responses. Again, a complete listing of the narrative remarks appears in Appendix B and the following represent only some brief observations relating to those remarks.

1. Non-secure placements needed if jailing of juveniles no longer allowed:

The greatest concern (over 63% of those who gave some response to the question) was for more foster homes and runaway/emergency shelters.
2. Secure placement needed if jailing of juveniles no longer allowed:

As might have been expected, the greatest response was in support of some kind of locked detention facility although it was not clear if most respondents were considering a separate facility or areas that would be part of the jail. Nine persons had concerns regarding the geographic location of such a facility with accessibility to the court being a major concern.
3. Procedural/Fiscal constraints arising from juvenile offender code that might cause a youth to be placed in jail rather than using alternative community resources or a detention facility:

Concerns voiced were fairly equally divided between issues regarding distance for transporting, payment for placements and transportation, funds for facilities, and space availability.
4. Additional Comments: Eight persons reiterated that sight and sound separation in local rural communities should be adequate to meet their needs without building additional facilities.

In summary, the narrative remarks were helpful to the Committee as they began looking at existing resources, both secure and non-secure, in the state. They were helpful in determining the perceived needs as seen by the Judiciary, and they were helpful in assessing some of the attitudes that affect the use of secure and non-secure resources.

KBI Statistics

In order to gain a general picture of how many youth are being detained in secure custody in Kansas and for what offenses, the JRISC analyzed data obtained from the Kansas Bureau of Investigation's (KBI) Juvenile Justice Information System. The majority of the material used was compiled from the "Secure Custody" reports obtained from county jails and juvenile detention centers and filed with the KBI. Additional information was gathered by telephone using Court personnel from counties which had not yet submitted "Secure Custody" reports. The names of youth were not released and the guidelines of confidentiality required by State Statute were followed.

The two month time period of October and November, 1983 was chosen as the sample months for the study and a total of 547 cases were identified as having been detained either in a county jail, city lockup, or a secure juvenile detention facility. The following reflects some of the statistics gathered:

| Totals by Type of Facility | Number Locked Up | Percent | 12 Mo. Projections |
|-------------------------------|------------------|-----------|--------------------|
| 1. Jail | 243 | 44 | 1,458 |
| 2. Juvenile Detention Centers | <u>304</u> | <u>56</u> | <u>1,824</u> |
| TOTAL | 547 | 100 | 3,282 |

Totals by Amount of Time Spent in Lockup (Jail and Juvenile Detention)

| | | | |
|-----------------------|-----------|----------|------------|
| 1. 0 - 6 hours | 119 | 22 | 714 |
| 2. 6 - 48 hours | 196 | 36 | 1,176 |
| 3. 48 hours - 30 days | 182 | 33 | 1,092 |
| 4. over 30 days | <u>50</u> | <u>9</u> | <u>300</u> |
| TOTAL | 547 | 100 | 3,282 |

Totals by Offense Categories (Jail and Juvenile Detention)

| | | | |
|--------------------------------------|-----------|----------|------------|
| 1. ABC Felony Against Persons | 9 | 2 | 54 |
| 2. Other Felony Against Persons | 11 | 2 | 66 |
| 3. ABC Felony Against Property | 4 | 1 | 24 |
| 4. Other Felony Against Property | 118 | 21 | 708 |
| 5. ABC Felony Drug | 0 | 0 | 0 |
| 6. Other Drug (Fel. & Misd.) | 22 | 4 | 132 |
| 7. Misdemeanor Against Persons | 19 | 3 | 114 |
| 8. Misdemeanor Against Property | 74 | 13 | 444 |
| 9. Fugitive Escapee from Secure Fac. | 1 | 0 | 6 |
| 10. Runaway (Offender & CINC) | 97 | 18 | 582 |
| 11. Misdemeanor & Miscellaneous | 47 | 9 | 282 |
| 12. Probation Violation/Warrant | 58 | 11 | 348 |
| 13. Awaiting Placement | 46 | 8 | 276 |
| 14. Traffic/Fish & Game | 21 | 4 | 126 |
| 15. Children in Need of Care (CINC) | <u>20</u> | <u>4</u> | <u>120</u> |
| TOTAL | 547 | 100 | 3,282 |

A further explanation of the offense categories appears in the complete statistical report in Appendix C.

As is evident from the statistics above, there are many youth currently being detained in Kansas jails. Based on the available statistics for the two month time frame, the Committee estimated that as many as 1500 youth may be jailed over a year's time. Added to the approximately 1800 estimated youth being detained in secure juvenile detention centers, Kansas may be locking up around 3300 youth, many on a pre-trial basis, every year. Of those locked up, almost 60% are released within 48 hours. The totals above also reflect that less than 30% of those locked up were charged with felony offenses, although some of the youth included in categories "10", "12", and "13" may have had felony charges as originating charges.

In order to further analyze the statistics and the needs across the state, the Committee divided the state into seven regional catchment areas. The catchment areas helped identify a number of areas around the state where there seems to be a concentration of secure detentions. Besides the four regions that include the urban counties, the "Salina" region and the extreme "Southeast" region of Kansas had higher jailing rates than the rest of the state. Committee discussion originally centered on the potential development needs for secure detention facilities. However, after several reorganizations of the catchment areas, it became evident that for some separate secure detention facilities probably would not be economically feasible. For other areas, the extent to which development of secure beds should occur seemed to relate directly to whether alternative resources could be created in the near future.

This information led the JRISC toward exploring the development and use of non-secure alternatives and transportation systems as less costly alternatives that would still be appropriate for many of the youth presently being detained in Kansas. Re-assessment of secure detention needs could then occur after the implementation of these alternatives.

Appendix D contains a detailed explanation of this section including profiles of each catchment area, a map of the areas showing numbers and time frames, an explanation of the statistical analysis process, and further narrative discussion.

Community Research Center's Study--Summary

Staff from the Community Research Center (CRC) of the University of Illinois also used data from the KBI to provide technical assistance to the JRISC by completing an analysis and developing their own recommendations. CRC analyzed data gathered from 1,310 Secure Custody Reports that were forwarded to the KBI during the six month time period of August, 1983 through January, 1984. CRC noted, however, that the KBI reporting system had just started receiving information in July, 1983 and, therefore, a limited number of Kansas counties had not yet reported their count of youth in adult jails. Because of this, CRC states that..."the total juvenile jailings in the State have been underestimated, and the investigation into juvenile jailing practices should be continued as more data becomes available." The status of youth in adult jails and juvenile detention centers is shown on the CRC table on page 12.

*COMMUNITY RESEARCH CENTER

OFFENSE CHARACTERISTICS BY NUMBER AND PERCENT

| <u>Offense Type</u> | <u>Adult Jail or Lockup (n-432)</u> | | <u>Secure Juvenile Detention (n-878)</u> | |
|--------------------------|-------------------------------------|----------|--|----------|
| | <u>#</u> | <u>%</u> | <u>#</u> | <u>%</u> |
| Felony | 125 | 28.9 | 265 | 30.2 |
| Misdemeanor | 97 | 22.4 | 242 | 27.6 |
| Status | 94 | 21.8 | 100 | 11.4 |
| Abuse-Neglect | 5 | 1.2 | 7 | 0.8 |
| Traffic | 34 | 7.9 | 3 | 0.3 |
| Post-Adjudication | 0 | 0 | 14 | 1.6 |
| Post-Disposition | 0 | 0 | 14 | 1.6 |
| Court Ordered | 1 | 0.2 | 6 | 0.7 |
| Warrant | 21 | 4.9 | 21 | 2.4 |
| Courtesy Detention | 23 | 5.3 | 70 | 7.8 |
| Runaway Court Placement | 14 | 3.2 | 14 | 1.6 |
| Fail to Appear - Hearing | 2 | 0.5 | 0 | 0 |
| Other | 4 | 0.9 | 3 | 0.3 |
| Non-Offender | 11 | 2.5 | 1 | 0.1 |

*Six month data from 52 counties. Of the 53 counties which did not report, the number with no youth in jail versus the number simply not submitting a report is unknown. Sedgwick, Shawnee, and Johnson reported both jail and juvenile detention facility data, while Wyandotte reported juvenile detention facility data but not jail. Excluding Wyandotte, all but three counties which did not report had county population under 20,000. Three counties not reporting had county population between 20,000 and 40,000.

The complete report from CRC includes maps of the State showing areas where detention is concentrated as well as a detailed narrative analysis of the statistics gathered. Demographic information, reported offense, release status, type of setting, and average length of stay were all covered by the CRC report. In addition, they used information about the number of non-offenders being held to suggest that secure detention in Kansas could be reduced. Using just reported offenses, they suggested that, if concepts were applied to allow the use of alternatives for these non-offenders, the number of youth in jail would be reduced by 49%. If youth accused of misdemeanor type offenses were also removed from jail, a reduction of 71% would result. CRC found that 43% of youth accused of felony type offenses were released prior to a detention hearing and 60% to an adjudication hearing. If these youth released prior to detention hearing were not jailed, a reduction of 90% would result. The data on youth in juvenile detention facilities showed similar breakdowns. CRC concluded that by using a combination of reductions mentioned above, the number of youth securely confined in jail or secure juvenile detention facilities could be reduced by 75%. However, since most detention criteria are designed to combine offense with "questions on past history or current conditions which assess the juvenile's danger to others or the court process," these percentages could change.

CRC added that "an analysis of these data in such a manner should be viewed with caution, primarily because of the assumptions necessary to complete the review...Only by weighing each case against specific and objective criteria is it possible to determine the number of beds within each type of setting (secure and non-secure) necessary to accomplish jail removal and make appropriate detention planning decisions...However, it does suggest that new facilities are not necessarily the best answer to Kansas' detention needs in all parts of the State."

CRC concluded with the following recommendations to the JRISC. These recommendations are verbatim:

The data scrutinized here are not adequate to properly address the issue of why youth are being held in adult jails and lockups; it can only provide a profile of the current population in a description of who is involved. This report, then, should be considered only a "first step" in Kansas' efforts to improve its overall detention services problem, and that the findings presented here are not conclusive. Therefore, the following recommendations are being offered:

1. The detention admission (secure custody form) data should be re-analyzed and more closely scrutinized as the missing information becomes available to the Kansas Bureau of Investigation. This will give a more accurate and complete picture of jailing and detention practices in Kansas.
2. A thorough needs assessment should be conducted analyzing the criteria factors when they become available. This should be designed to, at a minimum, provide a better understanding of the levels of detention necessary under various detention criteria and will identify levels of services required across the State. Furthermore, it will provide evidence of not only who is being held in jail, but also the reasons why, a vital factor in preparing an effective detention plan.
3. Efforts should be made to seek legislation creating a statewide juvenile services "commission" to oversee detention services and allocate state funds to support a range of secure and non-secure services. The availability of these services may reduce the level of secure juvenile detention by as much as 75 percent.
4. The committee should continue to study the issue of criteria and the provision of secure detention services with the intent of making recommendations to the Kansas State Legislature in 1985. This will undoubtedly require the implementation of detention criteria and could possibly involve some new construction or renovation, especially in areas where transportation networks prove to be ineffective or inappropriate. The data gathered by the Kansas Bureau of Investigation, from the arrest form and the subsequent needs assessment, will be critical in the analysis of this issue over the next eight months.
5. Legislation should be sought to eliminate the jailing of juveniles effective July 1, 1986. This recommendation, as with number three above, should be taken to the Interim Study Committee for immediate review and consideration.

6. Continuation of an active public education campaign should be pursued, targeted at Kansas' juvenile justice practitioners, lay citizens, and elected officials.
7. Finally, the state should move immediately to provide the services necessary to reach an initial reduction in jails of 75 percent. Two options which could be implemented even prior to the introduction of secure detention criteria are a home detention program and an emergency foster care program. Home detention, where a youth is closely supervised in his/her own home pending a disposition, and foster care, where a youth is similarly supervised but in a home other than his/her own, would be able to provide supervision for a large portion of the current jail population. Furthermore, they would also be able to reasonably assure the court appearance when necessary and maintain a low re-arrest rate.

Home detention and emergency foster care could be structured to accommodate the rural morphology characteristic of Kansas. Per diem rates paid only when a service is utilized can make the placement options highly cost efficient.

Of course, as the results of the needs assessment become available, the exact level at which these services would be utilized can be determined.

Existing Resources

The Committee easily identified the very limited secure and non-secure residential services across the State of Kansas. The resources are particularly scarce in the rural areas of the state. There are presently four secure juvenile detention facilities in the State of Kansas, and they are located in the urban counties of Shawnee, Sedgwick, Wyandotte and Johnson. Some of these centers have bed space available currently, and some additional space might be available depending on the secure detention plan and detention criteria adopted as a result of this Committee's recommendations. There are no secure detention facilities for youth in the western half of the state.

SRS provided the Committee with a map which identified all of the non-secure residential programs that are currently licensed by SRS (See Appendix F). There was consensus that there are generally very few beds available in these facilities. Therefore, any shift in the emphasis on use of non-secure alternatives would necessitate newly-created resources around the state, resources that would include both facilities with beds and other non-residential alternative programs. The need for additional non-secure alternatives was identified in the results of the Judges' Survey and will be discussed further in recommendations to follow.

The Committee decided that any additional analysis of resources should wait until specific recommendations were developed and a plan adopted.

CHAPTER III

RECOMMENDATIONS OF THE COMMITTEE

Summary of Recommendations

Listed below are the key recommendations made by the JRISC. Each recommendation is seen as an integral part of removing youth from adult jails and creating detention alternatives. The discussion following the list of recommendations includes some additional, more detailed recommendations along with options for implementation.

- A. Legislation should be passed to mandate the removal of all youth from adult jails and to mandate detention criteria that would limit the use of secure juvenile detention.
- B. A statewide mechanism should be developed to encourage, fund and monitor the operation of state and federally funded non-secure alternatives to the jailing of youth and alternatives to secure juvenile detention across the State of Kansas.
- C. Secure detention of youth in juvenile detention centers should remain the responsibility of individual counties.
- D. No new secure juvenile detention beds should be established until non-secure alternatives and a transportation system are developed and their impact measured.
- E. The priority for federal JJDP funds available to Kansas should be for the jail removal and alternatives to secure detention initiatives.
- F. A statewide education effort should be initiated to provide information about juvenile jailing, secure juvenile detention and the alternatives to both.
- G. The JRISC should continue in existence and assist in the implementation of these recommendations and in the further analysis of the jailing of youth, secure juvenile detention and the alternatives to both.

Discussion

- A. Legislation should be passed to mandate the removal of all youth from adult jails and to mandate detention criteria that would limit the use of secure juvenile detention.

1. Mandated Jail Removal

The JRISC believes that a legislative mandate is absolutely necessary to successfully remove youth from adult jails in Kansas. Pennsylvania passed a law in 1977 prohibiting the jailing of juveniles and developing criteria for secure juvenile detention. The crime rate in the state did not rise; there are fewer juveniles in secure detention; and there are no juveniles in jail in Pennsylvania. In contrast, where states have merely urged but not mandated removal, even when funds have been made available to create alternatives, many jurisdictions still chose to jail youth. It is always easier to continue past practice than it is to change. But if Kansas is sincere in its desire to protect all youth, in every county, quickly and consistently, then a legislative mandate is required.

The Committee further recommends that: Allowance should be made to hold in adult jails or lockups those youth alleged to have committed criminal type behavior, but they only may be held for a period of up to six hours.

This six hour period would be limited to the temporary holding of an accused juvenile offender in an adult jail or lockup by law enforcement for the purpose of identification, processing, and transfer to juvenile court or to a juvenile detention center or shelter. This period of time should be limited to the absolute minimum time necessary to complete this action, but not to exceed six hours and in no case overnight. Where such a holding is permitted, the jail would be required to provide sight and sound separation from adult defendants. Under no circumstances would this short term jailing be allowed for non-offenders or children in need of care.

To begin implementation of the recommendation for a jail removal mandate, the JRISC has requested that the Legislative Coordinating Council establish a Legislative Interim Committee to consider the issue of pre-trial process for youth to include jail removal and juvenile detention in general. (See Appendix G.)

2. Mandated Criteria

The second part of the recommendation is for legislatively mandated criteria for the secure detention of youth. The use of mandated criteria for the screening, release or detention of accused juvenile offenders guarantees that secure confinement is used only when required (e.g., because the youth poses an immediate threat to self or the community or is likely to flee from the court's jurisdiction.)

In other states, detention criteria have reduced detention populations by 50% to 90% and resulted in lowered detention costs. These states have documented that use of detention criteria has not resulted in any increased danger to society as measured by similar or lower re-arrest rates and no significant difference in failure to appear in court.

Detention criteria have been developed by many different groups and states. They vary in how restrictive they are but they all limit those youth who can be detained by use of clearly-written criteria based on offense, legal status and legal history. The criteria do not mandate who must be held, but set limits on who can be held. Those youth not meeting the criteria must either be released to parents or guardians or to some other non-secure alternative.

The use of any statewide detention criteria would require access to a fairly sophisticated information network to verify the criteria. It is the assumption of the JRISC that such a system will soon be available through the KBI and that only very recent information would be inaccessible.

The JRISC members all agreed that criteria should be legislatively mandated. However, after much discussion, no consensus was reached on how strict the criteria should be. Therefore, three different sets of criteria were developed for this report and for further discussion.

OPTION 1. The first set of criteria (see Option 1, page 18) were modeled after those adopted in the 1970's by the National Advisory Committee (NAC) on Standards for the Administration of Juvenile Justice. The NAC criteria are the most restrictive of law enforcement in that they allow for secure juvenile detention in a limited number of cases. This means that fewer youth would be detained. These criteria would prohibit the use of detention for non offenses and misdemeanors; would allow detention for fugitive cases and very serious felony type offenses if no less restrictive alternative is sufficient; and would only allow detention for certain other felony type offenses if specific types of behavior had been documented and no less restrictive alternative is sufficient.

By allowing for very little discretion, the NAC criteria guarantee the most consistent use of secure juvenile detention in the state. The NAC list is the easiest to understand and use since there are not as many conditions spelled out. More non-secure alternatives would be required but the need for new secure juvenile detention beds would be greatly limited. One concern is that such a narrow list might lead to manipulation of criteria or the filing of more serious charges in order to detain certain youth.

Option 2. The second set of criteria (see Option 2, page 19) give more discretion to law enforcement in terms of which youth can be detained, but might lead to more inconsistent use of the criteria as there is greater likelihood of a variety of interpretations. Option 2 criteria would prohibit the use of detention for non-offenses; would allow detention for fugitives, escapees and those charged with A, B, or C felony type behavior; and would allow detention for other felony type behavior, crimes against persons, and drug "violations" depending on the youth's behavior or legal history.

Because of the greater number of criteria identified, this list might be harder for law enforcement to remember and use. A mechanism of intake screening might need to be developed to help gather the information listed and make the detention decision.

Although the Option 2 criteria would result in more youth being detained than would Option 1 criteria, it is still expected that restricting secure juvenile detention through the use of these criteria would reduce the use of juvenile detention in Kansas. Presumably, non-secure detention alternatives would have to be made available to assist in this process.

Option 3. The third set of criteria (see Option 3, page 20) give the most discretion to law enforcement to detain. They would allow for the detention of youth charged with many lesser offenses. Option 3 criteria would prohibit the use of detention for non offenses; would allow for detention of fugitives, escapees and those charged with A, B, or C felony type behavior; and would allow detention for misdemeanor or felony type offenses depending on a broad range of behavior or legal history factors. The list of behavior or legal history factors that can result in detention is longer under Option 3 criteria than under Option 2.

The flexibility of this third set of criteria allows for the detention of youth with lesser offenses when detention seems necessary; however, the concerns listed under Option 2, such as inconsistent use, difficulty in remembering, and the need for intake screening assistance, might also apply here.

