THE WHITE HOUSE

WASHINGTON

March 6, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS

SUBJECT: Statement of Al Regnery Concerning DOJ's Proposals to Reauthorize the Juvenile Justice and Delinquency Prevention Act, on March 7, 1984

We have been provided with a copy of testimony that Al Regnery, Administrator of the Office of Juvenile Justice and Delinquency Prevention (OJJDP), proposes to deliver on March 7 before the Subcommittee on Human Resources of the House Committee on Education and Labor. The first part of the testimony reviews the activities and projects funded by OJJDP in FY 1983. The remainder of the testimony is identical to that Regnery proposes to deliver before Senator Specter's Subcommittee on March 8. As I noted in my memorandum for you on that testimony, Regnery announces the Administration's opposition to reauthorization of the JJDP Act. Regnery argues that the Act has not reduced delinquency and has in fact had unintended deleterious consequences. The testimony will be very controversial, but I see no reason to second-guess the policy judgments behind the decision not to reauthorize the Act or OJJDP.

Attachment

THE WHITE HOUSE

WASHINGTON

March 6, 1984

MEMORANDUM FOR BRAD CATES
SPECIAL COUNSEL, OFFICE OF
INTERGOVERNMENTAL AFFAIRS

FROM: FRED F. FIELDING Orig. signed by FFF
COUNSEL TO THE PRESIDENT

SUBJECT: Statement of Al Regnery Concerning DOJ's Proposals to Reauthorize the Juvenile Justice and Delinquency Prevention Act, on March 7, 1984

Counsel's Office has reviewed the above-referenced testimony, and finds no objection to it from a legal perspective. Note, however, that I believe this policy decision and proposal not to reauthorize the Act will be very controversial.

cc: Richard G. Darman

FFF: JGR:kcf 3/6/84
cc: FFFielding/JGRoberts/Subj/Chron

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Subject: Statement of Alfred Regnery concerning DOJ's proposals to reauthorize the Juvenile Justice and Delinquency Prevention Act on March 7, 1984

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U.S. Department of Justice
Assistant Attorney General
Legislative Affairs

March 5, 1984

To: Greg Jones
Legislative Reference Div.
OMB

From: Brad Cates
Special Counsel, Office of
Intergovernmental Affairs

Enclosed you will find the statement of Alfred S. Regnery, Administrator, OJJDP, before the House Subcommittee on Human Resources concerning the activities of the OJJDP and DOJ's proposals to reauthorize the Juvenile Justice and Delinquency Prevention Act on March 7, 1984. Please review and notify me regarding clearance as soon as possible.

OFFICE

REVENTION

cc: ✓Fred Fielding
Counsel to the President

SUBCOMMITTEE ON HUMAN RESOURCES
HOUSE COMMITTEE ON EDUCATION AND LABOR

MARCH 7, 1984

Mr. Chairman, I am pleased to present on behalf of the Department of Justice information regarding the activities of the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and to present the Department's views concerning proposals to reauthorize the Juvenile Justice and Delinquency Prevention (JJDP) Act.

As you know, OJJDP provides assistance to states and localities for juvenile justice activities in three ways: Formula Grants to the states; Special Emphasis funds to public and private agencies; and the dissemination of information and training resources of the National Institute for Juvenile Justice and Delinquency Prevention.

Formula Grants

During Fiscal Year (FY) 1983, 46 states and five territories (Puerto Rico, American Samoa, Trust Territories, the Virgin Islands, and Northern Marianas) received Formula Grant awards totalling $42,095,000. State and territorial allocations were based on the population of juveniles (under 18 years of age). The minimum allocation to each state was $225,000; Puerto Rico received $921,000 and the other territories each received $56,250.

The deinstitutionalization of status offenders and the separation of juveniles from adult offenders in jails and correctional facilities has been a major emphasis of the state programs with a goal of the complete removal of juveniles from adult jails and lock-ups by December, 1985. Participating states and territories also were encouraged to invest up to 30% of the

Formula Grant funds in special efforts to deal with serious, violent juvenile offenders. Fifty-one states and territories have met special requirements of the enabling Act by demonstrating substantial or full compliance with the deinstitutionalization of status offenders; 34 states have complied with the requirements for the separation of adults and juveniles in adult jails and lock-ups. Most of the remainder are making progress. The appendix hereto describes that progress in detail.

