



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-171019

March 14, 1978



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The Honorable Birch Bayh
United States Senate

Dear Senator Bayh:

On September 27, 1977, we testified before the Subcommittee to Investigate Juvenile Delinquency, Senate Committee on the Judiciary, on the results of our review of States' efforts to remove status offenders 1/ from detention and correctional facilities as required of participating States by the Juvenile Justice and Delinquency Prevention Act of 1974. At that time, you requested our views on Indiana's progress.

Our review of Indiana's efforts to remove status offenders 2/ indicates that Indiana is experiencing problems similar to those we identified in our testimony. Those problems were:

- Effective monitoring systems have not been established to determine whether deinstitutionalization has been or will be achieved.
- State laws and practices frequently conflict with the act's deinstitutionalization mandate.
- Appropriate alternatives to incarceration have generally not been identified and developed.

Each problem area as it applies to Indiana is discussed below.

We discussed Indiana's progress with officials of the Law Enforcement Assistance Administration's Office of Juvenile Justice and Delinquency Prevention and the Indiana Criminal

1/Juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult.

2/In this report removal of status offenders is referred to as deinstitutionalization.

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Justice Planning Agency. We also talked with officials of the Indiana Departments of Correction and Public Welfare, members of the Juvenile Justice Division of the Indiana Judicial Study Commission, and a juvenile court official of Marion County.

SYSTEM TO MONITOR DEINSTITUTIONALIZATION

Guidelines of the Law Enforcement Assistance Administration (LEAA) require that each State participating in the Juvenile Justice and Delinquency Prevention Act of 1974 provide for accurate and complete monitoring to insure that status offenders are not placed in jails, detention facilities, correctional facilities, and other secure facilities. The guidelines also require that participating States report annually to LEAA on the results of their monitoring activities.

Indiana's monitoring consists of surveying--on three specified dates each year--all county jails and juvenile detention facilities, State correctional institutions, and group homes and shelter facilities serving juvenile delinquents. Some secure facilities such as city jails, local lockups, and private institutions are not surveyed. An official responsible for monitoring stated that his office had neither the staff nor the funds to monitor these facilities. He also expressed reservations about whether they had authority to monitor them.

Indiana's initial monitoring report, submitted December 29, 1976, did not provide any results of monitoring activities because such activities had only recently begun under a grant from the State planning agency to the Department of Correction. However, an addendum to the report concluded that the State was near LEAA's substantial compliance standard for deinstitutionalization. According to LEAA, a State can achieve substantial compliance with the deinstitutionalization requirement by statistically showing a reduction of at least 75 percent in the number of status offenders in secure detention and correctional facilities within 2 years of its initial State comprehensive plan submission. 1/

Our analysis of the addendum indicated that Indiana had incorrectly determined the reduction in the number of status offenders held in secure detention and correctional facilities.

1/Recent amendments (Public Law 95-115) to the Juvenile Justice and Delinquency Prevention Act of 1974 give the States a total of 3 years to achieve at least a 75-percent reduction, provided such States have demonstrated an unequivocal commitment to achieving full compliance.

Since LEAA had not reviewed the addendum at the time of our review, we requested its comments on the adequacy of the data. On December 15, 1977, the Administrator of the Office of Juvenile Justice and Delinquency Prevention told us that the Office did not agree with either the State planning agency's data analysis or its conclusions. We were told that on December 22, 1977, he had notified the executive director of the State planning agency of his response to us and requested additional information so that a more complete evaluation could be made.

According to LEAA, Indiana should have compared January 1975 data on the number of status offenders in secure facilities with January 1977 data to arrive at a percentage reduction. Instead, Indiana compared the number of status offenders in secure facilities to the total population for these facilities on January 15, 1977.

To get some indication of whether the number of status offenders in secure facilities had been reduced, we compared the data included in the addendum on the number of status offenders in such facilities on January 15, 1975, and January 15, 1977, the last date for which information was included. For January 1975, the addendum showed 294 status offenders in secure facilities and for January 1977, 260--a reduction of 34 (12 percent). Thus, Indiana was further from substantial compliance than its report concluded.

STATE LAW AND PRACTICES
REGARDING DEINSTITUTIONALIZATION

Indiana law, which allows most types of status offenders to be held in detention and correctional facilities, conflicts with the Federal mandate prohibiting the use of such facilities for status offenders. Specifically, under Indiana law, youth involved in activities considered to be status offenses such as ungovernability, incorrigibility, truancy, and curfew violation are classified as delinquent children and may be placed in secure detention or correctional facilities. In contrast, runaway youth, also considered status offenders, are classified as dependent children. Under Indiana law, incarceration of dependent children in any county jail, city lockup, detention center, State penal institution, the Indiana Boys' School, or the Indiana Girls' School is prohibited.