Since secure detention would be allowable for a great many more offenses than Options 1 and 2, it is possible that detention rates would remain about the same, requiring as many or possibly more secure juvenile detention beds in the state.

As is evident, there are advantages and disadvantages to each of the options. Among the JRISC members there were varying levels of support for each of the three sets of criteria. Discussion needs to continue to delineate the most appropriate option for Kansas. Final decisions regarding the restrictiveness of detention criteria directly affect the Committee's recommendations regarding secure detention (see Recommendation C.)

OPTION 1

MODIFIED NATIONAL ADVISORY COMMITTEE
SECURE DETENTION CRITERIA

Alleged juvenile offenders, taken into custody with or without a warrant, shall not be detained in secure detention unless they meet one of the following criteria:

- a. They are fugitives from another jurisdiction; or
- b. They are charged with an A, B, or C felony type offense which is a crime against a person; or
- c. They are charged with an A, B, or C felony type property crime or a D or E felony type crime against a person; and
 1. they are already detained or on conditional release or pass from detention in connection with another felony type offense; or
 2. they have a demonstrable recent record of willful failure to appear; or
 3. they have a demonstrable recent record of physically injuring or attempting to injure others; or
 4. they have a demonstrable recent record of adjudications for A, B, or C felony type offenses; and
- d. There is no less restrictive alternative for cases under a, b, or c above that will reduce the risk of flight, or of serious harm to property or to the physical safety of the juvenile or others.

OPTION 2

SECURE DETENTION CRITERIA

Alleged juvenile offenders taken into custody with or without a warrant shall not be detained in secure detention unless they meet one of the criteria listed below. Even if they meet the criteria, they shall not automatically be detained. The use of non-secure alternatives to detention is encouraged whenever appropriate.

- a. FUGITIVES/ESCAPEES: They are fugitives from another jurisdiction and their offender fugitive status is verified OR they are currently escapees from a secure facility.
- b. SPECIFIC CRIMES: They are charged as a juvenile offender for an offense comparable to an A, B, or C felony on the adult level.
- c. OTHER CRIMES: They are charged with a crime against a person OR a felony type property crime OR a drug violation AND they fit at least one of the following categories:
 1. they are currently on conditional release or pass from a detention center or youth center, or have been released from a youth center within the past six months; or
 2. they are awaiting court action on another felony type offense; or
 3. they have a record of willful failure to appear in court within the last 24 months; or
 4. they have a history of violent behavior to others or they are seriously assaultive or destructive at the time of arrest and maintain such behavior after being taken into custody; or
 5. they have a record of convictions for a felony offense within the last 24 months; or
 6. they are currently on absconder status while on probation or AWOL from a placement made pursuant to an offender finding.

Prior to January 1, 1987, an alleged juvenile offender who does not meet these criteria may be held in secure detention if there is no less restrictive alternative, but the juvenile shall be released as soon as a less restrictive alternative becomes available.

OPTION 3

SECURE DETENTION CRITERIA

Alleged juvenile offenders, whether by warrant or arrest, should not be detained in secure detention unless they meet one of the following criteria. Even if they do meet this criteria, this does not mean they should automatically be detained. In fact, the use of non-secure alternatives is encouraged when appropriate.

- a. FUGITIVES/ESCAPEES: They are fugitives from another jurisdiction and their offender fugitive status is verified OR they are currently escapees from a secure facility.
- b. SPECIFIC CRIMES/NO CONDITIONS: They are taken into custody as a juvenile offender for an offense comparable to an A, B, or C felony on the adult level.
- c. OTHER CRIMES/WITH CONDITIONS: They are taken into custody as a juvenile offender AND they fit at least one of the following categories:
 1. They are currently on conditional release or pass from a detention or youth center; or have been released from a youth center within the past six months;
 2. They are awaiting court action on another felony type offense;
 3. They have a record of failure to appear in court within the last 24 months;
 4. They have a history of violent behavior to others or they are seriously assaultive or destructive at the time of arrest and maintain such behavior after being taken into custody;
 5. They have a record of convictions for a felony offense within the last 24 months;
 6. They are currently on absconder status while on probation or AWOL from a placement made pursuant to an offender finding.
 7. They are currently on probation;
 8. They are expelled from a non-secure placement as a result of this arrest.

Prior to January 1, 1987, an alleged juvenile offender who does not meet these criteria may be held in secure detention if there is no less restrictive alternative, but the juvenile shall be released as soon as a less restrictive alternative becomes available.

If no juvenile offender information system exists to verify this information at the point of arrest and, if the officer has made a good faith effort to access this information and fails to gain access, then these criteria may be waived until the detention hearing.

- B. A statewide mechanism should be developed to encourage, fund and monitor the operation of state and federally funded non-secure alternatives to juvenile jailing and alternatives to secure juvenile detention across the State of Kansas.

After much study and discussion, the JRISC has come to realize that the dual objectives of jail removal and use of secure detention criteria cannot be reached without the development and continuing support of a variety of non-secure alternatives. Even in instances where secure juvenile detention is not appropriate, the option of just letting the youth go may be equally unacceptable. A variety of non-secure alternatives exist that can successfully deal with cases where jail or juvenile detention has been the choice of convenience in the past. These kinds of cases include youth being sent to jail because there is no other place for them, youth who need protection from physical or sexual abuse, youth who are runaways, and youth who might not show up for court hearings without some on-going supervision. A list of some of these non-secure alternatives is on the following page.

The JRISC believes that the jailing of youth and the inconsistent use of secure juvenile detention are statewide problems that demand a systematic, statewide response. This is why the Committee is recommending state legislation to mandate jail removal and secure detention criteria. Likewise, this is why the Committee believes that the development of non-secure alternatives throughout all the regions of the state needs to be a state responsibility. After the new juvenile code went into effect, some counties had to pick up substantial detention costs that had previously been borne by the state. To expect counties to further pick up the cost of non-secure alternatives is excessive and will lead to inconsistent availability and use of those alternatives.

The JRISC has reviewed a number of options for the structure and funding of non-secure alternatives to detention. In order to fully appreciate the dilemma facing the Committee in this area, it would be helpful to briefly review past and current practice in Kansas. Prior to the revision of the juvenile code, status offenders and youth charged with crimes were often handled at intake by court services staff. After apprehension by law enforcement, a court services officer would often become involved and assist in making the decision as to where the youth should be held or placed during the pre-trial stage. In counties with secure juvenile detention centers, SRS would often pay the cost of pre-trial detention for these youth.

The new juvenile code removed the court services officer from the entire pre-filing phase of the proceedings; however, the new code does not transfer the responsibilities of the pre-filing phase to any other individual or agency in the place of the court services officer during that phase. Thus, under current law in Kansas, a youth picked up by the police is not clearly anyone's responsibility. Law enforcement can take the youth to a juvenile detention center or emergency shelter, where they exist, or to a jail. Those facilities are responsible for detention of the youth but not necessarily for finding alternatives to detention. To further complicate matters, the role of SRS in paying for pre-trial placements of youth has shifted periodically.

NON-SECURE ALTERNATIVES TO JUVENILE DETENTION

This is a list of some of the many non secure alternatives to juvenile detention. Some counties or regions might need a number of the alternatives, while others would only need one or two coupled with transportation services to emergency shelter care or secure detention in another area. This list of programs and procedures is generally in order from least to most restrictive of the youth's freedom.

Juvenile Summons - Law enforcement officials order a youth to court through mechanisms similar to traffic tickets.

After-hours and Weekend Face-to-Face Intake - Intake services available around the clock to law enforcement officers for assistance in making detention or alternative placement decisions.

Transportation Services - Volunteer or paid escort for youth to non secure program in or out of county.

Crisis Intervention/Mediation - Family counseling available 24 hours a day to defuse a crisis situation and perhaps permit the child to remain in the home. This can be a procedure or a program.

Youth Advocates - Adults who spend a number of hours each week with a youth as a role model, friend, problem solver, or authority figure. The adult provides supervision and guidance while the youth remains in the home, but in a less restrictive setting than home detention. Youth advocates can be volunteers or can be paid a per diem fee.

Supervised Home Detention - The youth remains in the home under the supervision of the parent(s) and a program staff person (paid or volunteer). Rules are established and written into a contract. Personal contact takes place at least daily with the youth and regularly with the parents, teachers and employer.

Juvenile Day Treatment Program - Intensive program providing supervision in education, recreation, vocational training, drug/alcohol counseling, and family and individual counseling. Youth remains in own home.

Emergency Foster Care - Short term care in private home when the key issue is that the child cannot return home. The parents in these "time-out" homes receive training and assistance with problems, and a per diem fee.

Youth Attendant - Youth is placed at a facility that is always open 24 hours each day (e.g., fire station, hospital, ambulance station, or a room-not a cell-at a sheriff's department). Supervision is provided by a trained attendant who is on call when such an alternative is needed. Attendants can be volunteers or can receive a small stipend per placement or per hour.

Runaway/Emergency Shelters or Attention/Group Homes - An unlocked facility with full time staff to provide food, shelter, 24 hour supervision and counseling in a group living situation.

In-patient Medical Care - Access to local or regional medical care for short term psychiatric evaluation or treatment, or for drug/alcohol treatment.

As a result of a 1984 amendment to the code, SRS will now be paying for emergency shelter (outside of a detention center) for alleged juvenile offenders from the point of arrest at least until a placement decision can be made at the initial detention hearing.

The whole issue of detention - who pays and who is responsible for the youth - has become increasingly complex. Added to this is a proposal for a broad new initiative, namely jail removal and the development of alternatives to secure detention. It is the understanding of JRISC that no existing state agency "wants" the responsibility of managing this new initiative. For these reasons, the Committee is recommending that:

A new, independent, time-limited board should be established by the Legislature to initiate and oversee jail removal and the development of non-secure alternatives to detention. The need for and scope of this board should be reassessed after three years of operation.

The committee has also agreed on the following list of objectives to guide the development of non-secure alternatives.

RECOMMENDED OBJECTIVES FOR DEVELOPMENT OF NON-SECURE ALTERNATIVES

The structure for administering and funding the development of non-secure alternatives to detention should be designed to accomplish the following:

- Eliminate the use of juvenile jailing and reduce the use of secure juvenile detention;
- Identify the pre-trial stages and assign responsibilities for each stage;
- Create an incentive for use of non-secure alternatives over secure detention when appropriate and for adherence to newly-established detention criteria;
- Create a "tagged" budget earmarked for these specific purposes;
- Create a local system that will provide convenient non-secure alternatives for law enforcement;
- Give local communities some ownership of the new local programs;
- Require local programs to document coordination with and support from the community and the local juvenile justice system;
- Encourage the development of regional plans that make use of transportation services and other methods to limit costs; and
- Encourage the development of non-residential alternatives that provide control at less costs than emergency shelters or group homes.

The Committee has discussed the following list of policies and procedures as one option for the implementation of non-secure alternatives.

OPTIONAL POLICIES AND PROCEDURES FOR DEVELOPMENT OF NON-SECURE ALTERNATIVES

1. The role of the new independent board would include (but not be limited to) initiating and monitoring local start-up efforts, hiring and supervising technical assistance staff, drafting rules and regulations to interpret new legislation related to jail removal and detention criteria, and overseeing the distribution of federal JJDP funds and a state supplement.
2. Technical assistance from the new board would include help in organizing optional county/regional planning committees, preparation of needs assessments, program development, on-going program assistance, and periodic program audits.
3. Programs requesting funds would need to submit an initial grant application documenting need for the proposed service, identifying goals and objectives, discussing program structure, and outlining needed resources. The board would consider proposals for new, innovative non-secure, non-residential programs (such as youth attendants) as well as for new non-secure residential components (such as emergency shelters or emergency foster care). Only proposals aimed primarily at serving alleged juvenile offenders would be considered or funded by the board.
4. Start-up costs would be paid through JJDP funds supplemented by state funds. The current process of the State Advisory Group review of grant applications would continue, except that staff to the new board would provide the technical assistance and application review functions.
5. On-going pre-dispositional costs for non-secure residential and non-residential alternatives would be funded 100% by the state out of a "tagged" budget available only for these projects and administered by the independent board. Transportation services would be funded from this budget. These funds could be paid as per diem reimbursements or the board could enter into purchase of service contracts with an agency in each county or region designated as responsible for intake and local coordination of all pre-dispositional non-secure alternatives.
6. Programs funded by the new board would be subject to routine program evaluations and audits, performed by the technical assistance staff, to assure that the programs's performance is meeting the approved program objectives.

The above procedures are proposed by the JRISC for discussion. The Committee realizes that there are other options that may work as well and that these optional procedures do not address every issue that needs to be addressed. But, in any case, the JRISC Recommended Objectives for the Development of Non-Secure Alternatives listed above should guide the further refinement of implementation procedures.

- C. Secure detention of youth in juvenile detention centers should remain the responsibility of individual counties.

AND

- D. No new secure juvenile detention beds should be established until non-secure alternatives and a transportation system are developed and their impact measured.

The Committee believes that, based on the statistics collected and the experiences of other states, the needs for secure juvenile detention would be greatly lessened with the availability of locally-based, non-secure alternatives. As secure detention is the most costly option, the Committee supports the use of non-secure alternatives first and whenever possible. Nevertheless, there is also an awareness that, no matter how many non-secure alternatives are available, there will be times when rural areas will need to securely detain a youth. The Committee further recognizes that mandated jail removal would leave many areas of the state without local secure juvenile detention facilities.

The JRISC has agreed on the following list of objectives to guide the use of secure juvenile detention.

RECOMMENDED OBJECTIVES FOR USE OF SECURE JUVENILE DETENTION

- Maintain county responsibility for the secure detention of juveniles and encourage local justice system involvement in the planning of non-secure alternatives;
- Create an incentive for use of non-secure alternatives over secure detention when appropriate and for adherence to newly established detention criteria;
- Create a local system that will provide convenient access to secure detention for law enforcement (in lieu of jail) in cases where detention criteria are met; and
- Encourage regional use of secure detention facilities through purchase of service agreements and a transportation system so as not to develop more bed space than necessary.

The Committee looked at a number of structures for meeting the secure detention needs of counties and adopted the following as its first preference.

OPTION 1 FOR DETENTION SYSTEM STRUCTURE AND FUNDING

1. The individual counties would be responsible to pay all secure detention costs for youth in detention prior to disposition. This would not be setting a new precedent as counties already pay for most of the cost of detention and for all of the costs of jailing. Non-secure alternatives, as discussed above, would be funded totally with state funds.
 - a. The four urban counties would continue to operate their secure detention facilities although perhaps with lowered detention populations due to the detention criteria and use of new non-secure alternatives.
 - b. Rural areas could contract with existing juvenile detention centers to provide secure detention. The counties contracting

for services would be asked to pay the actual per diem costs to the detention facility, which might encourage existing facilities to maintain available bedspace. Contracting for use of space in existing facilities would be considerably less expensive to counties than building and maintaining new facilities and could also make available specialized diagnostic and educational services that would be prohibitively costly in rural areas. Some counties already contract with others for jail space, which sets a precedent for this proposed procedure.

- c. Local alternatives such as youth attendants would be used to hold youth for a period of time until they could be transported to the out-of-county detention facility.
2. Transportation services would be created and funded with state monies as described under the non-secure alternatives recommendation. Counties could be reimbursed for the cost of transporting those youth who meet criteria for secure detention to one of the existing detention centers. Colorado reimburses the county for transportation costs at 20 cents a mile and for the law enforcement officer's time, which can be from three to four hours one-way. The first year of Colorado's program brought a decrease of 45 percent in the number of youth held in jails in the participating counties. The number of youth held in jails over six hours was down 70 percent.
3. After a year's operation of non-secure alternatives, a reassessment would be made of available secure bed space. If this reassessment determines that additional secure beds are needed in a specific area of the state, technical assistance would be made available to the counties in that area which desire the development of these beds. Again, the cost for development and maintenance of a facility would be a county or regional responsibility.
4. Youth who have been placed in SRS custody at a disposition hearing and who are in detention will be the responsibility of SRS. SRS will pay the actual per diem cost to the county.

The Committee discussed the following as an alternative structure.

OPTION 2 FOR DETENTION SYSTEM STRUCTURE AND FUNDING

1. The counties and the state would share the on-going cost of detention based on adherence to criteria. The county would pay the per diem rate for all detentions that do not meet state-set criteria while the state would pay the per diem rate for detentions that do meet the criteria. Criteria under this alternative would not be mandated, but instead would just be a part of the payment mechanism. For this alternative the Committee would recommend the use of the National Advisory Commission criteria discussed above under Recommendation A. (These are the criteria that allow the least amount of law enforcement discretion.) This approach would seem to accomplish the goal of providing an incentive to follow criteria and use detention most appropriately without prohibiting other use of detention.

2. To control detention populations and county costs, local law enforcement officers would need to work with detention staff and non-secure alternatives in making placement decisions.
3. Preliminary building and start-up costs would be the sole responsibility of the county.

Structural decisions would need to be made at the state level regarding who would administer the program, verify the criteria and detentions, and make payments. The Committee also expressed concern that in time some manipulation of the originating offenses and/or criteria might occur in order to garner state payment for an increasing number of detainees. This would need to be carefully monitored on the state level.

Again, the first alternative discussed above continues to be the most acceptable to the Committee.

- E. The priority for federal JJDP funds available to Kansas should be for the jail removal and alternatives to secure detention initiative.

The JRISC recommends that the priority for federal JJDP funds available in Kansas should be for the creation of non-secure alternatives to detention and for technical assistance to the jail removal/alternatives to detention initiative. The process for distributing these funds should begin immediately, especially since a large portion of the available funds must be obligated and spent by the recipient by September 30, 1985.

The JRISC recommends the hiring of staff in the near future to provide professional technical assistance, especially to the localities developing non-secure alternatives under the jail removal initiative. Some of the tasks for this staff are outlined above under other recommendations. Technical assistance staff at the state level will greatly assist in making jail removal and development of alternatives to detention more efficient, more uniform, and more successful.

The Committee believes that a state supplement to the federal JJDP funds will be necessary to adequately provide for the costs of starting and operating new alternatives to secure detention and for the costs of offering quality technical assistance to all Kansas counties or regions.

This priority designation for JJDP funds should be reassessed in three years.

- F. A statewide education effort should be initiated to provide information about juvenile jailing, secure juvenile detention, and the alternatives to both.

The Committee recognized the great amount of time and effort that has been necessary for the members to learn about jail removal efforts nationally, detention structures and practices in Kansas, detention alternatives, and the inter-relationships of these systems and practices. The Committee needs to begin sharing that information with legislators, the courts, and other juvenile justice professionals at the state and local level, the media, and the general public in Kansas. The Committee also needs to solicit others to assist in this educational process.

- G. The JRISC should continue in existence and assist in the implementation of these recommendations and in the further analysis of juvenile jailing, secure juvenile detention and the alternatives to both.

The JRISC views the continuation of its committee work as vital to the on-going effort of jail removal and development of detention alternatives. The Committee sees its role as sharing and explaining the work it has done to date, including these recommendations, and continuing to assess and make recommendations on issues that have not yet been resolved. The future work of the Committee includes:

1. Legislative Interim Committee

The JRISC will offer information to the Legislative Interim Committee on jailing of juveniles in Kansas, secure juvenile detention in Kansas, non-secure alternatives, detention criteria, jail removal initiatives in other states, and other material collected to date. The policy analysis and studies completed by JRISC should help the Interim Committee to quickly frame the problem and identify possible solutions.

2. Public Education

The JRISC hopes to carry out the public education campaign described in Recommendation F above.

3. Continued Assessment

The JRISC sees the need for continued assessment of the impact the recommendations in this report would have on a wide variety of state and local structures. The Committee recognizes that whenever a change is made in one system, it always affects other structures that interface with that system. The result can be both some intended or planned changes as well as unintended or unanticipated changes. JRISC wants to continue study in this area and solicit responses from other organizations as the planning process continues.