Technical Assistance

More than 250 instances of technical assistance and more than 1,200 workhours were provided to state and local agencies during FY 1983 by the office. Assistance was in a number of areas, but emphasis was upon alternatives to the juvenile justice system, removing juveniles from adult jails, serious and violent juvenile crime, the Foster Grandparent Program, restitution and delinquency prevention.

The Office continued a previous agreement with the Federal Law Enforcement Training Center located in Georgia for seminars addressed to law enforcement administrators on current issues in juvenile justice and on the presentation of modern police management strategies to improve police juvenile services. This fiscal year, 15 seminars were held with approximately 375 law enforcement administrators in attendance.

Special Emphasis

A number of new programs were initiated by the Special Emphasis Division in FY 1983. These included:

- Serial Child Murders Information System. This is the initial phase of a program designed to establish a national missing or abducted persons and serial murder tracking and prevention program. It will develop a comprehensive criminal justice tracking, pattern recognition and investigative assistance mechanism to trace and locate missing and/or abducted juveniles. Funds for this program are being provided by the National Institute for Juvenile Justice and Delinquency Prevention.
- Suppression of Drug Distribution to Juveniles. Under this program, five law enforcement agencies will establish a structured law enforcement effort focused on serious crime perpetrated by juvenile drug users, to reduce crime frequency and drug procurement by juveniles and to increase identification, arrest, conviction and incarceration of drug pushers whose clients are primarily juveniles.
- Habitual Serious Juvenile Offenders. This is an experimental program to control and provide treatment to that small percentage of offenders who commit a disproportionately large share of juvenile crimes. Grants will be made directly to prosecutors in 13 major cities across the country.

New projects funded in FY 1983 include:

- Delinquency Prevention and Runaway Children: Covenant House of New York will provide crisis care services to runaway and homeless youth through two new emergency crisis intervention centers.
- Project Helping Hand: This will continue the development of the successful "Wing Spread" diversion program operating in California. The purpose of this project is to provide jobs, in business and industry, to delinquent youth.
- Private Sector Corrections: We are presently in the midst of a competitive process which will culminate in the funding of several new, privately-run, alternative correctional facilities for serious juvenile offenders. The projects will be intensively evaluated to determine their success with such offenders, and to determine their cost effectiveness.

A number of programs also have been continued in 1983. Project New Pride provides comprehensive community-based treatment for serious offenders. It reduces recidivism, increases school and social achievement, and provides employment opportunities. Four projects have received a final year of funding, to allow refinement of program models prior to development of a marketing plan. New Pride included 996 participants as of February, 1983, who averaged 7.8 prior offenses, 4.6 of them sustained by the time of their admission to

the program. Nearly half were school dropouts.

The Pacific Institute for Research and Evaluation, the program evaluators, found that New Pride participants were responsible for 25% less crime than a similar group. Over 70% now attend school, and unexcused absences were reduced by half.

The Violent Juvenile Offender Program is a major research and development effort with two parts: Part I tests a specific intervention approach for the treatment and reintegration of adjudicated violent juvenile offenders. Phase II tests the capability of neighborhood organizations to reduce violent and serious juvenile crime. While it is too early to have definitive program results, Part I juveniles have begun to show significant educational achievement and social adjustment compared to their counterparts in the control group. Part II projects are now under way and are gathering data for establishing program priorities and developing crime prevention action plans.

Restitution by Juvenile Offenders also will be continued, with training and technical assistance provided to practitioners wishing to establish or improve a restitution program.

One Alternative Education project received funding this year, and in 1983, Special Emphasis Division funds were used to continue the Close-Up project.

National Institute for Juvenile Justice and Delinquency Prevention

During FY 1983, the Institute supported 23 training projects carried out by specialized public and private organizations and institutions concerned with improving juvenile justice.

Approximately 2,500 juvenile court judges and other court-related management personnel as well as juvenile service professionals, educators, administrators of juvenile correctional institutions and community-based alternative programs, law enforcement personnel, and people associated with employment and family counseling programs participated in the training.

More than $2,000,000 was awarded to eight information collection/dissemination projects. The National Criminal Justice Reference Service responded to approximately 3,500 written and oral information requests from researchers, judges, legislators, and others involved in the criminal justice field. While the focus is on improving the operations of the juvenile justice system through the provision of training and information dissemination, emphasis also was placed on training and informing juvenile justice professionals in the habitual serious and violent juvenile offender problem. The wide range of training and information dissemination efforts supported by the Office has become nationally recognized and has had great influence upon the juvenile justice community.