Indiana monitoring results indicate that the institutionalization option in Indiana's law is being applied by juvenile judges and law enforcement officials. Status offenders are being held in secure detention facilities and are being committed to State juvenile correctional institutions.

State and county officials whom we spoke with offered the following explanations why this practice continues:

--Secure detention of some status offenders is considered necessary for proper diagnosis and evaluation of their problems.

--Status offenders are often committed to State institutions to receive services, due to a shortage of alternative dispositions.

An effort is underway in Indiana to modernize its juvenile justice laws. The Juvenile Justice Division of the Indiana Judicial Study Commission was established to study the juvenile code and recommend changes to it. Funded by an LEAA grant, the Division has prepared a proposed revision to the Indiana Juvenile Code. After public hearings are held, the proposal will be submitted to the 1978 Indiana General Assembly. The proposed code recommends that status offenses be kept in the delinquency category and that "running away" be classified as delinquency. It also prohibits the incarceration of status offenders but, when necessary, allows status offenders to be placed in shelter care facilities. A shelter care facility is defined as a place of residence, licensed under the laws of any State, which is not locked to prevent a child's departure unless the administrator determines that locking is necessary to protect the child's health.

ALTERNATIVE SERVICES FOR STATUS OFFENDERS

Indiana does not have a uniform statewide procedure for delivering services to status offenders. State and local juvenile justice officials said that throughout Indiana, particularly in the State's rural counties, a shortage of residential and nonresidential services existed as alternatives to incarceration for juvenile offenders, including status offenders.

Under the monitoring grant received from the State planning agency, Indiana's Department of Correction surveyed facilities throughout the State which provide services to juvenile delinquents, including status offenders. The Department concluded that if the State fully complied with the Federal requirement for deinstitutionalization of status offenders it would need substantially more group homes and child caring facilities.

The State planning agency has identified a number of regions within the State which have established as a priority

need the development of alternatives to institutionalization for juveniles. An agency official said that some diversionary alternatives are available for juvenile offenders, including group homes, boys' clubs, youth service bureaus, crisis hotlines, and various police/school liaison programs. For fiscal years 1975 through 1977, the State planning agency had awarded approximately \$1.5 million of LEAA funds to cities and counties to develop community alternatives to institutionalizing juvenile offenders. Some of the projects supported include:

- The construction and establishment of a county juvenile shelter facility to serve as a short-term residential center for 20 juveniles. Placement would be made by the county juvenile courts or the welfare department. The center would provide care for runaways awaiting return to their homes and for early offenders who need only short-term treatment. It would also provide outpatient services in tutoring, counseling, and other treatment for juveniles and their families.
- The operation of a regional youth services program involving 12 counties and the use of foster care homes. The program, which has been in operation for over 4 years, has used about 42 foster homes a year. Under the program, treatment and training of the parents and other members of the immediate family is an integral part of the treatment process.

The Indiana fiscal year 1978 comprehensive State plan submission for LEAA funds indicates that the State planning agency will continue funding community-based alternative programs for juveniles.

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In a letter dated January 20, 1978, a copy of which was sent to you, the executive director of the State planning agency commented on our observations. With respect to monitoring, he stated that in view of the questions raised by the Office of Juvenile Justice and Delinquency Prevention and our observations on the methodology, the State planning agency was reassessing the tasks before it. He believed that the means established for monitoring facilities was providing comprehensive and very useful data.

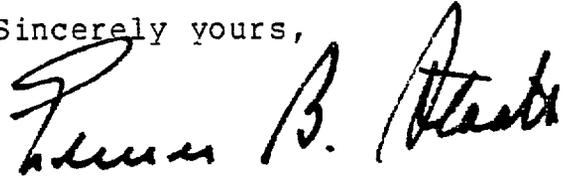
The director stated that at the present time, certain laws and practices do conflict with the Federal mandate. He noted, however, that proposed revisions to the Indiana Juvenile Code have been introduced in the Indiana legislature.

Regarding alternatives to incarceration, the director called our attention to Indiana's increased use of probation and stated that alternative residential facilities were not the only appropriate programmatic response to deinstitutionalization. Our purpose was not to convey that impression but only to indicate that shortages of such facilities, as well as nonresidential services, were reported.

We plan to issue a report to the Congress this spring, which will contain our overall conclusions and recommendations concerning State efforts to remove status offenders from detention and correctional facilities.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution until 30 days from the date of this report. At that time we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Thomas B. Stearns". The signature is written in a cursive style with a large initial 'T'.

Comptroller General
of the United States