4. Additional Analysis of Resources

The Committee wants to continue collecting and reviewing information about the local programs and practices used currently as alternatives to secure detention, either in Kansas or elsewhere. Kansas is fortunate in that it can learn from the experiences in other states which alternatives are most effective and efficient.

5. Additional Analysis of Data

During the Committee's work, a number of new methods for collection of data about juvenile jailing and detention were begun. As this data continues to come in, the Committee expects to update its figures and add new findings to those issued in this report. As an example, new KBI arrest forms will yield useful information about juvenile arrest and detention practices that will help provide a more detailed picture of potential detention needs.

6. Cost Projection

The Committee intends to prepare cost projections on jail removal and alternatives to detention once its recommendations have been reviewed and additional

data has been received and analyzed. Factors to be considered are: the cost to the counties and the state of jail removal/alternatives to detention; how those costs shift depending on policy decisions the state may choose to make; the comparative costs of various non-secure alternatives; and the cost-effectiveness of transportation systems used in lieu of creating new secure beds.

7. Definition of the term "Juvenile"

The Committee will conduct further analysis of the definition of "juvenile" as it relates to federal statutes, state legislation, and data analysis.

CONCLUSION

In many ways the work has just begun. The JRISC feels it has made significant progress toward some very necessary and worthwhile goals. Much work is yet before the Committee and others who will be involved in the weeks, months, and even years to come. Undoubtedly, additional recommendations will be developed as new information and ideas surface. The JRISC is committed to continuing the work it has begun and asks for support from all those reviewing this material to work for alternatives to the jailing and unnecessary detention of our youth.

APPENDICES

APPENDIX A

Memorandum



Subject

Scope of Section 223(a)(14)
Jail Removal Requirement

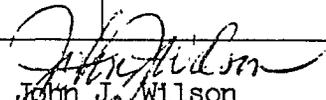
Date

May 20, 1983

To

Doyle Wood
Juvenile Justice Specialist (OJJDP)

From


John J. Wilson
Attorney-Advisor (OGC)

This is in response to your request for an opinion as to the scope of Section 223(a)(14) of the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. §5601, et seq., as amended (Pub. L. 93-415, as amended by Pub. L. 94-503, Pub. L. 95-115, and Pub. L. 96-509), hereinafter Juvenile Justice Act. Section 223(a)(14), added to the Juvenile Justice Act by the Juvenile Justice Amendments of 1980 (Pub. L. 96-509), requires that each State participating under the formula grant program (Part B, Subpart I) submit a plan which shall—

"(14) provide that, beginning after the 5-year period following the date of the enactment of the Juvenile Justice Amendments of 1980, no juvenile shall be detained or confined in any jail or lockup for adults, except that the Administrator shall promulgate regulations which (A) recognize the special needs of areas characterized by low population density with respect to the detention of juveniles, and (B) shall permit the temporary detention in such adult facilities of juveniles accused of serious crimes against persons, subject to the provisions of paragraph (13) where no existing acceptable alternative placement is available;"

You state that questions have arisen as to whether this section pertains only to those juveniles who are under the jurisdiction of a juvenile or family court or whether the requirement extends to juveniles under the jurisdiction of civil, criminal, municipal, or other courts which may have jurisdiction because of traffic offenses, fish and game violations, waiver or certification, etc.

Specifically, you ask whether Section 223(a)(14) applies in the following circumstances:

1. A juvenile is charged with a traffic offense and the court having jurisdiction over traffic offenses is other than a juvenile or family court;
2. A juvenile is arrested for a felony in a state whose code specifies that the court of jurisdiction for this particular offense is the criminal court;

3. A juvenile is in the process of being waived to criminal court but formal charges have not yet been filed in a criminal court;
4. A juvenile is charged with a state or municipal fish and game law violation and the court of jurisdiction for such offenses is other than a juvenile or family court; and,
5. A juvenile is charged with a status offense or is a status offender charged with or found to have violated a valid court order and the court of jurisdiction is a juvenile or family court.

The answer to these questions requires a definition of the term "juvenile" and an examination of the legislative history of Section 223(a)(14) in order to determine whether Section 223(a)(14) applies to all juveniles, only to those juveniles who are under juvenile or family court jurisdiction, and the nature of the exceptions spelled out in OJJDP's Formula Grant Regulations (28 C.F.R. Part 31).

Discussion

Section 223(a)(14) does not define the term juvenile. The "Definitions" section of the Juvenile Justice Act, Section 103, does not define the term. The Federal Juvenile Delinquency Act defines a juvenile, for purposes of that Act, as follows:

"For the purposes of this chapter, a 'juvenile' is a person who has not attained his eighteenth birthday, or for the purpose of proceedings and disposition under this chapter for an alleged act of juvenile delinquency, a person who has not attained his twenty-first birthday,..." (18 U.S.C. 5031)

It appears that Congress chose not to define the term "juvenile" in the Juvenile Justice Act, leaving the term to be defined by reference to state law. As this office stated in Office of General Counsel Legal Opinion 77-13, December 31, 1976, which considered the scope of Section 223(a)(13):

"Generally, juvenile court jurisdiction is determined in each State through the establishment of a maximum age below which, for statutorily determined conduct or circumstances, individuals are deemed subject to the adjudicative and rehabilitative processes of the juvenile court. Such an individual, subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment for any conduct or circumstances defined by State law, is a 'juvenile' as this term is used in the Juvenile Justice Act. This definition of 'juvenile' includes individuals who may be, for particular conduct:

- Subject to the exclusive jurisdiction of the juvenile court;
- Subject to the concurrent jurisdiction of the juvenile court and a criminal court;
- Subject to the original jurisdiction of a criminal court which has authority to transfer to a juvenile court for purposes of adjudication and treatment (a form of concurrent jurisdiction); or
- Subject to the exclusive jurisdiction of a criminal court for the particular conduct but subject to juvenile court jurisdiction for other statutorily defined conduct or circumstances.

"The basis for this definition of 'juvenile' is the proposition that if State law subjects an individual to juvenile court jurisdiction for purposes of adjudication related to particular conduct or circumstances, it has thereby determined that the individual is considered a 'juvenile' in the eyes of the law even though he may be treated as if he were an adult for other statutorily defined conduct or circumstances. The assumption or retention of jurisdiction over a juvenile by a criminal court does not, ipso facto, transform the juvenile into an adult. Rather, it reflects a judgment by the State legislature or court authorities that the interests of society and the juvenile are best served by treating the juvenile as if he were an adult in certain circumstances."

Some State Code provisions expressly define the term "juvenile." Others define the scope of juvenile or family court jurisdiction which can be applied to define a "juvenile" as this term is used in the Juvenile Justice Act.

Legal Opinion 77-13, supra, went on to distinguish a court's "delinquency" jurisdiction from other jurisdictional bases because the Section 223(a)(13) separation requirement was specifically applicable only to juveniles "alleged to be or found to be delinquent."^{1/} However, Section 223(a)(14) is not so limited. On its face, its coverage appears to extend to all juveniles, regardless of whether the individual has been arrested, taken into custody, or charged, and regardless of the basis for the jurisdiction exercised by any court.

However, pursuant to the terms of the statute, OJJDP's rulemaking authority under Section 223(a) of the Act, and consistent with the clear congressional intent expressed in the House Report on the Juvenile Justice Amendments of 1980,^{2/} there are three exceptions to the broad scope of Section 223(a)(14).

^{1/}The Juvenile Justice Amendments of 1977 expressly extended the scope of Section 223(a)(13) to include "youth within the purview of paragraph (12)", i.e.: status and nonoffender juveniles.

^{2/}House Report No. 96-946, May 13, 1980. The Section 223(a)(14) amendment originated in the House reauthorization bill. The Senate subsequently receded to the House bill, which became law.

Exception 1 - Low Population Density—OJJDP regulations implement a statutory exception allowing, within narrowly defined limits, the temporary detention in adult jails and lockups of juveniles accused of serious crimes against persons in low population density areas. (See 28 C.F.R. §31.303(1)(4)).

Exception 2 - Juveniles Under Criminal Court Jurisdiction—While the House Report indicates the Committee's general intent that the jail removal amendment "extend to all juveniles who may be subject to the exercise of juvenile court jurisdiction for purposes of adjudication and treatment based on age and offense limitations established by state law" (House Report at 25-26), the Committee also expressed its intent to except juveniles from the scope of the requirement once they have been charged in court with a criminal offense:

"If a juvenile is formally waived or transferred to criminal court by a juvenile court and criminal charges have been filed or a criminal court with original or concurrent jurisdiction over a juvenile has formally asserted its jurisdiction through the filing of criminal charges against a juvenile, the Section 223(a)(14) prohibition no longer attaches." (House Rept., ibid.)

However, the Committee Report continued:

"...the new provision is not intended to encourage increased waivers of juveniles to criminal court, a decrease in the age of original or concurrent criminal court jurisdiction, or a lowering of the age of juvenile court jurisdiction for specific categories or classes of offenses committed by juveniles." (House Rept., ibid.)

OJJDP has implemented this exception in its formula grant regulation. (See 28 C.F.R. §31.303(h)(2)).

Exception 3 - Temporary 6-Hour Hold—In addressing the implementation of the jail removal amendment, the Report stated that the Committee expects a "rule of reason" to be followed:

"For example, it would be permissible for OJJDP to permit temporary holding in an adult jail or lockup by police of juveniles arrested for committing an act which would be a crime if committed by an adult for purposes of identification, processing, and transfer to juvenile court officials or juvenile shelter or detention facilities. Any such holding of juveniles should be limited to the absolute minimum time necessary to complete this action, not to exceed six hours, but in no case overnight. Section 223(a)(13) would prohibit such juveniles who are delinquent offenders from having regular contact with adult offenders during this brief holding period." (House Rept., ibid.)

OJJDP has adopted this suggested "rule of reason" by permitting a temporary 6 hour holding period in its formula grant regulation (see 28 C.F.R. §31.303(1)(5)(iv)(G) and (H)).

Conclusion

Based on the express language of Section 223(a)(14), its legislative history, and the implementing OJJDP regulations (28 C.F.R. Part 31), it is the opinion of this office that only those "juveniles," as that term is defined by State law and in accordance with the cited principles of Legal Opinion 77-13, supra, who fall within one of the three exceptions discussed above, can be detained or confined in an adult jail or lockup consistent with Section 223(a)(14). It does not matter whether the juvenile is under the jurisdiction of any court (i.e. in police custody) or, if under court jurisdiction, the nature or source of the court's jurisdiction. Thus, any detention or confinement of a juvenile in an adult jail or lockup would constitute an incidence of noncompliance with Section 223(a)(14) unless such detention or confinement falls within one of the three exceptions noted above.

Applicability to Specific Circumstances

In answer to your questions:

- (1) A juvenile charged with (or adjudicated/convicted of) a traffic offense in any court cannot, consistent with Section 223(a)(14), be detained or confined in an adult jail or lockup unless such offense constitutes a criminal act and criminal charges have been filed or the 6-hour hold exception is applicable.
- (2) A juvenile arrested for a felony in a State whose juvenile code places exclusive age/offense jurisdiction for that particular crime in a criminal court cannot be detained or confined in an adult jail or lockup unless one of the three exceptions applies, i.e., all conditions for the statutory low population density exception are met; criminal charges have been filed in a court having criminal jurisdiction; or the juvenile is held under the 6-hour hold exception.
- (3) A juvenile who has been waived to criminal court can be detained or confined in an adult jail or lockup only after criminal charges have been filed. Such a juvenile could also be held in a juvenile detention facility.
- (4) A juvenile charged with (or adjudicated for) a fish and game violation (assuming that such violations are civil and not criminal in nature) may not be detained or confined in an adult jail or lockup consistent with Section 223(a)(14).

- (5) A juvenile who is charged with (or adjudicated for) a status offense or who is a nonoffender, whether or not under juvenile or family court jurisdiction, may not be detained or confined in an adult jail or lockup consistent with Section 223(a)(14). A status offender charged with or found to have violated a valid court order may not be detained or confined in an adult jail or lockup.

OJJDP may wish to provide this opinion to participating States so that any remaining issues or questions with respect to who is a "juvenile" under particular State law provisions can be clarified, either through consultation with the State Attorney General, OJJDP, or this office.

APPENDIX B

Judges' Survey Report

I. Development and Distribution of the Questionnaire

The JRISC Ad Hoc Committee decided to solicit input from judges to gather pertinent information about juvenile detention needs as perceived by judges, to sample the atmosphere of the judiciary about the issue of jail removal and to follow up on the committee's promise to the judiciary to keep them involved in the planning process. The JRISC Committee also hoped to determine if there were any consistent patterns that judges used at detention hearings to determine if detention was appropriate and to use that information to correlate it with some proposed criteria/standards for detention that the JRISC Committee or the legislature might want to look at. This final goal was not accomplished due to weaknesses of the survey instrument and/or use of it that will be discussed in the report to follow.

The JRISC staff assistant was asked to help develop the questionnaire and the final form was approved in coordination with the Office of Judicial Administration which then took responsibility for mailing the questionnaires and collecting them.

II. Response

Because the initial response in returns was determined to be too low, phone calls were made to those districts who had not yet responded urging them to do so. In all 45 responses were received from 26 of the 31 districts, leaving 16% (N=5) of the districts not represented. This means that there were a number of districts that submitted more than one response. Those districts not responding are as follows: 9, 16, 20, 22, 28. Court personnel from District #20 indicated that a questionnaire was completed and mailed. Since two of the questionnaires received did not have a district number indicated on them, one of them might have been from District #20.

Any statistics discussed below and in attached reports refer only to 44 responses since the survey from District #4 was received too late to be included. The two surveys with unknown districts are referred to as District #35 throughout discussions of the findings.

III. Entry of Data

The information from all of the surveys received was entered into a computer to facilitate the compilation of totals. A designation of the judicial districts as being either "Urban" or "Rural" was added to determine whether or not responses varied significantly from those areas. Johnson, Sedgwick, Shawnee and Wyandotte Counties and their corresponding judicial districts were designated as urban.

The narrative remarks to the questions of page 3 of the questionnaire were categorized to identify major concerns within each question or variable and for clarity and ease of use. The responses were also coded by those major concerns for entry onto the computer and analysis.

IV. Findings

Identifying Information: The totals from the designation of "Urban/Rural" as well as the other questions on page 1 of the survey are as follows:

| Urban/Rural: | <u>Number of Responses</u> | <u>Percent</u> |
|--------------|----------------------------|----------------|
| 1. Urban | 5 | 11% |
| 2. Rural | 39 | 89% |

Crosstabs of the narrative responses with "Urban/Rural" designations do not reveal significant differences.

Whether from a rural or urban district, the responses were varied within both groups. The majority of non-responses were from rural districts, perhaps due only to the larger number of respondents in that category.

Percent of the District's Juvenile Offender Cases heard by the Respondant:

| | <u>Number of Responses</u> | <u>Percent</u> |
|-----------------|----------------------------|----------------|
| 1. Less than 5% | 8 | 18% |
| 2. 5 - 14% | 2 | 5% |
| 3. 15 - 49% | 9 | 20% |
| 4. 50 - 100% | 25 | 57% |

Facility Used Most Often:

| | <u>Number of Responses</u> | <u>Percent</u> |
|----------------------|----------------------------|----------------|
| 1. Jail | 36 | 82% |
| 2. Juv. Det. Ctr. | 5 | 11% |
| 3. Equal use of both | 1 | 2% |
| 4. Other | 2 | 5% |

Several districts marked "juvenile detention center" as the designation for a separate area of the jail. For the statistics compiled here, these were changed to "jail" since they are still considered to be such by federal regulation. Even though one respondent listed #3 (Equal use of both), others responding from that same district marked their forms that jail was the facility most often used. Responses given by those who marked "Other" (#4) included "14 and under in Juvenile Detention Center, 15-18 in separate jail wing" and "foster care". The statistics for the facility most often used quite understandably follow those listed above for "Urban/Rural" since Juvenile Detention Centers are presently only located in those urban counties listed.

Table of Offenses/Criteria for Secure Detention:

The major finding from the totals for the listed table was that there was no consistency in the way the table was completed. Instructions for completion of the table were evidently not clearly understood so that many of the tables were filled out incorrectly and others were just not completed (e.g., vertical columns were left blank). A table with the totals listed is included in the Appendix. The total in each square indicates the number of persons who marked that particular box. There were two boxes where one person marked the box with a "?". Those are indicated on the chart. Overall the table was determined to not really be useful due to the questions regarding the validity of the survey.

However, if there were any summary trends reflected by this information, the following list reflects the combinations on the chart where 50% or more of the respondents indicated the need for secure detention:

1. Detention needed on the current offense alone:
 - a. ABC Felony Against Persons
 - b. Fugitive/Escapee from a Secure Facility
 - c. Runaway from a Court-ordered Placement
2. Detention needed on the current offense if the juvenile has also been convicted of a felony-type crime against persons within the past 24 months.
3. Detention needed for almost all offenses with a "record of willful failure to appear in court, or has threatened to flee or ignore Court Appearance". One exception to this was for misdemeanor type offenses against property. A fugitive/escapee was also not marked in this category

since a majority had marked that as an offense on which to detain on the current offense alone.

4. Almost all the offenses when a history of violent behavior was also present were determined to be in need of detention.

Over half of the respondents, however, indicated that juveniles charged with misdemeanor type offenses against property should not be placed in secure detention for the current offense, even with a past felony in their history. The above information might indicate some trends about detention use. Once again, though, the JRISC Committee felt that on the whole the table was not useful for determining actual detention patterns or for establishing proposed detention criteria.

Narrative Remarks:

Persons were asked to respond to some narrative questions on page 3 of the survey. As the compiling and coding of this information was done, all comments were included without judgment being made as to the accuracy of the information. The comments are reported as the perceptions of the respondents given their situations and their understandings about their resources and needs.

As was indicated above, the narrative responses were categorized to identify major concerns/responses to each question. The categorization of those responses, the totals for each category and the percentage that number is of the total respondents is included in Appendix. These statistics are helpful to identify the high percentages of persons that did not give any response to the particular questions, especially with the last three questions where the nonresponse rate was over 50% for each one.

However, it was determined that of the whole survey, the individual responses themselves would perhaps be the most useful as further planning is done with individual counties, districts and/or catchment areas to help identify some of the concerns particular to a certain area. For that reason a summary of all of the narrative remarks made appears in Appendix. Verbatim remarks are enclosed in quotations; otherwise the comments are summaries of what was written. The numbers in parentheses indicate the district from which the comment was received.

Again, District #35 indicates responses from unknown districts. Since more than one person responded from some of the districts, the district numbers may be listed more than once.

Some brief observations about the comments are as follows:

Non-secure Placements Needed if jailing of juveniles no longer allowed:

The greatest concern (over 63% of those who gave some response to the question) was from more foster homes and runaway/emergency shelters.

Secure Placements Needed if jailing of juveniles no longer allowed:

As might have been expected, the greatest response was in support of some kind of locked detention facility although it was not clear if most respondents were considering a separate facility or areas that would be part of the jail. Nine persons had concerns regarding the geographic location of such a facility with accessibility to the court being a major concern.

Procedural/Fiscal Constraints arising from Juvenile Offender code that might cause a youth to be placed in jail rather than using alternative community resources or a detention facility:

Concerns voiced were fairly equally divided between almost all of the categories of response. There was almost 60% non-response to this particular question.

Other Situations where Secure Detention needed not addressed in the questionnaire:

There were some specific suggestions made, but over 50% did not indicate any additional needs.

Additional Comments:

Eight persons reiterated that sight and sound separation in local rural communities should be adequate to meet their needs without building additional facilities.