Ten regional seminars held across the country provided training to approximately 300 correctional administrators, judges, and court personnel in the judicial, legislative, and administrative application of standards. In addition, support was given to develop model policies and procedures for the operation of juvenile detention facilities.

Analysis of the national Uniform Crime Reports and National Crime Survey data show that juvenile involvement in serious crime

has stabilized and slightly declined since the mid-1970's. There is some evidence, however, that it has increased in frequency and seriousness in some urban areas.

Recent research sponsored by the Institute indicates that relatively few juvenile offenders continue criminal behavior as adults, although the more serious their crimes, the more likely they are to continue their criminal careers as adults. However, research also has confirmed that a small number of these youths do become habitual offenders--career criminals--who are responsible for the majority of serious and violent crimes through late teenage years and early adulthood. This knowledge dictated a policy of focusing a large share of office and Institute resources on finding effective ways of dealing with this population. A variety of programs for these youths are being developed and tested. These include more intensive prosecution, better crime analysis on this part of law enforcement, comprehensive diagnostic assessment, continuous case management, a system of graduated sanctions, from secure custody to intensive supervision in the community, and intensively supervised reintegration. Restitution, one type of sanction, continues to have as much support from professionals, the research community, and the public, as any other type of sanction.

Reauthorization

As you know, Mr. Chairman, the Administration does not support reauthorization of the JJDP Act. Those functions of the office which have proven to be worthwhile and successful, in

addition to the missing children aspects of the bill before you, would be carried forth instead by the proposed Office of Justice Assistance. Other functions of the JJDP Act have been adequately tested, we believe, to indicate whether they either work or do not; those activities that have demonstrated their effectiveness can be continued and funded by state and local governments, if they so desire. Other functions of the office which have proven to be counterproductive should no longer be funded by the federal government. In all cases, we believe that the programs of the sort required by the JJDP Act should not be mandated to the states.

Deinstitutionalization of Status Offenders

One of the primary purposes of the Act was to deinstitutionalize status offenders (those juveniles whose offenses would not be offenses were they adults), diverting them from the judicial system and out of secure detention facilities and into community-based, non-judicial settings. Deinstitutionalization of status offenders has largely been accomplished as a result of the JJDP Act, at least to the extent that juvenile status offenders are now only rarely held in secure detention facilities. The effects of deinstitutionalization, as I will indicate later in my testimony, are not as positive.

Forty-six states and the District of Columbia now participate in the JJDP Act by, among other things, deinstitutionalizing their status offenders in order to get JJDP Act money, in accordance with Section 223 (a)(12)(A) and (B) of the Act. Each of these states has submitted a plan and submits

annual reports to my office containing a review of its progress made to achieve deinstitutionalization. The other four states, North Dakota, South Dakota, Wyoming, and Nevada, indicate at the present time no desire to participate in the Act.

We believe that the states which now participate in the program will continue to deinstitutionalize without the federal government's money, and will be able to do so more successfully without the unyielding and strict requirements of federal law. Each state has a different set of circumstances and, without the need to comply with federal mandates, will be able to adjust its programs to meet its own local problems and conditions. Since the funds OJJDP provides to states are insufficient to cover the full cost of deinstitutionalization, the individual states must have shown a commitment to deinstitutionalize status offenders in order to participate in the program. More than federal money, in other words, was required for the states to join the program; with the relatively small amount of OJJDP money going to each state, there is no reason to believe that the states will now retreat from their commitment, with the exception of perhaps amending the statutes to more nearly conform to local conditions.

The JJDP Act also provides that in order to participate in the program, delinquent juveniles shall not be held in institutions in which they have regular contact with adults. Section 223 (a)(13). Those states participating in the program have made sufficient progress under this section to deem these separation requirements an almost total success.

In 1980, the JJDP Act was amended to mandate that, beginning

in 1985, no state participating in the program may detain juveniles in jails or lock-ups for adults. Section 223 (a) (14). Because this mandate is not fully in place, it is not possible to report precisely what each state has done. However, OJJDP, through its state representatives, does monitor the states' progress and is generally aware of whether each state would be able to be in compliance by 1985 in the event the Act were reauthorized. See Appendices A and B for a summary of states' compliance with Section 223 (a) (12), (13) and (14).