V. Recommendations

Since the narrative comments were determined to be the most useful part of the responses, they were used by the committee as further discussion was held about the needs of particular areas. The comments were also shared with persons from various court districts/geographic areas as the planning process continued to explore ways of addressing the wide variety of detention needs for juveniles.

JUDGE'S SURVEY REPORT

ADDENDUM

Summary of Narrative Remarks to the Page 3 Questions

I. Non-secure Resources/Placements Needed if Jailing of Juveniles was no longer allowed

A. Specific Options (N=2 or 4.5%)

- (21) Plans are being made through Riley County Community Corrections to arrange for some non-secure placements.
- (27) Reno County has an 8-bed non-secure shelter staffed on a 24-hour basis.

B. Facility (24-Hour) (N=5 or 11.5%)

- (2) Facilities that are easily accessible to the court and available on a 24-hour basis.
- (11) Non-secure facility only available to CINC's - would be needed - most SRS foster homes refuse offenders.
- (19) Any non-secure facility would be welcome and is desperately needed.
- (19) Only present alternative is foster home placement; therefore, a 24-hour placement would be needed close enough to allow family and counsel access. "However, there is not enough demand to justify such a facility for this district alone."
- (29) Would need a new facility.

C. Foster/Group Homes/Shelters in General (N=23 or 52.5%)

- (35) Foster homes, home detention program, hold-over sites, crisis center, emergency shelter.
- (1) Foster homes.
- (35) Foster homes.
- (6) Crisis center, holdover sites, runaway shelters and transportation system to noncommunity resources.
- (7) Shelter - we already have.
- (8) Emergency shelters, hold over sites, runaway shelter, foster care.
- (11) Runaway shelter, emergency shelters, foster care for older juveniles.
- (12) We have SRS and foster homes.
- (12) Private foster homes.
- (12) Group homes.
- (15) Foster care, runaway centers.
- (15) Foster care, emergency shelters, runaway sites.
- (15) Foster homes used for certain offenders.

- (17) Foster homes - difficult to find for older teenagers.
- (18) Emergency shelters for runaways and for offenders who can't return home due to the "dysfunction in the home" but don't need secure facility.
- (21) More foster homes as well as facility with 24-hour supervision.
- (23) Foster homes, temporary group homes.
- (23) A "home" facility for runaways, etc.
- (24) More foster homes and emergency shelter type units.
- (25) Adequate number of foster homes and/or youth shelter facility.
- (30) Only have a few foster homes - need more local resources.
- (30) More foster homes and more youth homes.
- (30) Emergency shelter housing, foster care, runaway shelters.

D. Other and General (N=6 or 13.5%)

- (1) SRS Custody.
- (3) Only Juveniles charged with aggravated juvenile delinquency or those waived are placed in S.C. Jail subject to bail bonding procedures.
- (10) Available non-secure facilities very limited. Few funding entities available and the district S.R.S. office doesn't have adequate funds to maintain service contracts for temporary non-secure placements.
- (13) All those listed on the front.
- (18) "Always a need for non-secure out of home placement. . . [for times when] release to parental custody inadvisable."
- (24) Nothing available.

E. No Response (N=8 or 18%)

II. Secure Placements Needed if Jailing of Juvniles was no longer allowed

A. Modification of Present Facility (N=1 or 2.5%)

- (27) Would need to secure some present rooms in shelter or add "security" wing if organization's charter allows. If not possible, would need new facility - fiscally wasteful.

B. Detention Centers/ Certain Geographic Area (N=9 or 20.5%)

- (1) Johnson County JDC.
- (2) Facilities that are closely located to the court to avoid transportation problems.
- (3) Arrangements for overflow when Shawnee Co. Y.C. full.
- (7) Regional detention center.
- (19) Closest facility is Wichita - too far to be viable. Geographically close 24-hour facility needed to allow family and counsel access.
- (24) Would need detention facility within 20 miles distance of county seat.

- (30) "Absolutely essential" for secure placement in Sumner County - regional center not adequate with hearings required within 24 or 48 hours of placement in facility.
- (30) Have used facility in Wichita in one case.
- (30) Regional detention center.

C. Detention Centers/ General (N=15 or 34%)

- (1) Youth Center.
- (5) A Youth center.
- (6) Juvenile detention facility.
- (8) Juvenile Detention.
- (11) Detention facilities (have only jail)
- (13) Locked detention facilities.
- (14) Would need to construct a JD Center.
- (15) Crisis centers, detention centers.
- (15) Detention center.
- (17) Would need some kind of secure detention for runaways, those brought in for felony type offenses and violent behavior.
- (21) Detention facility to provide community protection and guarantee court appearance.
- (23) Some type of secure placement.
- (25) Secure juvenile detention facility with adequate space.
- (29) County would need new facility.
- (30) Youth Center (locked).

D. Separate Area in Jail or Something Else (N=4 or 9%)

- (11) Have separate wing in jail separated by sight and sound - if not acceptable, would need area juvenile detention facility - nothing in 125 miles.
- (15) Have no other alternative than juvenile cell.
- (21) Only facility available is in basement of jail - would need new facility.
- (26) Prefer placement in jail - "locally like in Ulysses".

E. Foster Homes/ Other Non-Secure Placements (N=2 or 4.5%)

- (35) Foster homes.
- (35) Home detention program, runaway shelter.
- (31) Any of the alternatives on page 1.

F. Other (N=7 or 16%)

- (10) Nothing new would be needed at this time.
- (12) Hold over sites.
- (18) ". . .occasionally necessary to order one held in the county jail. . .[when they] present a threat to the physical safety of the staff. . .or pose a potential escape problem."
- (18) No additional need.
- (19) Anything but county jail - "preferably an institution with rehabilitation and training programs."
- (23) Some is available.
- (24) Nothing available.

G. No Response (N=6 or 13.5%)

III. Procedural/Fiscal Constraints arising from the Juvenile Offender Code that might cause a youth to be placed in jail rather than using alternative community resources or a detention facility

A. Distance for Transporting (N=4 or 9%)

- (11) Major problem to rural areas - placement in secure or nonsecure facility requires 250 mile round trip - transportation costs and monies to pay for detention costs has to come from SRS funds or county general funds.
- (12) Nearest JD Centers in Wichita and Topeka, 3-4 hours one way - economically impossible to transport.
- (15) No detention facility in this area.
- (30) Yes, have to go out of county.

B. Payment for Placements and Transportation (N=3 or 7%)

- (11) County Sheriff would be responsible for transportation, money and manpower - will be section of jail available but money to pay and transportation will be problem.
- (19) No procedural constraints. Court budget couldn't pay for placement - youth would need to be in SRS custody if charge made.
- (30) County budget doesn't include expenditures for placement of juveniles in detention facilities - also these costs are extremely high.

C. Funds for Facility (N=3 or 7%)

- (25) Funding problem for detention facility. Since counties reluctant to invest funds for this type project, legislation might be required to "force payment by counties and/or SRS".
- (29) "Our problem is that the state fails to provide fiscal assistance in building and maintaining any local facilities for juvenile offenders awaiting trial or disposition."
- (30) No place available other than jail - no funds for separate facility - requirements of hearing within 24-hours of placement makes out of county facility almost impossible.

D. Space Availability (N=2 or 4.5%)

- (1) Lack of space in Johnson Co. JDC.
- (3) Only if Shawnee Co. Y.C. gets too full - 2-3 occasions in last 10 years have needed to transfer violent youth to jail.

E. Others (N=6 or 13.5%)

- (1) Yes, but haven't had to address problem.
- (5) Youth Center.
- (6) We have no detention facility in Southeast Kansas. Otherwise, no constraints hinder alternative placements.
- (7) Yes, not budgeted now.

- (10) No, except S.R.S. funding for community placement is limited. The detention facility is a viable alternative to jail in Johnson County.
- (12) Yes, fiscal.

IV. Other Situations where Secure Detention is Needed that were not not addressed in the questionnaire

A. Children In Need of Care (N=4 or 9%)

- (11) CINC statute needs revision to allow secure detention of absconders from placements and suicide risks (can't work therapeutically if can't keep them in one place).
- (23) Runaways - "the road is too dangerous".
- (24) After adjudication of juvenile who has run away before from any placement - appropriate to make sure he's there to transport - although age would be a consideration.
- (29) Few alternatives for 10 - 16 CINC's who run away from placement - can't hold over 24 hours - parents are concerned that their children are back out on the streets.

B. Specific Suggestions (N=8 or 18%)

- (1) Pending waiver (certification) for ABC felony.
- (3) Material witness in serious criminal case (for her protection) only until other location found; youth from mental hospital who are uncontrollable at request of hospital staff through D.A.'s office until other placement available.
- (10) Minors serving traffic offenses should be quartered in secure or non-secure juvenile facilities instead of jail (DWI).
- (15) Danger to themselves or others.
- (24) One who is depressed or suicidal.
- (25) For direct criminal contempt of court and indirect contempt of court.
- (27) No - 2 important criteria are (1) potential danger to self and others and (2) likelihood that person will not appear even with bond.
- (30) Fire setters.

C. General (N=8 or 18%)

- (1) ??
- (2) Possibly? Each case has to be decided individually and by the facts of the situation.
- (7) Yes.
- (18) Occasionally needed due to the number of pending unadjudicated cases when it appears it is the only way to avoid further charges.
- (18) No, if alternative available for offenders whose homes are not optional placements.
- (19) Should be permissible but not mandatory for those who are presently on probation or are repeat drug offenders.

- (26) Yes - repeat offenses - minor but "setting a track record leading to injury to him/her self or others and ruining the hope for the future."
- (31) Could be many situations in which it would be advisable to detain.

D. No Response (N=24 or 54.5%)

V. Additional Comments

A. Children In Need of Care (N=2 or 4.5%)

- (3) CINC's runaways from foster or shelter care facilities place them in a bind due to 24-hour limitation on detaining and in placing in closed facilities.
- (29) "Legislators don't seem to realize that merely enacting a new juvenile code doesn't whisk away the problem." [Need] . . . secure facility for CINC's and also secure facilities for Juvenile offenders. The two shouldn't be mixed together. The court shouldn't have to wait until a CINC goes out and commits a crime before we can place them in a secure facility, if prior efforts have been unsuccessful on keeping them in a non-secure placement."

B. Rural Counties and Sight and Sound Separations (N=8 or 18%)

- (1) Have separate area in jail - would use area facility for all juveniles if available.
- (2) In smaller counties thoughts should be directed towards improvement in juvenile detention cells in the jail as there does not seem to be any realistic, workable solution to going regional. Would be very costly, but nice, to have district-wide facilities.
- (11) Requirement to keep juveniles out of adult jails unrealistic in rural counties - separate area in jail is adequate.
- (12) Most rural counties have no resource other than separate part of county jail. "I would suspect that there isn't over 4 to 6 counties west of US Highway 81 that have access to secure detention facilities other than a jail."
- (23) "As was discussed at the Conference, Northwest Kansas has no alternative to Jail. If a facility is to be useful, it needs to be available without driving 150 or 200 miles to use it."
- (24) In past 3 years, have used jail for juvenile detention on only 2 occasions - over night and 1 weekend. Have sight and sound separation.
- (24) Jail has separate sight and sound facility designated as detention facility. "I think it is adequate for our needs. You can call it jail, however, I call it a detention cell or facility."
- (30) Low number detained in Sumner County doesn't justify expense of separate facility but, "in each of those cases the availability of a local detention facility is absolutely essential."

C. Non-limitation of Court's Power (N=3 or 7%)

- (7) "I hope you do not try to come up with arbitrating rule for determining detention."
- (26) "We as judges can not change a person. All we can do is allow time alone to see where they are headed. This is the local peoples responsibility. Let us keep it and not allow the state to take, whether regional or state wide, away our duty. If we are wrong in some areas the local people will keep us straight, either by our own court or not re-elect us."
- (30) Court should be allowed to place Juvenile in jail when occasion requires it.

D. Dislike Putting Juveniles with Adults (N=3 or 7%)

- (13) Don't like to house a juvenile in jail with an adult.
- (17) 3-4 youths per year placed in jail because no other option. "Personally I am very much against placing any juvenile in the county jail but there are a few times each year when I have no other choice."
- (21) "Unless the juvenile is violent or destructive, there rarely is an occassion for using the jail."

E. Others (N=4 or 9%)

- (6) "Planning for a juvenile detention center for Southeast Kansas must be initiated soon if we are to comply with Federal guidelines. . .by mandatory cut-off dates."
- (19) State should provide "numerous regional non-jail secure and non-secure shelter facilities if courts are going to be restricted to these type placements." If not provided legislature should be "realistic enough to permit the courts wide discretion in all temporary custody or detention placements."
- (25) Lower age of majority to 16 with provision for juvenile to petition court for exemption to criminal liability - burden on juvenile to show why he should not be treated as an adult.
- (27) Would like summary of the results. If we had a secure detention facility, jail would rarely, if ever, be used.

F. No Response (N=24 or 54.5%)

APPENDIX C

KBI STATISTICS REPORT

In order to have a general picture of how many youth are being detained in secure custody in Kansas and for what offenses, the JRISC contacted the Kansas Bureau of Investigation (KBI) to determine the possibility of obtaining such information through them.

I. Development and Use of KBI Reporting Forms

In 1983 the Juvenile Offender Code established a Juvenile Justice Information System to compile a variety of information from law enforcement and court personnel about juveniles arrested, detained, and/or processed through the legal system. Data specifically relevant to the work of the JRISC was made available through the staff assistance of Michael Boyer of the KBI. The material used was compiled from the secure custody reports obtained from detention centers and jails that were filed with the KBI beginning in July of 1983. The categories of information shared with the JRISC were facility, admission date and time, the most serious offense listed, the offense status, the detention hearing date and time, the result of the detention hearing, and the release date and time. The names of the youth were not released and the guidelines of confidentiality required by state statute were followed.

II. Choice of Sample Months

Even though the KBI had started collecting information from July 1, 1983, it was determined that the information received in September and October was more accurate and complete than during the first several months. It was also recognized that since analysis of the data was to begin in February, data from December and any months in 1984 might not have been received by KBI and, therefore, would be incomplete. The Committee also decided that October and November would be fairly representative of the year and so chose those two months on which to gather information.

With the first print-out from KBI it was evident that a number of counties were still not sending in report forms, some of the counties ones that were considered crucial by the Committee in obtaining an accurate picture of the whole state. KBI staff took the responsibility of sending reminder notices to counties to send in the information and also began calling the counties to verify whether or not any youth had been detained up to the current month. While many counties responded and additional information was made available to the Committee, KBI staff and JRISC members also called three counties and obtained information by phone about the youth who had been detained during October and November. Even with this additional effort, there was no way of knowing whether or not all counties who had detained youth had then reported. If a county had still not responded, it either meant they had not detained any youth during that time or that they just were not yet reporting them. However, the Committee felt that they had made the best effort possible to collect the data and, due to time constraints, needed to move ahead with the analysis.

As will be discussed below, all of the above work resulted in the compilation of 547 cases of youth that were detained in both jail and secure detention centers during October and November in Kansas. This includes all of the computerized information from the KBI as well as the statistics that were gathered by phone.

III. Entry of Data

From the KBI information and other sources, the following was entered on the computer. The county where detention took place was entered by using the Origination Agency Identifier (ORI) numbers from the KBI. The number of the judicial district in which the county is located was also entered. The type of facility, either jail or a juvenile detention center, in which detention took place was entered using a designation of "1" for jail and "2" for a juvenile detention center.

The offenses that were listed on the KBI statistics were divided into groupings as listed below. The first ten categories follow those that were used in the Judges Survey; additional categories were needed to cover all offenses listed in the statistics.

1. ABC Felony-type Offense Against Persons
2. Other Felony-type Offense Against Persons
3. ABC Felony-type Offense Against Property
4. Other Felony-type Offense Against Property
5. ABC Felony Drug Offenses
6. Other Drug Offenses (Felony and Misdemeanor)
7. Misdemeanors Against Persons
8. Misdemeanors Against Property
9. Fugitive/Escapee from a Secure Facility
10. Runaway from Court-Ordered Placement (Juvenile Offender and CINC)
11. Other Misdemeanors and Miscellaneous Offenses (disorderly conduct, liquor violations, failure to appear, illegal alien, obstructing legal process, etc.)
12. Probation Violation/Warrant/Pick-up Order
13. Awaiting Placement (courtesy detention)
14. Traffic, Fish and Game (DWI)
15. CINC (Abuse and Neglect)

The category above listed as "Runaway" (#10) includes all youth, whether juvenile offenders or Children in Need of Care (CINC), that were held as runaways. While the KBI report now makes a distinction between those who are runaways from court-ordered placements and other runaways (e.g., from home), it still does not delineate between offenders and CINC's. And, for those who were offenders, there was no indication of the originating offenses. Therefore, the JRISC was quite careful to not over-analyze this category based on the unknown information.

There were also two other categories in the table above for which the originating offenses were unknown. Neither the categories of Probation Violation (#12) nor Awaiting Placement (#13) could be analyzed based on the originating offenses. The more detailed information would be necessary for more in-depth planning for certain areas.

The final variable entered on the computer was the amount of time spent in secure custody. The totals for this category were figured purely on the amount of hours or days without regard for weekend or court holidays with the understanding that the Committee was more interested in total bed space used and/or needed rather than whether or not detention time limits were being met. The four categories used to describe the amount of time spent in detention are as follows:

1. 0 to 6 hours
2. 6 to 48 hours
3. 48 hours to 30 days
4. over 30 days

The five variables discussed above formed the data base for studying the months of October and November and use of jails and detention facilities.

IV. Additional Data Collection and Discussion

The first data that was available to the Committee had a total of 505 cases and did not include information from a number of counties that were considered to have a definite impact on the secure detention needs in certain areas of the state. These counties included Reno, Leavenworth, Geary, Ford, Wyandotte, Douglas and Riley. The KBI agreed to contact those counties and request the information as they also needed to verify whether or not those counties were detaining youth. The JRISC also decided to divide the state into a number of regions or catchment areas with the realization that it would be infeasible to consider separate locked facilities for every county or judicial district based on the statistics available. The total number of youth detained in the chosen catchment areas as well as the totals for the amount of time spent in detention and the offense classifications were completed and studied by committee members.

By looking at the totals for the original ten catchment areas chosen by the committee, it was determined that many of those regions could most likely still not justify or support separate detention facilities, and that perhaps the greater needs for many of the catchment areas might include resources other than secure detention facilities. It was decided to reorganize the catchment areas using the totals available and keeping in mind the judicial district boundaries.

The result was seven catchment areas spread across the state, each of which includes three or more judicial districts. Several judicial districts were divided, but with the understanding that these are only working regions for the sake of preliminary study and discussion and that they could change throughout the planning process.

Statistics were still not available from some of the counties, and some other counties indicated they had not confined any youth during the months of October and November, but had detained youth in months before or after that. Because of this, it was decided to try and collect additional data for October and November by phone to several counties and to also study the data available from the KBI for December 1983 and January through March 1984. The latter decision was made with the realization that the data would not be complete for all those months; however, it was thought that at least the Committee could get some sense as to the number of youth detained in some of the counties that seemed to be particularly low or high during the months of October and November.