Again, because of the relatively small amount of federal money involved, the states are not undertaking the jail removal requirements because of federal money, but because they believe it is the right thing to do. Those that have adopted the philosophy of the Act will continue this mandate without the federal government telling them to do so; those which cannot, or do not wish to, carry out this mandate may cease participation in the program. We believe that the states will be able to perform these functions better, in fact, without the federal mandates, because the state legislatures will be able to respond more creatively to their own individual problems.

Impact of Deinstitutionalization

Because the Act places such emphasis on deinstitutionalization, and because one of the purposes of the mandate, when the statute was passed, was to reduce criminality among juveniles, it is worthwhile to examine the impact deinstitutionalization has had on recidivism.

We have done so by commissioning a study, done by the American Justice Institute, which reviews virtually all existing empirical studies on deinstitutionalization. These independent findings are startling. They show that comparisons of deinstitutionalized status offenders and non-deinstitutionalized status offenders generally show no differences in recidivism. Of the fourteen programs in which recidivism rates could be compared, no differences were found in eight, in three, the deinstitutionalized status offenders did better, and in three, they did worse.

Further, although commitment of status offenders to public correctional institutions has declined since the beginning of the federal effort in 1974, it has not been ended, and there has been a substantial increase in commitments to private correctional institutions.

We have found that both of the major strategies for reducing or eliminating the secure confinement of status offenders (developing alternative programs or issuing absolute prohibitions against confinement) produced unintended side effects. Many jurisdictions that developed alternatives without prohibiting confinement experienced "net widening" effects in which the alternative programs were used mainly for juveniles who previously had been handled on an informal basis and the status offenders who previously had been detained continued to be held in secure facilities. Additionally, the absolute prohibitions against confinement produced changes in the use of discretion (popularly termed "relabeling") which resulted in many of the

cases that previously might have been treated as status offenses being handled as minor offenses. Worse, in some of the jurisdictions which prohibited confinement, we have found that law enforcement officers and the agencies responsible for delivery of services on a voluntary basis simply were not dealing with these youths at all and that those most in need of services were not receiving them.

What has been the impact of the removal of services, and the removal of the ability of local jurisdictions to hold certain status offenders in secure facilities? Although hard data is scanty and difficult to find, in at least one area it appears the Act may have done more harm than good. That area involves runaways -- one of the most frequently committed of the status offenses.

In 1975, the year after the JJDP Act was passed, the Opinion Research Corporation concluded that some 700,000 children ran away from home each year. Today, however, nine years later, the Health and Human Resources Department estimates that number may be 1.3 million, nearly twice as high. Yet in 1975 there were 29.5 million teenagers, and today there are 3.5 million fewer, or 26 million.

The effect of the JJDP Act on runaway youth has been to effectively emancipate them, or to allow those who would leave home a free hand. It has inhibited, for all intents and purposes, the law enforcement system from dealing with and attempting to control runaway youth -- a law enforcement system which may have had some faults, but also provided troubled youth

with services and assistance.

In many jurisdictions, deinstitutionalization has encouraged and even forced authorities to neglect runaway and homeless children. In this country's toughest urban centers, deinstitutionalization has meant, not transferring youths from reform schools to caring environments, but releasing them to the exploitation of the street.

The 1974 Act and its amendments make it virtually impossible for state and local authorities to detain status offenders in secure facilities for more than a few days, or in some instances, hours. In the case of runaways, that prohibition is too extreme. In some situations, secure settings - not jails - are necessary to protect these children from an environment they cannot control and often are unable to resist. The costs of such a policy to those children - and to society generally - are too great to continue.

A study recently conducted in Florida on runaways concluded that of those children who stay away from home for more than two weeks, 75% will be supporting themselves within that two week period, by theft, drugs, prostitution, and pornography -- in other words, by crime. Many are arrested and enter the judicial system no longer as status offenders, but as criminal offenders -- often for crimes that they were virtually forced to commit in order to survive. In many cases by providing services to them at an early stage, the law enforcement system could help these children return home, thereby preventing subsequent criminality.

By no means do all runaway or homeless children need closed

programs. We fully endorse the views of such experts as Father Bruce Ritter who runs the Covenant House in New York City, who believe that those children living on the street most likely to be helped are those who recognize they need help and who turn to and remain at voluntary facilities.