V. Statistics

As a result of the phone calls and additional data received by the KBI, 547 cases were identified as being held either in jail or secure detention in October and November, 1983, and from the cases entered, the following totals for the whole state were compiled:

| <u>Totals by Type of Facility</u> | <u>Number Locked Up</u> | <u>Percent</u> | <u>12 Mo. Projections</u> |
|-----------------------------------|-------------------------|----------------|---------------------------|
| 1. Jail | 243 | 44 | 1,458 |
| 2. Juvenile Detention Centers | <u>304</u> | <u>56</u> | <u>1,824</u> |
| TOTAL | 547 | 100 | 3,282 |

Totals by Amount of Time Spent in Lockup (Jail and Juvenile Detention)

| | | | |
|-----------------------|-----------|----------|------------|
| 1. 0 - 6 hours | 119 | 22 | 714 |
| 2. 6 - 48 hours | 196 | 36 | 1,176 |
| 3. 48 hours - 30 days | 182 | 33 | 1,092 |
| 4. over 30 days | <u>50</u> | <u>9</u> | <u>300</u> |
| TOTAL | 547 | 100 | 3,282 |

Totals by Offense Categories (Jail and Juvenile Detention)

| | | | |
|--------------------------------------|-----------|----------|------------|
| 1. ABC Felony Against Persons | 9 | 2 | 54 |
| 2. Other Felony Against Persons | 11 | 2 | 66 |
| 3. ABC Felony Against Property | 4 | 1 | 24 |
| 4. Other Felony Against Property | 118 | 21 | 708 |
| 5. ABC Felony Drug | 0 | 0 | 0 |
| 6. Other Drug (Fel. & Misd.) | 22 | 4 | 132 |
| 7. Misdemeanor Against Persons | 19 | 3 | 114 |
| 8. Misdemeanor Against Property | 74 | 13 | 444 |
| 9. Fugitive Escapee from Secure Fac. | 1 | 0 | 6 |
| 10. Runaway (Offender & CINC) | 97 | 18 | 582 |
| 11. Misdemeanor & Miscellaneous | 47 | 9 | 282 |
| 12. Probation Violation/Warrant | 58 | 11 | 348 |
| 13. Awaiting Placement | 46 | 8 | 276 |
| 14. Traffic/Fish & Game | 21 | 4 | 126 |
| 15. Children in Need of Care | <u>20</u> | <u>4</u> | <u>120</u> |
| TOTAL | 547 | 100 | 3,282 |

Frequency of Offense by Facility Type

| | <u>Jail</u> | <u>Percent</u> | <u>Detention</u> | <u>Percent</u> |
|--------------------------------------|-------------|----------------|------------------|----------------|
| 1. ABC Felony Against Persons | 5 | 2 | 4 | 2 |
| 2. Other Felony Against Persons | 7 | 3 | 4 | 2 |
| 3. ABC Felony Against Property | 3 | 1 | 1 | 0 |
| 4. Other Felony Against Property | 54 | 22 | 64 | 21 |
| 5. ABC Felony Drug | 0 | 0 | 0 | 0 |
| 6. Other Drug (Fel. & Misd.) | 12 | 5 | 10 | 3 |
| 7. Misdemeanor Against Persons | 6 | 3 | 13 | 4 |
| 8. Misdemeanor Against Property | 25 | 10 | 49 | 16 |
| 9. Fugitive Escapee from Secure Fac. | 0 | 0 | 1 | 0 |
| 10. Runaway (Offender & CINC) | 51 | 21 | 46 | 15 |
| 11. Misdemeanor & Miscellaneous | 29 | 12 | 18 | 6 |
| 12. Probation Violation/Warrant | 12 | 5 | 46 | 15 |
| 13. Awaiting Placement | 3 | 1 | 43 | 14 |
| 14. Traffic/Fish & Game | 21 | 9 | 0 | 0 |
| 15. Children in Need of Care | <u>15</u> | <u>6</u> | <u>5</u> | <u>2</u> |
| TOTAL | 243 | 100 | 304 | 100 |

Totals for the number of cases in secure custody and the amount of time detained were also completed and are listed on maps in the Appendix.

As is evident from the statistics above, there are many youth currently being detained in Kansas jails. Based on the available statistics for the two month time period, the Committee estimated that as many as 1,500 youth may be jailed over a year's time. Added to the approximately 1,800 youth that might be detained in secure juvenile detention centers, Kansas may be locking up around 3,300 youth on a pre-trial basis every year. Of those locked up, almost 60% are released within 48 hours. The totals above also reflect that less than 30% of those locked up were charged with felony offenses, although some of the youth included in categories 12 and 13 might have had felony charges as originating charges.

VI. Catchment Area Summaries

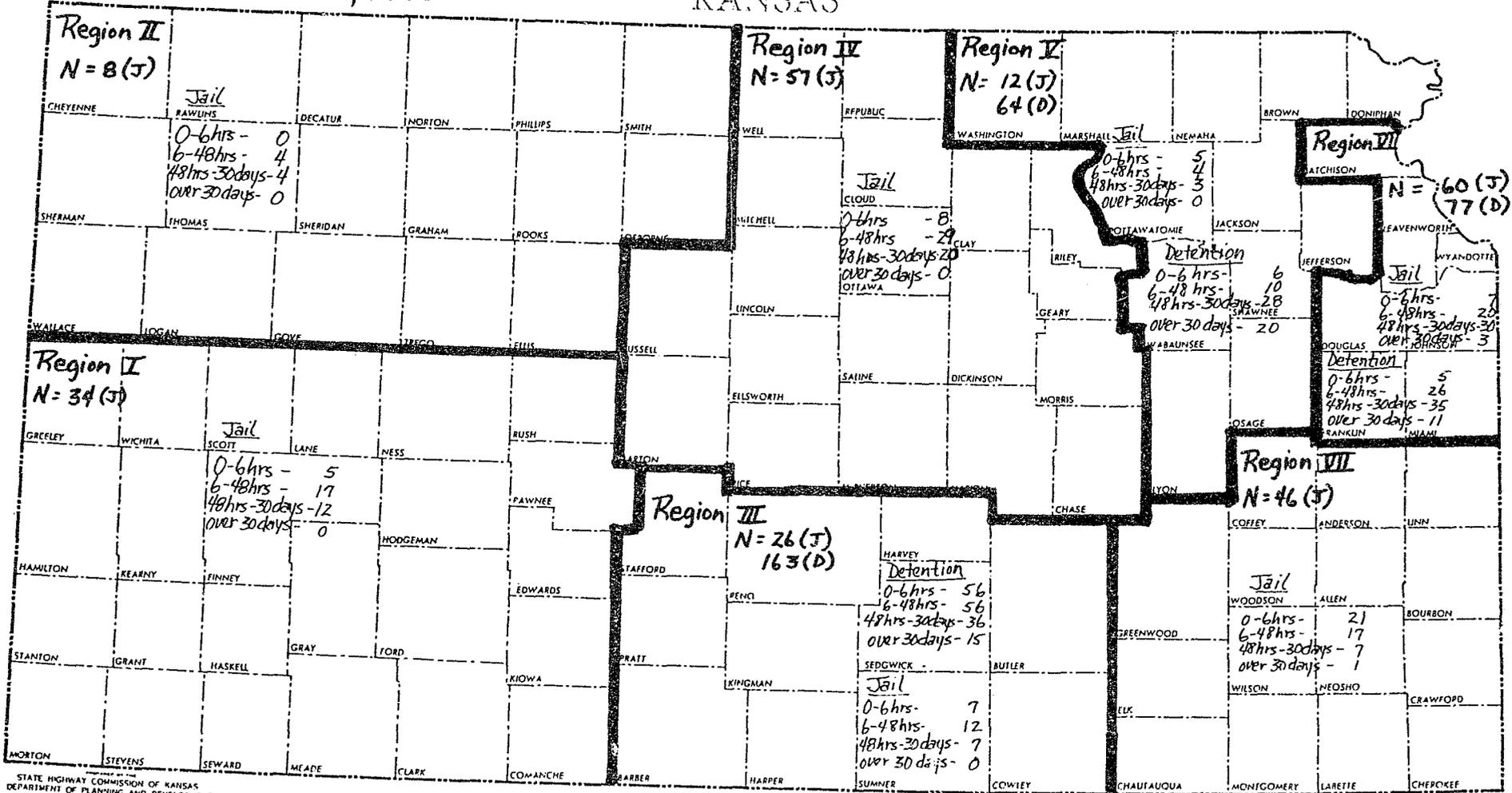
From the original data from the KBI, updated information from the same source, hand-counted data from several counties who had not yet submitted the KBI forms, study of statistics from December 1983 on, and discussion by the JRISC came seven catchment areas to be used for further discussion and planning within the Committee, and perhaps with some of the regional areas and for reporting purposes to the Advisory Commission on Juvenile Offender Programs and the State Advisory Group related to JJDP Act funding.

The summaries, which are included in Appendix D, provide information about the counties and judicial districts included, the total number of cases detained, an in-depth cross-tabulation of the amount of time detained with the kinds of offenses detained, additional information gathered from the months following November 1983, and the totals detained by particular counties. It was decided by the Committee that these summaries could be valuable to begin discussions with persons in some of the specific catchment areas as well as with other groups of persons about the resources available, the perceived needs and interest in pursuing alternatives.

APPENDIX D

Total Cases in Secure Custody and Time Spent In by Regions KANSAS

October - November, 1983



STATE HIGHWAY COMMISSION OF KANSAS
DEPARTMENT OF PLANNING AND DEVELOPMENT

Total Number = 547

(J) = Jail

(D) = Detention

3/24/84, JRISC

REGION 1 SUMMARY

Counties: Greeley, Wichita, Scott, Lane, Ness, Rush,
Pawnee, Edwards, Hodgeman, Pinney, Kearny,
Hamilton, Stanton, Grant, Haskell, Gray, Ford,
Kiowa, Comanche, Clark, Meade, Seward, Stevens,
Morton (N=24)

Districts: 16, 24, 25, 26

Total Cases in Jail in October and November, 1983 = 34

Time Spent In:

14.5% (N=5) 0 - 6 hours

50% (N=17) 6 - 48 hours

Illegal Alien (N=2), Runaway from Court Placement (N=4),
Runaway (N=4), CINC (N=2), Warrant, Possession of Mari-
juana, Transporting Open Container, Awaiting Placement, DWI

35.5% (N=12) 48 hours - 30 days

Terroristic Threats - 3 days

Runaway (N=4) - 3-5 days

Runaway from Court Placement - slightly over 2 days

Theft - 8 days

Criminal Trespass - 3 days

Pickup Order (N=2) - slightly over 2 days, 4 days

Auto Theft - 7 days

CINC - 3 days

Counties:

Kiowa - 1 held over 48 hours
Terroristic Threats - 3 days

Meade - 1 held over 48 hours
Runaway - 4 days

Finney - 4 held over 48 hours
Runaway (N=2) - 3 days
Theft - 8 days
Criminal Trespass - 3 days

Ford - 6 held over 48 hours
Pickup Order (N=2) - slightly over 2 days, 4 days
Runaway - 5 days
Runaway from Court Placement - slightly over 2 days
CINC - 3 days
Auto Theft - 7 days

Additional Information:

December: Finney Co. - 1 Courtesy Detention - 14 days

County Totals

| County | Oct. | Nov. | Dec. | Jan. | Feb. | Mar. |
|--------------|------|------|------|------|------|------|
| Finney (28) | 2 | 8 | 2 | 4 | - | - |
| Kiowa (49) | 0 | 2 | - | - | - | - |
| Meade (60) | 5 | 3 | - | - | - | - |
| Grant (34) | 0 | 0 | 1 | - | - | - |
| Stanton (94) | 1 | 0 | 0 | 1 | - | - |
| Ford (29) | 5 | 8 | - | - | - | - |
| TOTALS | 13 | 21 | 3 | 5 | - | - |

REGION II SUMMARY

Counties: Wallace, Logan, Gove, Trego, Ellis, Sherman,
Thomas, Sheridan, Graham, Rooks, Osborne,
Cheyenne, Rawlins, Decatur, Norton, Phillips,
Smith (N=17)

Districts: 15, 17, 23

Total Cases in October and November, 1983 = 8

Time Spent In:

50% (N=4) 6 - 48 hours
Runaway, Traffic, Illegal Alien (2)

50% (N=4) 48 hours - 30 days
Runaway - 3 days
Driving While License Suspended - 5 days
Parole Violation - 2 days
Fleeing and Eluding - 5 days

Counties:

Decatur: 1 held over 48 hours
Parole Violation - 2 days

Logan: 1 held over 48 hours
Runaway - 3 days

Ellis: 1 held over 48 hours
Driving While License Suspended - 5 days

Phillips: 1 held over 48 hours
Fleeing and Eluding - 5 days

Additional Information:

December: Trego Co. - 2 auto thefts - 3 days each

January: Rooks Co. - Theft (N=1) - 5 days
Sherman Co. - Runaway (N=1) - 5 days
Theft (N=1) - 5 days

February: Sherman Co. - Theft (N=1) - 16 days

Region II Summary, cont.

County Totals:

| County | Oct. | Nov. | Dec. | Jan. | Feb. | Mar. |
|---------------|------|------|------|------|------|------|
| Logan (55) | 1 | 1 | - | - | - | - |
| *Sherman (91) | 0 | 0 | 2 | 3 | 4 | 3 |
| Rooks (82) | 0 | 0 | 0 | 1 | - | - |
| Trego (98) | 2 | 0 | 2 | - | - | - |
| Ellis (26) | 2 | 0 | 0 | 1 | 1 | - |
| Decatur (20) | 1 | 0 | - | - | - | - |
| Norton (69) | 0 | 0 | 0 | 0 | 1 | - |
| Phillips (74) | 0 | 1 | 0 | 0 | 2 | - |
| TOTALS | 6 | 2 | 4 | 5 | 8 | 3 |

REGION III SUMMARY

Counties: Stafford, Reno, Harvey, Butler, Sedgwick,
Kingman, Pratt, Barber, Harper, Sumner,
Cowley (N=11)

Districts: 9, 13, 18, 19, 20, 27, 30

Total Number Held in Jail During November and December, 1983:
26
Held in Detention: 163

Time Spent In: JAIL

27% (N=7) 0 - 6 hours

46% (N=12) 6 - 48 hours
Aggravated Battery, Auto Theft, Attempted Burglary,
Theft, Runaways (N=4), Liquor Violation, Illegal
Alien, Traffic, CINC

27% (N=7) 48 hours - 30 days
Burglary - 5 days
Misdemeanor Thefts (N=2) - 4 days each
Pickup Order - 3 days
Curfew Violation (N=2) - each slightly over 2 days
Protective Custody - 3 days

Counties:

Kingman - 1 held over 48 hours
Protective Custody - 3 days

Sumner - 1 held over 48 hours
Pickup Order - 3 days

Butler - 5 held over 48 hours
Burglary - 5 days
Misdemeanor Thefts (N=2) - 4 days each
Curfew Violation (N=2) - each slightly over 2 days

DETENTION

34% (N=56) 0 - 6 hours
 34% (N=56) 6 - 48 hours
 22% (N=36) 48 hours - 30 days
 9% (N=15) over 30 days
 Courtesy Detention (N=6)
 Other Felonies Against Property (N=4)
 Warrant (N=3)
 Runaway (N=1)
 Misdemeanor Against Property (N=1)

Additional Information:

January: Butler Co. - Forgery (N=2) - 4 days each
 Sumner Co. - Contempt of Court - 4 days

February: Harvey Co. - Theft - 14 days
 Reno Co. - Theft - 7 days

County Totals

| County | Oct. | Nov. | Dec. | Jan. | Feb. | Mar. |
|---------------|------|------|------|------|------|------|
| Reno (78) | 0 | 0 | 0 | 0 | 2 | - |
| Harvey (40) | 0 | 1 | 0 | 0 | 2 | - |
| Pratt (76) | 1 | 0 | 0 | 1 | - | - |
| Kingman (48) | 1 | 0 | - | - | - | - |
| Butler (8) | 13 | 2 | 1 | 2 | 1 | - |
| Sumner (96) | 2 | 3 | 3 | 4 | - | - |
| Barber (4) | 1 | 0 | - | - | - | - |
| Sedgwick (87) | | | | | | |
| Jail | 1 | 1 | 5 | - | - | - |
| Detention | 82 | 81 | 45 | 66 | 63 | 25 |
| TOTALS | 101 | 88 | 54 | 73 | 68 | 25 |

REGION IV SUMMARY

Counties: Jewell, Republic, Mitchell, Cloud, Clay, Riley,
Geary, Ottawa, Lincoln, Ellsworth, Saline,
Dickinson, Morris, Russell, Barton, Rice,
McPherson, Marion, Chase (N=19)

Districts: 5, 8, 9, 12, 20, 21, 28

Total Number Held in October and November, 1983: 57

Time Spent In:

14% (N=8) 0 - 6 hours

51% (N=29) 6 - 48 hours

Runaways (N=11), Illegal Alien (N=2), Disorderly
Conduct (N=2), Overnight Court Hold (N=1), Other
Felonies Against Property (N=4), Traffic (N=3),
Misdemeanors Against Property (N=2), Warrant (N=1),
Misdemeanor Drugs (N=3)

35% (N=20) 48 hours - 30 days

Burglary (N=9) - 23 days, 19 days, 17 days, 12 days,
5 days, 2 days (N=4)

Disorderly Conducts (N=3) - each 3 days

Liquor Violation (N=1) - 3 days

Misdemeanor Thefts (N=3) - 11 days, 3 days (N=2)

Court Order (N=1) - 14 days

Bench Warrant (N=1) - 12 days

Poss. of Marijuana (N=1) - 3 days

Simple Assault (N=1) - 9 days

(9 of the 20 were over 3 days)

Counties:

Ellsworth - 2 held over 48 hours
Court Order - 14 days
Bench Warrant - 12 days

Rice - 2 held over 48 hours
Burglary - 5 days
Simple Assault - 9 days

Riley - 2 held over 48 hours
Burglary - 17 and 23 days

Saline - 14 held over 48 hours
 Only 3 held over 3 days:
 Burglary (N=2) - 19 and 12 days
 Misdemeanor Theft - 11 days

Additional Information:

December: Cloud Co. - Auto Theft
 Geary Co. - 2 Indecent Liberties - 2 days each
 Republic Co. - Criminal Dam. to Property - 4 days
 Saline Co. - Theft (N=2) - 4 days each
 Aggravated Assault - 5 days

January: Geary Co. - Rape - under 48 hours
 Runaway - 6 days
 Jewell Co. - Theft - 11 days
 Marion Co. - Runaway - 7 days

February: Geary Co. - Criminal Dam. to Property - 4 days
 Marion Co. - Courtesy Detention (N=2) - 4 & 3 days
 Saline Co. - Possession of Marijuana - 4 days
 Disorderly Conduct - 4 days
 Burglary - 5 days

County Totals:

| County | Oct. | Nov. | Dec. | Jan. | Feb. | Mar. |
|-----------------|------|------|------|------|------|------|
| Russell (84) | 1 | 0 | - | - | - | - |
| Jewell (45) | 1 | 2 | 0 | 1 | - | - |
| Republic (79) | 2 | 0 | 1 | - | - | - |
| Cloud (15) | 1 | 0 | 1 | 1 | 1 | - |
| Clay (14) | 1 | 0 | 2 | 1 | - | - |
| Riley (81) | 3 | 6 | 0 | 2 | 4 | - |
| *Geary (31) | 0 | 0 | 3 | 3 | 5 | - |
| Dickinson (21) | 1 | 0 | - | - | - | - |
| Marion (58) | 0 | 0 | 0 | 1 | 2 | - |
| McPherson (57) | 4 | 4 | - | - | - | - |
| Rice (80) | 4 | 0 | 0 | 0 | 1 | - |
| *Ellsworth (27) | 1 | 1 | 0 | 4 | 3 | - |
| Saline (85) | 17 | 8 | 6 | 8 | 13 | 3 |
| TOTALS | 36 | 21 | 13 | 21 | 29 | 3 |

REGION V SUMMARY

Counties: Shawnee, Jefferson, Lyon, Osage, Wabaunsee,
Pottawatomie, Jackson, Doniphan, Brown, Nemaha,
Marshall, Washington (N=12)

Districts: 2, 3, 5, 22

Total Held in October and November, 1983 - 12 in Jail;
64 in Detention

Time Spent In: JAIL

41.5% (N=5) 0 - 6 hours

33% (N=4) 6 - 48 hours
Felony Criminal Damage to Property, Burglary,
Illegal Alien, Failure to Abide

25% (N=3) 48 hours to 30 days
Theft - 9 days
Battery (Misd.) - 8 days
Runaway Court Ordered Placement - 21 days

Counties: All those held over 48 hours were from Lyon County.