But what do we do for the thirteen year old runaway girl, living on the street, selling her body, who is repeatedly returned to her parents or a voluntary foster setting, and who repeatedly runs back to the street? In some cases, according to many experts who have dealt with the problem at first hand, the only answer is being able to use secure confinement, again not for punishment, but for treatment. As Father Ritter who has probably had more experience with runaway children than virtually anyone else in the country, says:

> "A thirteen year old girl is pimp bait. She'll be lucky if she survives to her fifteenth year. If she does survive to her fifteenth year, she'll be no good to anyone, including herself. I don't think you can let a fifteen year old girl wander loose and I don't think the state has the right to say 'we're going to wash our hands'. . . .
>
> "Sometimes kids are so out of control and incapable of making an informed, mature decision in their best interest that adults have to make that decision for them. It is criminal not to. But once you make that decision to place a child in a closed program, you have got to make the equally difficult decision to make sure it is a good one."

The 1974 Act and its amendments erred by specifying too strictly the ways in which state and local authorities could handle the status offender problem. By imposing the same standard in every state, we may have helped the states begin the process of deinstitutionalizing, but in a manner sufficiently unyielding as to make matters worse. By now lifting federal

restrictions, we believe that state law will be adjusted to meet the specific problems of each state, but without returning to the old system of jailing status offenders.

Delinquency Prevention

OJJDP has, in the past years, directed a considerable amount of its resources to delinquency prevention. Delinquency prevention is a process that involves schools, families, communities, neighborhoods, churches, and community-based organizations -- areas where it is difficult for the Department of Justice in particular, and the federal government generally, to make a difference. Delinquency prevention is made up of those things which are good for youth in general -- things which the federal government will do in any case, under names other than delinquency prevention. Accordingly, we find more than thirty different bureaus and offices in the federal government which engage in, as they are broadly defined, delinquency prevention activities with expenditures of billions of dollars.

The delinquency prevention programs OJJDP has supported in the past have done little to prevent delinquency. In a major evaluation of the Office's delinquency prevention activity, the National Council on Crime and Delinquency, in The National Evaluation of Delinquency Prevention: Final Report (1981), came to this discouraging conclusion after looking at over sixty different programs that the Office had funded:

> "Data from this national study together with past research suggest that the idea of preventing delinquency remains excessively ambitious if not pretentious. There is a large gap between policy makers' hopes and what can be accomplished by

prevention programs funded under this broad notion. As yet, social scientists have not isolated the causes of juvenile delinquency, but even if they were known it is not obvious that anything could be done about them. Many writers would agree that delinquency is generally associated with the growth of industrialism and social trends (e.g., poverty and racism) of such scope and complexity that they cannot easily be sorted out and remedied . . . . Given this perspective on delinquency it becomes fruitless or even naive to believe that highly generalized and often unclear directives to introduce prevention programs into heterogeneous target areas can curtail delinquency."

We believe that federal delinquency prevention programs based on social service activities should be housed in departments other than the Department of Justice, such as the Department of Health and Human Services, the Department of Education, the Department of Housing and Urban Development, and the ACTION agency. Those aspects of juvenile delinquency appropriately addressed by the criminal justice system, and therefore suited to the Department of Justice, should be funded through the Office of Justice Assistance.

Serious Juvenile Crime

Juveniles commit some 35% of all serious crime in the United States, and some 20% of all violent crime. Although the percentage is slightly lower than it was ten years ago, arrest rates for juveniles, as a percentage of the juvenile population, remains about the same.

Juvenile crime is, and is increasingly treated by the states as, a criminal justice issue. Accordingly, programs to assist juvenile courts, as well as criminal courts, in dealing with the issue of juvenile crime could be more efficiently sponsored through the Office of Justice Assistance, as part of its consolidated criminal justice assistance responsibilities, than

through a separate office which deals only with juveniles.

Most serious and chronic juvenile offenders go on to become adult criminals, and most adult chronic offenders were offenders when they were juveniles. The states now treat chronic offenders, whether they be juveniles or adults, in a similar manner much more than heretofore. The result is that such offenders are increasingly in the same law enforcement system, the same court system, and even the same correctional system. Having a separate juvenile justice office within the Department of Justice to address only those parts of the system which deal with juveniles is an artificial distinction which often duplicates services that are provided by other offices within the Department and forces the Department to act in a less efficient manner than it otherwise might.