DETENTION

9% (N=6) 0 - 6 hours

16% (N=10) 6 - 48 hours

44% (N=28) 48 hours - 30 days
Other Felonies Against Property (N=10),
Courtesy Detention/Awaiting Placement (N=7),
Others scattered

31% (N=20) Over 30 days
Courtesy Detention (N=3)
Post Disposition (N=3)
Post Adjudication (N=2)
Probation Violation/Warrant (N=5)
Misdemeanor Property Offenses (N=4)
Other Felonies Against Property (N=2)
Misdemeanor Drug Offenses (N=1)

Additional Information:

February: Lyon Co. - 7 of 10 were felony charges
Burglary (N=2) - 5 days
Burglary/Rtd. for Court - 7 days
Aggravated Robbery - 12 days

County Totals:

| County | Oct. | Nov. | Dec. | Jan. | Feb. | Mar. |
|----------------|------|------|------|------|------|------|
| Nemaha (66) | 0 | 0 | 0 | 0 | 1 | - |
| Brown (7) | 0 | 0 | 2 | 0 | 1 | - |
| Jefferson (44) | 0 | 2 | 0 | 0 | 3 | - |
| *Lyon (56) | 5 | 5 | 4 | 5 | 10 | - |
| Shawnee (89) | | | | | | |
| Jail | - | - | - | - | - | - |
| Detention | 31 | 33 | 28 | 15 | 3 | - |
| TOTALS | 36 | 40 | 34 | 20 | 18 | - |

REGION VI SUMMARY

Counties: Atchison, Leavenworth, Wyandotte, Johnson,
Douglas, Franklin, Miami (N=7)

Districts: 1, 4, 6, 7, 10, 29

Total Cases in October and November, 1983: 60 in jail;
77 in detention

Time Spent In: (JAIL)

11.5% (N=7) 0 - 6 hours

33.5% (N=20) 6 - 48 hours

Misdemeanors Against Property (N=4), Disorderly
Conduct (N=3), Other Felonies Against Persons (N=3),
Misdemeanors Against Persons (N=2), Aggravated Bur-
glary, Burglary, Possession of Marijuana, Runaway (N=2),
DWI, CINC (N=2)

50% (N=30) 48 hours - 30 days

Other Felonies Against Property (N=15) - 3 - 28 days
Aggravated Robbery - 10 days
Rape - 4 days
Robbery - 19 days
Possession of a Deadly Weapon (N=2) - 4 days each
Arson - 5 days
Aggravated Assault - 18 days
Possession of Marijuana - 20 days
Simple Battery (N=2) - 3 days, 6 days
Misdemeanor Theft (N=2) - 3 days, 18 days
Vandalism - 10 days
Traffic (N=2) - 3 days, 5 days

5% (N=3) over 30 days

Murder - 35 days
Burglary (N=2) - 32 days each

Counties:

Atchison - 3 held over 48 hours
Driving with License Suspended - 5 days
Arson - 5 days
Misdemeanor Battery - 6 days

Johnson - 1 held over 48 hours
Aggravated Robbery - 10 days

Douglas - 6 held over 48 hours
Murder - 35 days
Possession of Marijuana - 20 days
Theft over \$100 (N=2) - 3 days each
Misdemeanor Battery - 3 days
Misdemeanor Theft - 3 days

Wyandotte - 23 held over 48 hours
Burglary (N=2) - 32 days each
Theft and Burglary (N=13) - 3 to 28 days
Rape - 4 days
Robbery - 19 days
Possession of a Deadly Weapon (N=2) - 4 days each
Aggravated Assault - 18 days
Misdemeanor Theft - 18 days
Vandalism - 10 days
Traffic - 3 days

DETENTION

6% (N=5) 0 - 6 hours

34% (N=26) 6 - 48 hours

45% (N=35) 48 hours - 30 days
Other felonies Against Property (N=12)
Probation Violation/Warrant (N=6)
Misdemeanors Against Persons (N=5)
Runaways (N=3)
Misdemeanors Against Property (N=3)
ABC Felony Against Persons (N=2)
Other Misdemeanors/Misc. (N=2)
Awaiting Placement (N=1)
Courtesy Detention (N=1)

14% (N=11) over 30 days
Warrant (N=2) - 35 days, 37 days
Pickup Order - 44 days, 49 days
Disorderly Conduct - 48 days
Aggravated Assault - 3 months
Fraud - 81 days
Simple Assault (N=2) - 43 days, 37 days
Runaway Court Ordered Placement - 67 days
Probation Revocation - 49 days

Counties:

Johnson - 23 held 48 hours - 30 days

4 held over 30 days
Pickup Order - 44 days, 49 days
Disorderly Conduct - 48 days
Simple Assault - 37 days
Probation Revocation - 49 days

Wyandotte - 13 held 48 hours - 30 days

6 held over 30 days

Warrant (N=2) - 35 days, 37 days

Aggravated Assault - 3 months

Fraud - 81 days

Simple Assault - 43 days

Runaway Court Ordered Placement - 67 days

Additional Information:

January: Miami Co. - indecent liberties charge - held
25 hours

February: Leavenworth - 5 held, 4 were Misdemeanors

County Totals:

| County | Oct. | Nov. | Dec. | Jan. | Feb. | Mar. |
|-----------------|------|------|------|------|------|------|
| Atchison (3) | 8 | 3 | 2 | 6 | 6 | - |
| Leavenworth(52) | 0 | 0 | 2 | 2 | 5 | - |
| Douglas (23) | 10 | 5 | - | - | - | - |
| Miami (61) | 0 | 0 | 1 | 1 | - | - |
| Johnson (46) | | | | | | |
| Jail | 2 | 0 | 2 | 0 | 1 | - |
| Detention | 19 | 17 | 13 | 7 | 1 | - |
| Wyandotte(105) | | | | | | |
| Jail | 16 | 16 | 1 | - | - | - |
| Detention | 18 | 23 | 22 | 10 | - | - |
| TOTALS | 73 | 64 | 43 | 26 | 13 | - |

REGION VII SUMMARY

Counties: Anderson, Coffey, Linn, Bourbon, Allen,
Woodson, Greenwood, Elk, Wilson, Neosho,
Crawford, Chautauqua, Montgomery, Labette,
Cherokee (N=15)

Districts: 4, 6, 11, 14, 31

Total Held in October and November, 1983 - 46

Time Spent In:

46% (N=21) 0 - 6 hours

37% (N=17) 6 - 48 hours
Runaways (N=6), Other Felonies Against Property
(N=3), DWI (N=2), CINC (N=2), Robbery (N=1),
Misd. Drug Offense (N=1), Disorderly Conduct (N=1),
Courtesy Detention (N=1)

15% (N=7) 48 hours - 30 days
Auto Theft (N=2) - 10 days, 5 days
Theft (N=1) - release date unknown
Burglary (N=1) - 5 days
Assault of Law Enforcement Officer (N=1) - 3 days
Courtesy Detention (N=1) - 3 days
Parole Violation (N=1) - 7 days

2% (N=1) over 30 days
Aggravated Assault (N=1) - 35 days

Counties:

Anderson - 1 held over 48 hours
Parole Violation - 7 days

Crawford - 4 held over 48 hours
Auto Theft (N=2) - 10 days, 5 days
Theft (N=1) - release date unknown
Courtesy Detention (N=1) - 8 days

Montgomery - 2 held over 48 hours
Burglary - 5 days
Assault of Law Enforcement Officer - 3 days

1 held over 30 days (by Police Dept.)
Aggravated Assault - 35 days

Additional Information:

December: Cherokee Co. - Forgery - 13 days

January: Crawford Co. - Failure to Appear: - 7 days
 3 others were Thefts over \$100
 Labette - 3 charges were Burglary/Theft

February: Montgomery - only 2 of the 8 were felonies
 Strong Armed Robbery (N=1) - 4 days
 Bourbon Co. - Bond Default - 20 days
 Crim. Damage to Property (felony) - 5 days

March: Linn Co. - Theft - 5 days
 Bourbon Co. - all 8 were Runaways from Court Placement

County Totals:

| County | Oct. | Nov. | Dec. | Jan. | Feb. | Mar. |
|-----------------|------|------|------|------|------|------|
| Anderson (2) | 0 | 2 | 0 | 0 | 1 | - |
| Linn (54) | 1 | 0 | 0 | 1 | 1 | 1 |
| Woodson (104) | 1 | 0 | - | - | - | - |
| Bourbon (6) | 1 | 2 | 2 | 3 | 3 | 8 |
| Neosho (67) | 0 | 0 | 1 | - | - | - |
| Crawford (19) | 2 | 9 | 4 | 6 | - | - |
| Cherokee (11) | 3 | 1 | 2 | 3 | - | - |
| Labette (50) | 4 | 12 | 3 | 5 | 3 | - |
| Montgomery (63) | 3 | 5 | 0 | 3 | 8 | - |
| TOTALS | 15 | 31 | 11 | 21 | 16 | 9 |

APPENDIX E

A PRELIMINARY ASSESSMENT OF KANSAS'
JUVENILE DETENTION POPULATION:
REVIEW, ANALYSIS, AND RECOMMENDATIONS

OJJDP Project Number VII-KS-466

Technical assistance report prepared by the Community Research Center of the University of Illinois at Urbana-Champaign under Contract No. J-LEAA-012-81 from the Office of the Juvenile Justice and Delinquency Prevention, Washington, D.C.

May, 1984

INTRODUCTION

The State of Kansas has experienced serious problems with juvenile jailing and juvenile detention practices statewide. There exists only four juvenile detention centers in Kansas, all of which are located in the Eastern third of the state (Kansas City, Olathe, Topeka, and Wichita). Due to a lack of alternative placements and services, the remainder of the state relies on exclusive use of county jails and police lockups for predispositional secure detention of juveniles. The problem reached crisis proportions in 1983 when a rural Washington, Kansas juvenile committed suicide in the county jail.

Recognizing the problem of juvenile jailing and in response to pressure from citizen advocates and the Federal Courts, the Juvenile Offender Advisory Commission organized the Jail Removal Impact Study Committee. The Committee's major tasks include assessing need and providing detailed recommendations for consideration by the Interim Legislative Committee in preparation for legislation to be formulated in 1985.

By determining why juveniles are being held in adult jails and lockups in Kansas, and where they are being held, this report is able to address in part the assessment of the need for detention services in the state. Identification of current practices and effective alternatives is an essential component in planning to improve Kansas' juvenile detention practices.

SECURE CUSTODY DATA

The data for this report were collected by the Kansas Bureau of Investigation as part of the Kansas Juvenile Justice Information System. During the six month period August, 1983 through January, 1984, 1,310 Secure Custody Reports (SCR) were forwarded to the KBI office in Topeka by the state's county jails, police lockups, and juvenile detention centers. The SCR was created to capture information on every juvenile held in predispositional secure confinement throughout the state, whether the reporting locality is designed to exclusively hold juveniles or adults. Theoretically, every juvenile entering such a setting should be entered on a form and recorded by the KBI.

For purposes of this report, several variables were examined: offense, offense classification, demographics, length of stay, detention hearing result, and release setting. It was hoped that these survey items would elicit responses useful in understanding the status of Kansas' juvenile detention practices.

Despite the amount of care taken to insure accuracy in the SCR data, it is recognized that there are some sizable, although nonfatal, limitations in the data. A limited number of Kansas counties have been unable to report on the number of juveniles in adult confinement, including Wyandotte, Ford, and Douglas. The major implication of this shortcoming is that the problem with juvenile jailings is unquestionably much greater than reported here, and the statistics culled and reviewed below should be viewed as extremely conservative estimates of Kansas' juvenile detention problems. Such a limitation does not invalidate the results of this investigation, however. Instead it serves to highlight the fact that total juvenile jailings in the state have been underestimated, and the investigation into juvenile jailing practices should be continued as more data become available. Understanding that these statistics are reported cases rather than actual numbers of secure confinements is necessary in recognizing the current state of Kansas' juvenile detention problems.

SECURE CONFINEMENT DATA PROFILE

The data revealed that Secure Custody Report forms were filed on 1,310 juveniles during the six month reporting period. Of these, 432 were juveniles placed in an adult jail or lockup representing 33 percent of all youths held.* The remainder were juvenile secure detention cases as follows:

| | |
|------------------------------|---------------|
| Johnson County | 91 juveniles |
| Wichita Youth Residence Hall | 482 juveniles |
| Shawnee County Youth Center | 183 juveniles |
| Kansas City Kaw View | 122 juveniles |

The distribution of reported jailings is depicted in Figure One. The 432 juveniles held in adult facilities were distributed among 56 counties, with six accounting for 40 percent of the total (Saline, 68 jailings; Atchison, Butler, and Finney, 27 jailings each; Lyon, 26 jailings; and Labette, 25 jailings). Undoubtedly the eventual submission of data from counties not yet accounted for will increase total jailings significantly. Predictably, secure detention were concentrated in the Northeast section of the state and in Sedgewick County, with the latter producing more than half (55 percent) of all such cases (see Figure Two).

The heterogeneous distribution of juvenile jailings is clearly evident in Figure Three. A majority of the reported youth jailings occurred in Eastern and Central Kansas, specifically in and around Saline, Atchison, and Crawford Counties. Despite the proximity of the state's juvenile detention facilities

*Recall that this number is extremely conservative due to the under-reporting of juvenile jailings. The actual number of jailings during this time period could conceivably be greater than 500, or 36 percent of the total.

to urban areas, visual inspection of Figure Three suggests that jailing incidents are greater in areas of greater urban concentrations than rural counties. The rural nature of Western Kansas correlates with this pattern.*

Although there were several counties reporting no jailings (47 percent), Figure Four indicates a zero percent jailing rate occurred in but five of 31 judicial districts (16 percent). This figure will likely decrease as reporting procedures improve and more jailings are recorded. Four of the five districts are single county regions with large populations. Given trends in the rest of the state, it is conceivable that after reporting is completed, these districts will indicate the detention of youths in adult facilities. The fact that only one district has a facility expressly designed to hold accused juvenile offenders (Johnson), suggests the likelihood that others have no placement options for serious offenders. Without appropriate alternatives, intake personnel may have no choice other than jail for certain individuals.

The regional breakdown of jailings in Figure Five shows that although several counties had no reported jailings, and five districts reported none, all planning regions had several incidents of juvenile jailings. This is a clear indication of the statewide scope of Kansas' secure detention problems.

An examination of demographic data from Table One reveals that a majority of those placed in jail were white (95 percent) and male (77 percent). The secure detention center populations were slightly less homogeneous, although again, most were white (74 percent) and male (72 percent). [This slight difference in ethnic populations is probably a reflection of the geographic distribution of placement types. The detention centers are located in largely urban counties, with diversified juvenile populations. Conversely, the jailings happen throughout Kansas, and are likely to be the only means of secure confinement in many rural counties. Hence, the jail population is more reflective of the rural state population type.]

The sex distribution in both settings is quite similar--approximately three-to-one, males-to-females. The age distributions of the populations differs only in that juveniles in jail are found to be slightly older in the aggregate than are those in detention centers (15.5 years versus 15.1 years, respectively). Seventeen year olds represent the mode in both groups, although there are significantly more from this age category in jail than in juvenile detention.

*This association is further substantiated by application of correlation coefficients. After removing missing or unreported counties from calculations, there is a moderate relationship between county size and number of jailings ($r = + .57$). When juvenile detention center placements are introduced, the relationship between county size and number of secure holdings becomes extremely high ($r = + .92$).

Based solely on "status at admission," it might be suggested that those admitted to secure detention were a "more serious" population on the average than those held in jail. Table Two shows that nearly 58 percent of those in detention centers were charged with delinquent-type crimes (defined here as felonies and misdemeanors). However, only 51 percent of jailed juveniles were accused delinquents. Although this difference appears slight, an examination of status offenders lends strength to the "seriousness of population" hypothesis. While 11 percent of secure detainees were accused status offenders, the percentage of jailed status offenders was nearly twice that rate (22 percent). Furthermore, nonoffenders in jail outnumbered those in detention by 11 juveniles to one.

Table Three provides a means of examining of the juveniles' release status. At least 64 percent of the jailed youths were released prior to an adjudication, as well as 60 percent of those held in a detention center. These figures are not necessarily a condition of the seriousness of the offense, however. Many of the delinquent-type offenders were released prior to an adjudication hearing. In secure detention, 31 percent of accused felony-type offenders and a full 72 percent of accused misdemeanor-type offenders were released prior to a detention hearing. Of those in jail, 43 percent of the felons and 61 percent of the misdemeanants were released before their detention hearings. Prior to the adjudication hearing, 54 percent of the felony-type offenders in secure detention were released and 82 percent of misdemeanants were released. In the jail population, 68 percent of accused felons were released prior to a determination of guilt and 80 percent of accused misdemeanants were released before an adjudication hearing. Finally, of all juveniles released, a majority were assigned to less restrictive settings.

Table Four indicates that 82 percent of the jailed youths who were released from an adult facility prior to a detention hearing after being charged with a felony-type offense, were released to a less restrictive setting (parents or a nonsecure out-of-home placement). Of those in secure detention for felony offenses, 75 percent were released to their parents prior to a detention hearing and 79 percent were sent to a less restrictive setting overall. Such statistics seem to indicate the willingness of court and law enforcement personnel to locate less restrictive settings for juveniles who are inappropriately confined.

Of course, these placements can be further scrutinized by examining their eventual release setting (Table Five). Nearly the same percentage of jailings and detention center placements were eventually released to their parents (57 percent versus 55 percent). However, of those placed in secure detention, nearly twice as many were released to a less secure, out-of-home placement (22 percent) than those placed in jails (12 percent). In other words, 77 percent of those placed in secure detention were eventually released to a less restrictive setting (parents or other out-of-home placement), and 69 percent of the jailings were released to less restrictive settings. Despite many of these releases involving juveniles who were originally charged with

delinquent-type offenses, there remains a natural question of why these youths were jailed at the outset.

The average length of stay (ALOS) for juveniles in Kansas' secure settings is approximately nine days. However, there is a large and statistically significant difference in the ALOS between settings. Juveniles in jail averaged two and one-half days from admission to release, while those held in detention centers averaged nearly five times that figure with an ALOS of 12 days. The ALOS also varied geographically. The ALOS in jail ranged from 45 hours in Region VII to 88 hours in Region V. The geographic variation is even greater when aggregated by judicial district. The low ALOS for districts with five or more reported jailings is that recorded in District Nine of 19 hours. Conversely, District 20 recorded an ALOS of 133 hours. Unfortunately, it is not possible at this time to ascertain the reason for such an unequitable distribution in times for jail stays.

Through further manipulation of the time variable data, it is possible to more closely and accurately examine the length of stay by setting. Forty percent of the secure detainees were held less than one day; however, nearly 50 percent of the jailings were released within 24 hours. Furthermore, 92 percent of the jailed juveniles were released within one week, while only 64 percent of the detention population were released within a week. Finally, 14 percent of the secure detentions were held longer than one month, yet this same situation occurred in less than one percent of jailings.

INTERPRETATION OF THE DATA

The key to success in removing juveniles from jail is to locate, or create, and utilize appropriate alternatives to adult jails and lockups. An instrumental step in this phase of the detention planning process is to determine what proportion of the youths in jail and secure juvenile detention, as well as all those processed through intake, actually warrant secure detention. Upon determining that number, appropriate secure bedspace must be located for that part of the intake population. Furthermore, nonsecure space and programs must then be found to service those juveniles best placed in such settings.