Some may argue that it is wrong for the states to treat juvenile offfenders as adults. We believe that is an argument which should be made and resolved in the state legislatures. Each state is different; each state has a different set of problems, different statutes, and different legislatures and constituencies which see things in different ways. We believe that the genius of the federal system is reflected by the states' ability to be able to handle their problems in their own way. The development and implementations of criminal justice policy, outside of the federal justice system, is one of those state prerogatives which may be assisted by the federal government but without federal interference. Assistance which is rendered by the federal government, such as by the Office of Justice

Assistance, can be beneficial, but should be done without specific mandates and without the imposition of requirements that state laws be changed.

In conclusion, we do not dispute that OJJDP has done many good things during existence, and recognize that it continues to fund many excellent programs. Nevertheless, we do not believe its programs warrant continuation of a separate office and the expenditure of $70 million, particularly in times of restricted federal budgets. OJJDP, for all of its good programs, has had little impact on crime. OJJDP has brought a new awareness to the world of juvenile justice, but that new awareness should now be carried forth in state and local governments, in the communities, volunteer groups, and neighborhoods throughout the country.

Thank you, Mr. Chairman, I will be pleased to respond to any questions you or members of the Subcommittee may have.

Appendix A

Summary of Compliance with
Section 223 (a) (12), (13), and (14)
of the Juvenile Justice and Delinquency Prevention Act

There are 57 states and territories eligible to participate in the Juvenile Justice and Delinquency Prevention Formula Grant Program. Currently 53 are participating; the four not participating are Nevada, North Dakota, South Dakota, and Wyoming. According to the most recently submitted and reviewed State Monitoring Report, the following is a summary of compliance with Section 223 (a) (12), (13), and (14).

SECTION 223 (a) (12) (A)

Deinstitutionalization of Status Offenders and Non-Offenders

A. Of the 53 participating states, 47 have participated for five or more years and are thus required to achieve full compliance with Section 223 (a) (12) (A) of the Act to maintain eligibility for FY 84 Formula Grant funds. Of these 47 states, a determination has been made that the following 44 states and territories are in full compliance pursuant to the policy and criteria for full compliance with de minimis exceptions.

Alabama	Michigan
Alaska	Minnesota
American Samoa	Mississippi
Arizona	Missouri
Arkansas	Montana
California	New Hampshire
Colorado	New Jersey
Connecticut	New Mexico
Delaware	New York
District of Columbia	Oregon
Florida	Pennsylvania
Georgia	Puerto Rico
Guam	Rhode Island
Illinois	South Carolina
Indiana	Tennessee
Iowa	Texas
Kansas	Trust Territories
Kentucky	Vermont
Louisiana	Virginia
Maine	Virgin Islands
Maryland	Washington
Massachusetts	Wisconsin

Three of these 47 states have not to date been found to be in full compliance with the deinstitutionalization requirement. Those states are Hawaii, Idaho, and Ohio.

B. Of the 53 participating states, four must achieve substantial or better compliance to be eligible for FY 84 Formula Grant funds. Those states are North Carolina, Northern Marianas, Utah, and West Virginia. All four have been found in full compliance.

C. Two of the 53 participating states, Nebraska and Oklahoma, must demonstrate progress to maintain eligibility for FY 84 funds and each have done so.

SECTION 223 (a) (13)

Separation of Juveniles and Adult Offenders

There are 39 states which have demonstrated compliance with Section 223 (a) (13) of the Act. Fourteen other states have reported progress. Those 39 states which have been found in compliance with the separation requirements are:

Alabama
American Samoa
Arizona
Arkansas
Connecticut
Delaware
District of Columbia
Florida
Georgia
Guam
Hawaii
Illinois
Iowa
Kansas
Louisiana
Maine
Maryland
Massachusetts
Michigan
Minnesota
Nebraska
New Hampshire
New Jersey
New Mexico
New York
North Carolina
Northern Marianas
Ohio
Pennsylvania
Puerto Rico
Rhode Island
South Carolina
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
Wisconsin

The 14 states reporting progress are:

Alaska
California
Colorado
Kentucky
Idaho
Indiana
Mississippi
Missouri
Montana
Oklahoma
Oregon
Tennessee
Trust Territories
West Virginia

SECTION 223 (a) (14)

Removal of Juveniles from Adult Jails and Lockups

All participating states and territories must demonstrate full compliance or substantial compliance (i.e., 75% reduction) with the jail removal requirement by December 1985. Eligibility for FY 1984 Formula Grant funds is not dependent upon the states' level of compliance with the jail removal requirement of Section 223(a)(14). Refer to "Appendix B" (attached) for information on the number of juveniles held in adult jails and lockups.