An assessment of the appropriateness of placements within a secure detention population is best performed by applying carefully constructed secure detention criteria to that population. By utilizing criteria which assess each case based on offense, present circumstances, and the juvenile's prior court involvement, an objective decision can be made to determine the most appropriate setting for the juvenile. Many jurisdictions attempt to securely detain only those juveniles who are the most serious offenders or who pose a serious threat to the public safety or court processes. By applying criteria to the secure detainees, it is possible to determine the percentage of those admitted who were actually eligible for such a placement. Unfortunately, this data base does not allow for an assessment of this type; however, an

alternative means of analysis must be utilized. Therefore, offense type is used to determine the appropriateness of Kansas' secure placements.

Recall that despite a large number of juveniles in secure adult facilities, a significant portion of those youths were not delinquent (felony and misdemeanor-type offenders accounted for only 52 percent of the population). In fact, status and nonoffenders represented 26 percent of the jailings.

In the population examined here, by removing nondelinquents from adult facilities, jailings would decrease from 432 to 222, a net reduction of 49 percent. By further removing misdemeanor offenders, the original population of 432 would become 125, a reduction of 71 percent.

Of course, the reductions of this type rely on assumptions made on the nondelinquent portion of the population, the largest being that few of the nondelinquents warrant secure detention. Many might argue that warrant cases, courtesy detentions, and runaways from court placements are best held in secure detention. Unfortunately, it is difficult to determine the offenses associated with these cases at this time. The percentage of these juveniles which require secure holding could fluctuate literally between zero and 100 percent. Even if half required secure detention, the reductions in jailing would still reach 64 percent (felonies plus half of warrants, courtesy detentions, and runaways from court placements).

There is also an assumption made on the delinquent population that all felony-type offenders require secure confinement. In reality, this is highly unlikely given the data which were collected on these juveniles. Recall from Table Four that 74 percent of the felony-type offenders were released to their parents prior to a detention hearing. An additional seven percent were transferred to a nonsecure out-of-home placement within the same time frame. It can be proposed that since these juveniles were released so early in the court process, they may well not have required secure detention originally. Early in the process, system personnel made a decision that these youths were not a threat and need not be held. If these juveniles were not detained, the jail reduction rate becomes greater than 90 percent (felony-type offenders minus those released prior to a detention hearing). Even if half of the felons who were immediately released and half of the warrants, courtesy detentions, and runaways from court placement still required secure detention, the reduction rate would be 75 percent.

These reduction rates can be considered a conservative estimate of the success which can be attained in the initial phase of a detention planning process. The rate at which juveniles can be diverted from jail is based in this report primarily on the offense which the youth has committed. Most detention criteria are designed, however, by combining offense with questions on past history or current conditions which assess the juvenile's danger to others or the court process (see attached National Advisory Committee secure detention criteria as an example). The offense alone will not allow for secure detention of a juvenile except under the most serious crimes. Therefore, if detention criteria could have been applied to the data base, an eligibility

rate for secure detention could have been computed and conceivably been found to be lower than that determined here on offense only.

In those counties with the secure juvenile detention facilities, similar, although less dramatic, reductions in population size can be accomplished. By removing nondelinquents from the detention centers, there would be an immediate reduction of 42 percent. This includes 108 status and nonoffenders. Naturally, with decreased populations, accommodations could be made to hold juveniles within these counties or contiguous counties who are currently being jailed and require secure detention.

This interpretation of the data is applicable on a regional, district, or county level, as well as for the state as a whole. District Eleven, for example, in Southeastern Kansas is comprised of Crawford, Cherokee, and Labette Counties. The district jailed 60 juveniles during the reporting period. Only 52 percent of the youths were delinquent, and only 23 percent were felony-type offenders. It can be seen immediately then that if less restrictive accommodations could be provided for all but felony offenders, there would be an immediate reduction in jailings by 77 percent. This clearly indicates the importance of determining the seriousness of the secure detention population for an adequate detention plan. It might be construed by looking only at number of jailings that a secure juvenile facility must be built in District Eleven. However, with 23 juveniles eligible, and based on the statewide secure detention average length of stay of 12 days, the average daily population here would be less than two juveniles.* It would be difficult to condone a new construction in the Southeast corner given this figure.

Even Saline County, with what appears to be a relative high number of jailings, can make considerable improvement without capital investment. During the report period, 68 juveniles were placed in jail, including 51 delinquent cases (75 percent representing 20 felons and 31 misdemeanants.). The immediate removal of nondelinquents would result only in a 25 percent reduction, but the removal of misdemeanants from jail would increase the reduction to nearly 68 percent. Examining the "release status" and the person "released to" in order to find clues regarding the seriousness of the felonies indicates that even more could be released. Of the felony-type juveniles in jail, nine of the 22 youths were released to their parents before a detention hearing. Even if five of these nine still required secure detention at intake, the reduction in jailings, should appropriate alternatives exist, would increase to 74 percent within the county. This would result in an

$$\text{*ADP} = \frac{23 \text{ juveniles} * 12 \text{ days Kansas ALOS}}{183 \text{ days [6 month reporting period]}}$$

$$\text{ADP} = 1.51 \text{ juveniles}$$

average daily population of two persons/day,* which makes alternatives such as transportation to existing secure facilities much more attractive and cost effective than new construction.

Of course, an analysis of these data in such a manner should be viewed with caution, primarily because of the assumptions necessary to complete the review. However, it does suggest that new facilities are not necessarily the best answer to Kansas' detention needs in all parts of the state. These results, combined with the lack of data available to properly assess detention eligibility, serve to stress the need for a thorough needs assessment to be conducted before such a plan can be completed. Only by weighing each case against specific and objective criteria is it possible to determine the number of beds within each type of setting (secure and nonsecure) necessary to accomplish jail removal and make appropriate detention planning decisions.

SUMMARY

It is apparent that jailings are widespread in Kansas. Based on the reported number of jailings, and on the assumption that the time frame from which the sample was extracted can be construed as representative of the state's annual caseload, it can be estimated that 864 juveniles are placed in Kansas' jails and lockups in one year. This represents an average daily population of six juveniles. Of course as reporting procedures improve, these numbers are likely to increase for this time period.

The fact that those in the juvenile justice system are aware of problems in jailing juveniles is evidenced in part by the average length of stay. An ALOS of less than three days in jail versus 14 in detention is an indication that although system personnel are currently not able to prevent jailings, they strive to reduce the jail stay to a period which is short as possible.

It has been demonstrated that a first phase goal in reducing in juvenile jailings of 75 percent is feasible across the state. It appears, based predominantly on offense committed, that greater than 75 percent of all youths originally placed in jails could have been better served in less restrictive alternatives, specially suited to meet the needs of the juvenile population. Obviously, in order to effect reductions by the amounts suggested above, the development of a network of nonsecure alternatives, such as statewide foster care and home detention programs, should become a priority.

*ADP = $\frac{22 \text{ felons} - 4 \text{ released before detention hearing}}{12 \text{ day Kansas ALOS}}$

RECOMMENDATIONS

The data scrutinized here are not adequate to properly address the issue of why juveniles are being held in adult jails and lockups; it can only provide a profile of the current population in a description of who is involved. This report, then, should be considered only a "first step" in Kansas' efforts to improve its overall detention services problem, and that the findings presented here are not conclusive. Therefore, the following recommendations are offered:

1. The detention admission (secure custody form) data should be reanalyzed and more closely scrutinized as the missing information becomes available to the Kansas Bureau of Investigation. This will give a more accurate and complete picture of jailing and detention practices in Kansas.
2. A thorough needs assessment should be conducted analyzing the criteria factors when they become available. This should be designed to, at a minimum, provide a better understanding of the levels of detention necessary under various detention criteria and will identify levels of services required across the state. Furthermore, it will provide evidence of not only who is being held in jail, but also the reasons why, a vital factor in preparing an effective detention plan.
3. Efforts should be made to seek legislation creating a statewide juvenile services "commission" to oversee detention services and allocate state funds to support a range of secure and nonsecure services. The availability of these services may reduce the level of secure juvenile detention by as much as 75 percent.
4. The committee should continue to study the issue of criteria and the provision of secure detention services with the intent of making recommendations to the Kansas State Legislature in 1985. This will undoubtedly require the implementation of detention criteria and could possibly involve some new construction or renovation, especially in areas where transportation networks prove to be ineffective or inappropriate. The data gathered by the Kansas Bureau of Investigation, from the arrest form and the subsequent needs assessment, will be critical in the analysis of this issue over the next eight months.
5. Legislation should be sought to eliminate the jailing of juveniles effective July 1, 1986. This recommendation, as with number three above, should be taken to the Interim Study Committee for immediate review and consideration.

6. Continuation of an active public education campaign should be pursued, targeted at Kansas' juvenile justice practitioners, lay citizens, and elected officials.
7. Finally, the state should move immediately to provide the services necessary to reach an initial reduction in jailings of 75 percent. Two options which could be implemented even prior to the introduction of secure detention criteria are a home detention program and an emergency foster care program. Home detention, where a youth is closely supervised in his/her own home pending a disposition, and foster care, where a youth is similarly supervised but in a home other than his/her own, would be able to provide supervisions for a large portion of the current jail population. Furthermore, they would also be able to reasonably assure the court appearance when necessary and maintain a low rearrest rate.

Home detention and emergency foster care could be structured to accommodate the rural morphology characteristic of Kansas. Per diem rates paid only when a service is utilized can make the placement options highly cost efficient.

Of course, as the results of the needs assessment become available, the exact level at which these services would be utilized can be determined.

TABLE ONE
CHARACTERISTICS OF SECURELY HELD JUVENILES

| <u>Ethnicity</u> | <u>Adult Jail or Lockup</u> | | <u>Secure Juvenile Detention</u> | |
|------------------|---------------------------------|----------|--------------------------------------|----------|
| | <u>#</u> | <u>%</u> | <u>#</u> | <u>%</u> |
| White | 408 | 94.7 | 645 | 73.5 |
| Black | 21 | 4.9 | 208 | 23.7 |
| Native American | 1 | 0.2 | 14 | 1.6 |
| Asian | 1 | 0.2 | 11 | 1.3 |
| Hispanic* | 44 | 10.2 | 29 | 3.3 |
| <u>Sex</u> | | | | |
| Male | 331 | 76.6 | 624 | 71.1 |
| Female | 101 | 23.4 | 254 | 28.9 |
| <u>Age</u> | | | | |
| Less than 11 | 5 | 1.2 | 12 | 1.3 |
| 11 | 0 | 0.0 | 9 | 1.0 |
| 12 | 10 | 2.3 | 38 | 4.3 |
| 13 | 33 | 7.6 | 84 | 9.6 |
| 14 | 45 | 10.4 | 156 | 17.8 |
| 15 | 76 | 17.6 | 178 | 20.3 |
| 16 | 113 | 26.2 | 177 | 20.2 |
| 17 | 150 | 34.7 | 203 | 23.1 |
| 18 or greater | 0 | 0.0 | 21 | 2.4 |

*Hispanic is a subgroup of the "White" and Black" ethnic groups.

TABLE TWO
OFFENSE CHARACTERISTICS BY NUMBER AND PERCENT

| <u>Offense Type</u> | <u>Adult Jail or Lockup (n=432)</u> | | <u>Secure Juvenile Detention (n=878)</u> | |
|-------------------------|---|----------|--|----------|
| | <u>#</u> | <u>%</u> | <u>#</u> | <u>%</u> |
| Felony | 125 | 28.9 | 265 | 30.2 |
| Misdemeanor | 97 | 22.4 | 242 | 27.6 |
| Status | 94 | 21.8 | 100 | 11.4 |
| Abuse-Neglect | 5 | 1.2 | 7 | 0.8 |
| Traffic | 34 | 7.9 | 3 | 0.3 |
| Post-Adjudication | 0 | 0.0 | 14 | 1.6 |
| Post-Disposition | 0 | 0.0 | 14 | 1.6 |
| Court Ordered | 1 | 0.2 | 6 | 0.7 |
| Warrant | 21 | 4.9 | 21 | 2.4 |
| Courtesy Detention | 23 | 5.3 | 70 | 7.8 |
| Runaway Court Placement | 14 | 3.2 | 14 | 1.6 |
| Fail to Appear--Hearing | 2 | 0.5 | 0 | 0.0 |
| Other | 4 | 0.9 | 3 | 0.3 |
| Nonoffender | 11 | 2.5 | 1 | 0.1 |

TABLE THREE

RELEASE STATUS BY OFFENSE TYPE
ABSOLUTE FREQUENCY

| Offense Type | Before Detention Hearing | <u>Secure Detention (n=878)</u> | | | Before Detention Hearing | <u>Jail (n=432)</u> | | |
|-----------------|--------------------------------|---------------------------------|-------------------------------------|--------------|--------------------------------|--------------------------------|-------------------------------------|--------------|
| | | <u>Before Adjudication</u> | <u>At or Before Disposition</u> | <u>Other</u> | | <u>Before Adjudication</u> | <u>At or Before Disposition</u> | <u>Other</u> |
| Felony | 81 | 61 | 100 | 23 | 54 | 31 | 10 | 30 |
| Misdemeanor | 171 | 26 | 41 | 1 | 59 | 19 | 6 | 13 |
| Status | 85 | 0 | 4 | 7 | 50 | 8 | 1 | 35 |
| Abuse- | | | | | | | | |
| Neglect | 6 | 1 | 0 | 0 | 2 | 0 | 0 | 3 |
| Traffic | 0 | 1 | 1 | 1 | 22 | 2 | 1 | 9 |
| Post- | | | | | | | | |
| Adjudication | 0 | 0 | 15 | 0 | 0 | 0 | 0 | 0 |
| Post- | | | | | | | | |
| Disposition | 0 | 1 | 12 | 1 | 0 | 0 | 0 | 0 |
| Court | | | | | | | | |
| Ordered | 0 | 0 | 4 | 2 | 0 | 0 | 0 | 1 |
| Warrant | 14 | 42 | 54 | 5 | 10 | 2 | 0 | 14 |
| Courtesy | | | | | | | | |
| Detention | 7 | 1 | 23 | 39 | 9 | 1 | 1 | 20 |
| Other | 19 | 4 | 17 | 2 | 7 | 2 | 2 | 8 |
| Totals | 383 | 142 | 271 | 82 | 213 | 65 | 21 | 133 |

TABLE FOUR

NONSECURE RELEASES BY RELEASE STATUS FOR DELINQUENCY OFFENDERS

| <u>Setting</u> | <u>Offense</u> | <u>Release Status</u> | <u>Release Before</u> | <u>Number</u> | <u>Total Cases*</u> | <u>Percent</u> |
|---------------------|----------------|-----------------------|-----------------------|---------------|---------------------|----------------|
| Jail | Felony | Release | Detention Hearing | 40 | 54 | 74.1 |
| | | | Adjudication | 55 | 61 | 90.0 |
| | | Nonsecure | Detention Hearing | 4 | 54 | 7.4 |
| | | | Adjudication | 6 | 61 | 9.9 |
| | Misdemeanor | Release | Detention Hearing | 39 | 59 | 66.1 |
| | | | Adjudication | 14 | 78 | 17.9 |
| Nonsecure | | Detention Hearing | 3 | 59 | 5.1 | |
| | | Adjudication | 2 | 78 | 2.6 | |
| 71 Secure Detention | Felony | Release | Detention Hearing | 61 | 81 | 75.3 |
| | | | Adjudication | 101 | 142 | 71.1 |
| | | Nonsecure | Detention Hearing | 3 | 81 | 3.7 |
| | | | | | | |
| | Misdemeanor | Release | Detention Hearing | 129 | 171 | 75.4 |
| | | | Adjudication | 148 | 196 | 75.5 |
| | | Nonsecure | Detention Hearing | 25 | 17.1 | 14.6 |
| | | | Adjudication | 29 | 196 | 14.8 |

*Adjusts for unreported and missing cases.

TABLE FIVE

RELEASE SETTING BY OFFENSE CLASSIFICATION

| | <u>Secure Detention</u> | | <u>Jail</u> | |
|--------------|-------------------------|-----------------|---------------|-----------------|
| | <u>Number</u> | <u>Percent*</u> | <u>Number</u> | <u>Percent*</u> |
| Release | 450 | 55.1 | 218 | 57.4 |
| Nonsecure | 180 | 22.1 | 44 | 11.6 |
| Other Secure | 154 | 18.9 | 79 | 20.8 |
| Other | 32 | 3.9 | 39 | 10.3 |
| Totals | 816 | | 380 | |

*Percentages are adjusted for missing cases.

NATIONAL ADVISORY COMMITTEE
CRITERIA FOR DETENTION IN SECURE FACILITIES--DELINQUENCY

Juveniles subject to the jurisdiction of the family court over delinquency should not be detained in a secure facility unless:

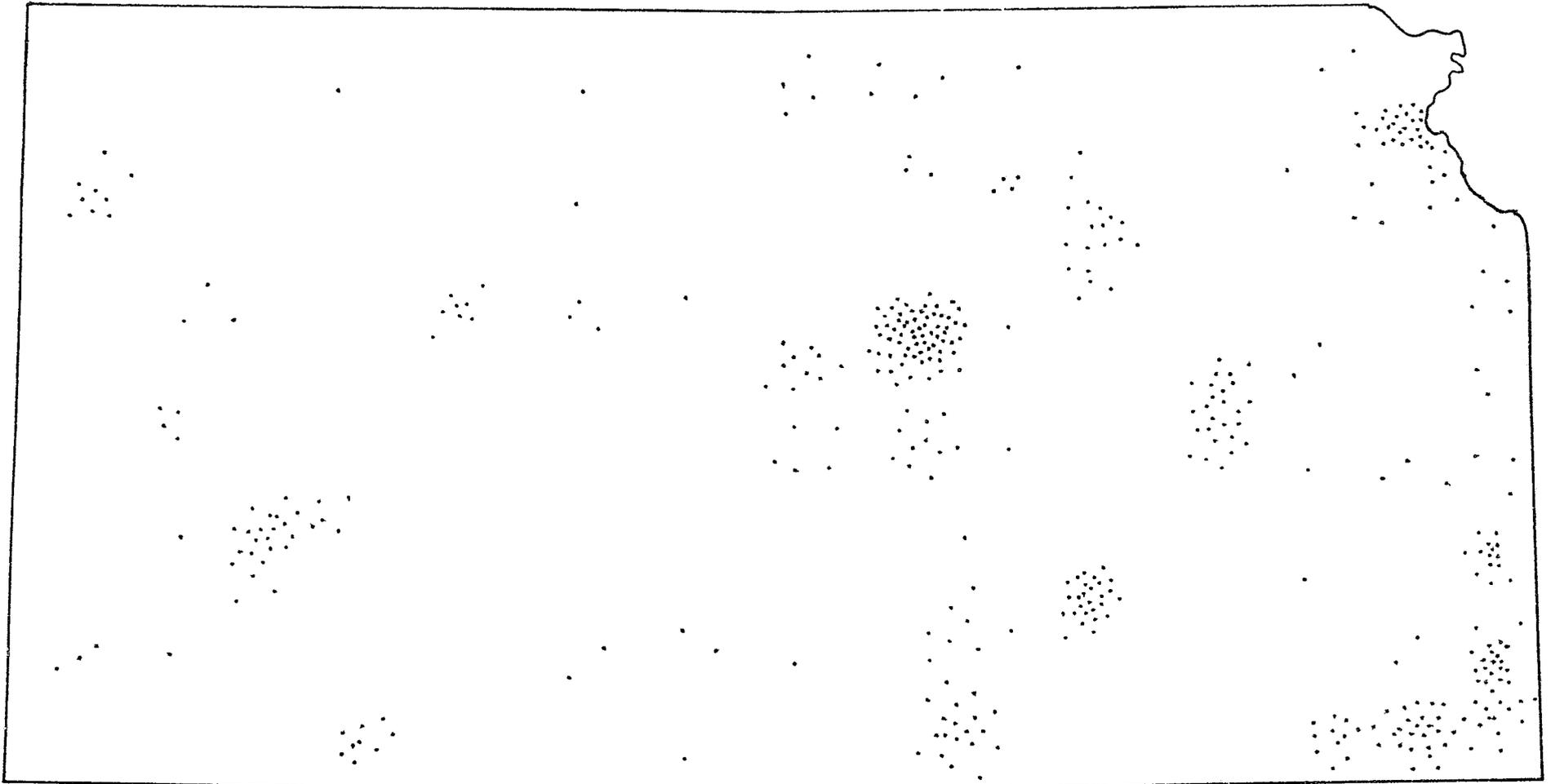
- a. They are fugitives from another jurisdiction;
- b. They request protection in writing in circumstances that present an immediate threat of serious physical injury;
- c. They are charged with murder in the first or second degree;
- d. They are charged with a serious property crime or a crime of violence other than first or second degree murder which if committed by an adult would be a felony, and:
 - i) They are already detained or on conditioned released in connection with another delinquency proceeding;
 - ii) They have a demonstrable recent record of willful failures to appear at family court proceedings;
 - iii) They have a demonstrable recent record of violent conduct resulting in physical injury to others; or
 - iv) They have a demonstrable recent record of adjudications for serious property offenses...

(Source: NIJJDP Standards on Adjudication)

FIGURE THREE

APPROXIMATE DISTRIBUTION OF JUVENILES IN ADULT JAILS

KANSAS

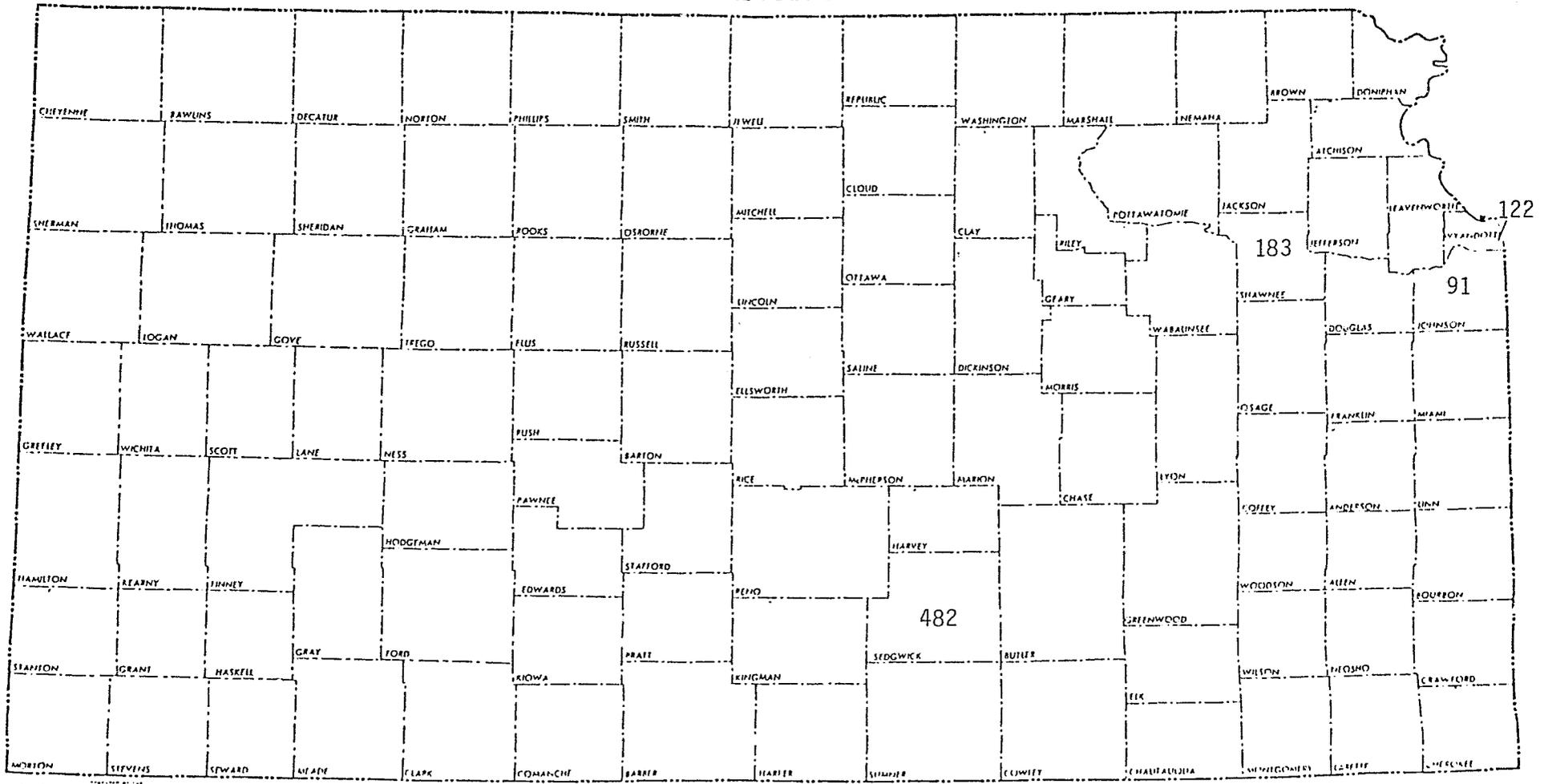


Each dot represents one juvenile

FIGURE TWO

NUMBER OF JUVENILE SECURE DETENTION PLACEMENTS BY COUNTY

KANSAS

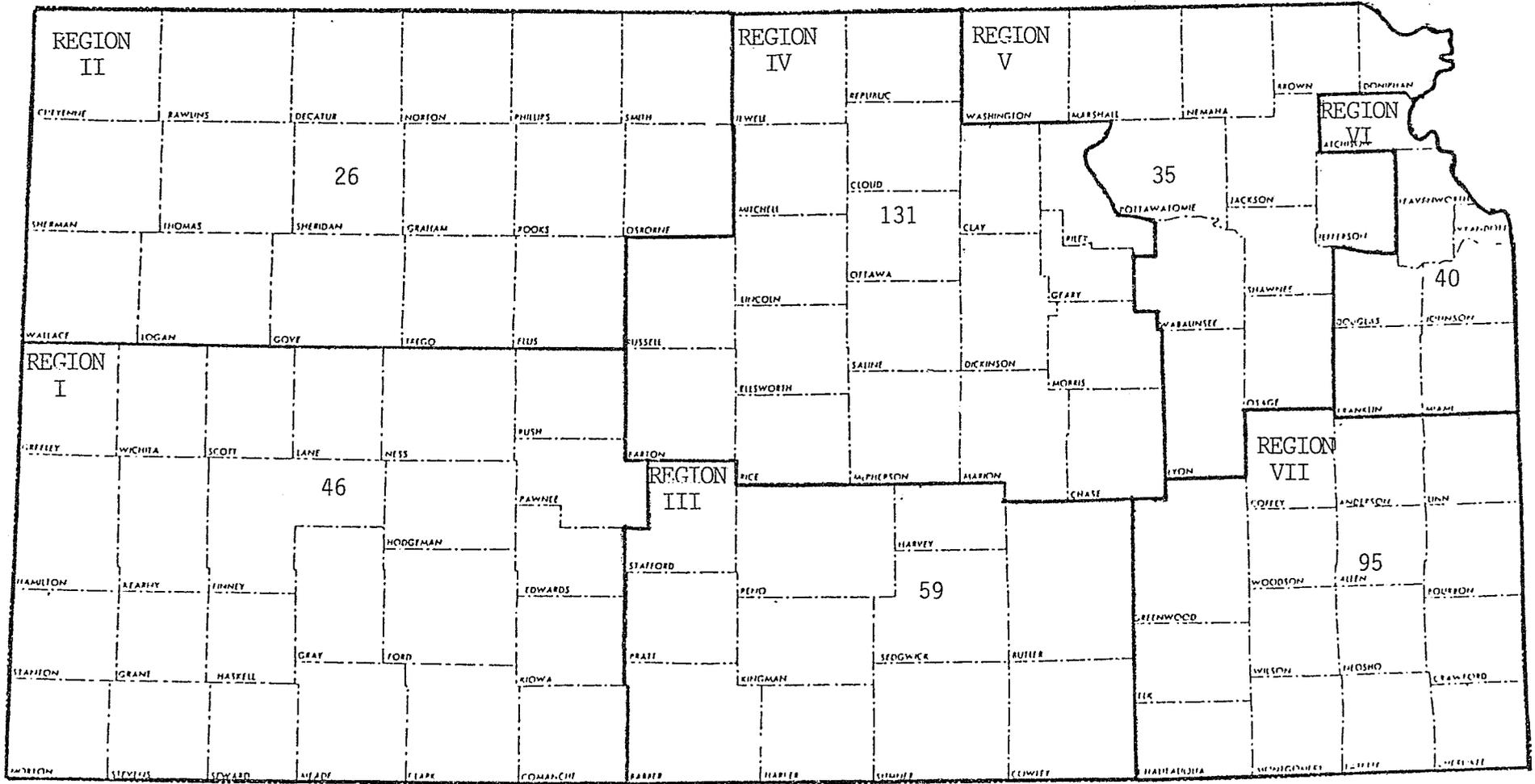


STATE JUVENILE COMMISSION ON KANSAS
IMPLEMENTATION OF PLACING AND DETENTION

FIGURE FIVE

NUMBER OF JUVENILE JAILINGS BY REGION

KANSAS

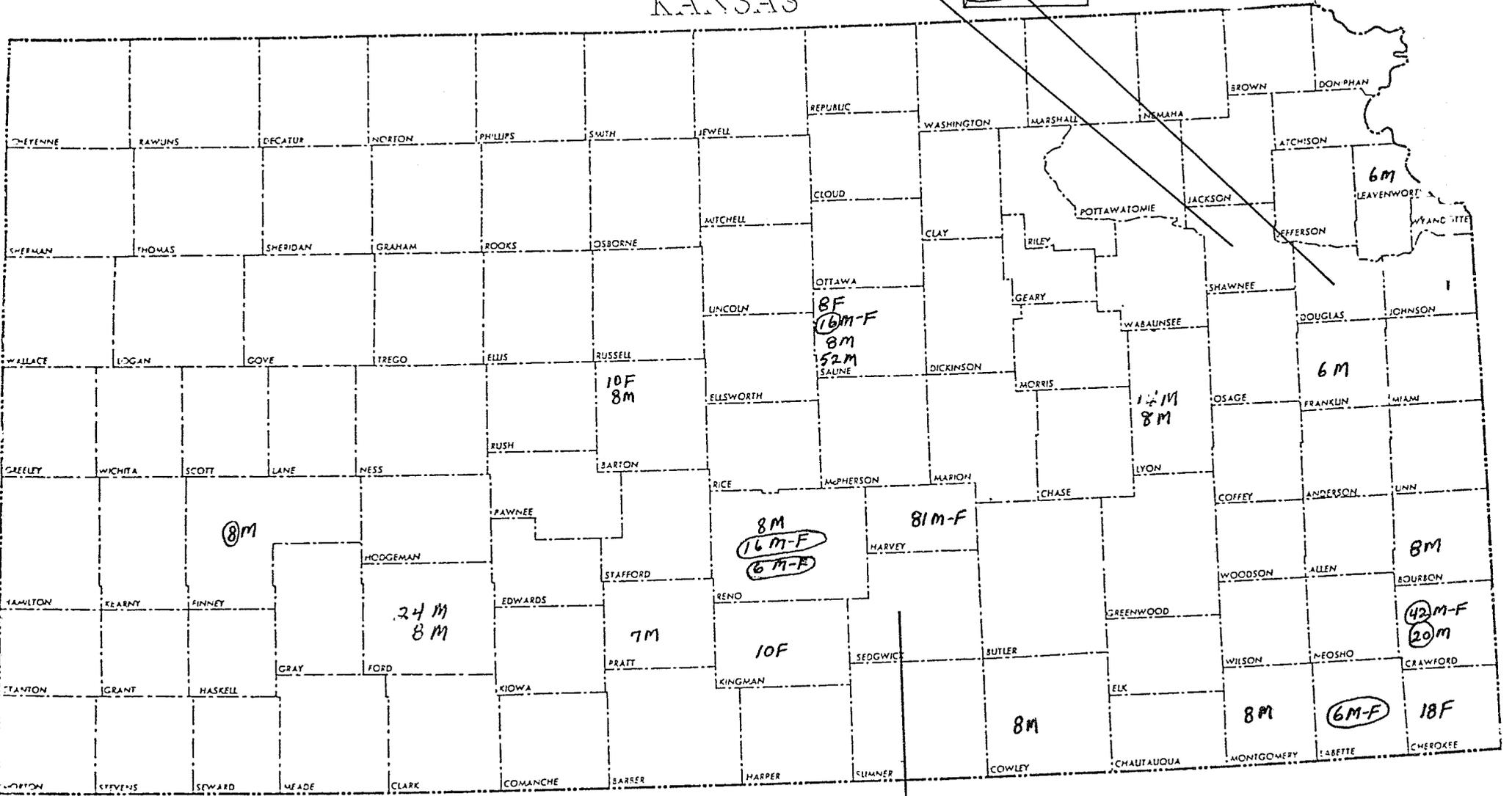


STATE BUREAU OF CRIMINAL JUSTICE
DEPARTMENT OF PLANNING AND EVALUATION

APPENDIX F

KANSAS CHILDRENS RESIDENTIAL FACILITIES - FEBRUARY 1984

KANSAS



STATE HIGHWAY COMMISSION OF KANSAS
DEPARTMENT OF PLANNING AND DEVELOPMENT

APPENDIX G

May 8, 1984

The Honorable Mike Hayden, Chairman
Legislative Coordinating Council
Legislative Administrative Offices
State Capitol of Kansas
Topeka, Kansas 66612

Re; Interim Committee Request

Dear Representative Hayden;

It is the purpose of this letter to respectfully request that the Legislative Coordinating Council appoint an interim legislative committee to study the entire "system" of pre-adjudicatory care for alleged juvenile offenders in Kansas. This "system" includes juvenile detention, use of jails for juveniles, alternatives to secure detention, organizational and administrative issues related to this area, and relevant statutory authority.

I am making this request as Chairman of The Juvenile Jail Removal Impact Study Committee (J-RISC). J-RISC is an Ad hoc Committee formed by The Juvenile Offender Advisory Commission (JOAC) and The State Advisory Group (SAG), which is connected to the distribution of JJDP Funds in Kansas.

The J-RISC Committee initiated its activities in July of 1983 in response to several activities on the National level relating to the removal of juveniles from adult jails. These activities included Court litigation, which mandated that one State remove juveniles from their jails, and included changes in the federal funding guidelines of The Juvenile Justice and Delinquency Prevention Act (JJDP), of which Kansas is currently participating. Despite this initial, narrow focus, it has become apparent to the J-RISC Committee that the entire pre-adjudicatory "system" needs attention if, indeed, there is a "system".

It has also become apparent to the J-RISC Committee that this area is extremely complex. Currently, law enforcement, private providers, S.R.S., the Courts, and the Counties all have an important role in the pre-adjudicatory stages and this complexity is magnified when we considered that the functional arrangements between these various parties differs from County to County and area to area.

Further, there exists a significant problem with determining who is responsible for this time frame prior to adjudication. The Court's role has been limited under the new Juvenile Offenders Code, Law Enforcement does not consider it to be their role to provide these services, S.R.S. has some philosophical problems fulfilling this role, and Counties have not been consistent in their assumption of this responsibility. Should Counties be responsible as in the adult jail area, should S.R.S. be responsible as in the Child In Need of Care area, or are there other options that should be explored such as the creation of a new administrative agency?

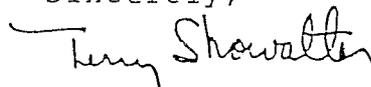
Other questions that exists are; 1) should criteria be used to determine which youth are eligible for secure detention; 2) if criteria are to be used, what should they be; 3) what are the resource needs of the State in both the secure and non-secure areas; 4) can costs and level of usage of these resources be determined if criteria are not used; 5) how can we best serve low population areas at a reasonable cost; 6) how can any current space in existing detention centers best be utilized; 7) if changes are made in the current Statutes, what type of timetable should be established for these changes; and 8) should changes be mandated by law or should a system of incentives be utilized to create the desired effect?

As the answers to these questions could effect a number of standing Legislative Committees, as these issues are extremely complex, and as a great deal of information would need to be reviewed prior to any decisions in this area, it would be our request that an independent special interim committee be appointed to study and make recommendations on these questions. We feel that this is too large a task to be combined with other non-related matters.

Our Committee is available to answer any preliminary questions you may have and would certainly be available to assist in the interim study if approved.

We appreciate your consideration of this request and look forward to your response.

Sincerely,



Terry D. Showalter
Chairman, J-RISC Committee

cc;

Legislative Coordinating Council Members
(See Attached List)

STATE OF KANSAS



TOPEKA

SENATE CHAMBER
May 30, 1984

NANCY PARRISH
STATE SENATOR, NINETEENTH DISTRICT
SHAWNEE COUNTY
3632 S. E. TOMAHAWK DR
TOPEKA, KANSAS 66605
913-379-0702 HOME
913-296-7373 BUSINESS

COMMITTEE ASSIGNMENTS
CHAIRMAN SHAWNEE COUNTY LEGISLATIVE
DELEGATION
ADVISORY COMMISSION ON JUVENILE
OFFENDER PROGRAMS
MEMBER EDUCATION
FEDERAL AND STATE AFFAIRS
LOCAL GOVERNMENT
JOINT COMMITTEE ON SPECIAL CLAIMS
LEGISLATIVE AND CONGRESSIONAL
APPORTIONMENT
CONFIRMATIONS

Speaker Mike Hayden, Chairman
Legislative Coordinating Council
Room 377-W
State Capitol
Topeka, Kansas 66612

Dear Speaker Hayden:

As chairperson of the Advisory Commission on Juvenile Offender Programs, I'm writing to endorse the recommendations of Rep. Wanda Fuller and of the Juvenile Jail Removal Impact Committee (J-RISC) for an interim committee to study the whole area of pre-adjudicatory care for alleged juvenile offenders. The Advisory Committee voted to endorse the recommendations for an interim study so that certain issues concerning the responsibility for the care of juvenile offenders could be resolved.

Specific issues that are crucial to the interim study are issues relating to the problems of holding juvenile offenders in adult jails and lockups; the problem of the overuse of juvenile detention for juveniles who have committed only minor offenses and who are held for substantial lengths of time prior to adjudication; and finally the need for specific delegation of the responsibility for the funding of various phases of the pre-adjudicatory process.

The Jail Removal Impact Study Committee (J-RISC) is a joint ad hoc committee of the Advisory Commission on Juvenile Offender Programs and the State Advisory Group for Juvenile Justice and Delinquency Prevention. J-RISC has studied these issues for the past 9 months and has prepared a detailed report which includes legislative recommendations which need to be studied by an interim committee. Due to the complexity of the juvenile justice pre-adjudicatory system and the amount of background information that is necessary in order to understand the issues, our first preference is for an interim committee to be assigned these juvenile justice issues only. Our second choice would be assignment of this topic to the Judiciary interim committee because Judiciary committee members have had some exposure to some of these issues.

Thank you very much for your consideration of this request.

Most sincerely,

Nancy Parrish
Nancy Parrish