APPENDIX B

The summary of state participation in the Juvenile Justice and Delinquency Prevention (JJDP) Act and compliance with the deinstitutionalization and separation requirements of Sections 223 (a) (12) and (13) of the Act is based upon the 1982 monitoring reports which determined states' eligibility for FY 1984 formula funds (10/1/83 - 9/30/84).

Attached are two fact sheets showing the number of status offenders and non-offenders held in secure detention and correctional facilities and the number of juveniles held in regular contact with incarcerated adult persons. The data presented represents a twelve-month period and was actual data for some states and projected to cover a twelve-month period for other states. All current data is that provided as "current data" in the 1982 monitoring reports. The baseline data for the number of status offenders and non-offenders held in secure detention and correctional facilities is that provided as "baseline data" in the 1979 reports. The baseline data for the number of juveniles held in regular contact with adult offenders is that provided as "baseline data" in the 1981 reports. Only participating states are included in the figures. A fact sheet showing the number of juveniles held in jails and lock-ups is attached. However, this data is not projected to cover a twelve-month period.

The nationwide baseline data for the number of status offenders and non-offenders held in secure detention and correctional facilities was determined to be 199,341. The nationwide current data showed 22,833 status offenders and non-offenders held in secure detention and correctional facilities. Thus, by comparing baseline and current data, the number of status offenders and non-offenders held in secure facilities has been reduced by 88.5% over the past 5 to 7 years. According to the 1980 census, approximately 62,132,000 juveniles under the age of eighteen reside in the participating states. Thus, the number of status offenders and non-offenders currently held computes to a national ratio of 36.7 status offenders and non-offenders securely held per 100,000 juvenile population under age 18. This national ratio is in excess of the maximum rate which an individual state must achieve to be eligible for a finding of full compliance with the deinstitutionalization requirements of Section 223 (a) (12) (A) of the JJDP Act, pursuant to OJJDP's policy and criteria for de minimis exceptions to full compliance. It should also be noted that these figures do not include those status offenders and non-offenders held less than 24 hours during weekdays and those held up to an additional 48 hours (i.e., a maximum of 72 total hours) over the weekend.

The number of juveniles held in regular contact with incarcerated adults has reduced from 97,847 to 27,552. This computes to a 71.8% reduction over approximately a five-year period.

Based upon the number of status offenders and non-offenders currently held in secure facilities, which is a 88.5% reduction in the number held five or more years ago, and based upon the fact that 48 states and territories have been found in full compliance with de minimis exceptions, it is evident that substantial progress has been made in attaining the

deinstitutionalization objective of the Act. However, considering, as stated above, that status offenders held less than 24 hours are not included and considering that states can securely hold status offenders at a level acceptable for a finding of full compliance pursuant to the de minimis policy, it is also evident that the deinstitutionalization objectives have not been fully met. It is also noted that OJJDP determines compliance a statewide aggregate data, thus cities, counties, regions or districts may not have achieved local compliance in their efforts to deinstitutionalize.

JJDP Act legislation does not require states to be in either substantial or full compliance to be eligible for FY '84 dollars. The attached fact sheet on Section 223 (a) (14) shows progress being made at the national level but not necessarily at the state level. Based upon individual state reporting periods varying from one month to twelve months, there appears to be an overall 18.9% reduction in the number of juveniles held in adult jails and lock-ups. This data does not include those juveniles who are waivered or those for which criminal charges have been filed in a court having criminal jurisdiction. This data, also does not include those juveniles held in adult jails or lock-ups for less than six hours.

Attachments: I, II, III

I

Number of Status Offenders and Non-Offenders Held in Secure Facilities*A

	Baseline*B	Current*C
LABAMA	4,836	412
LASKA	485	14
RIZONA	4,410	632
RKANSAS	3,702	0
ALIFORNIA	34,216	238
OLORADO	6,123	370
ONNECTICUT	699	0
ELAWARE	374	2
IST. OF COLUMBIA	178	4
LORIDA	9,188	22
EORGIA	4,047	432
AWAII	681	629
DAHO	4,188	1,272
LLINOIS	5,391	136
NDIANA	7,494	438
WA	1,204	8
ANSAS	3,826	576
ENTUCKY	4,849	1,104
OUISIANA	3,179	111
AINE	41	0
ARYLAND	857	4
ASSACHUSETTS	37	0
ICHIGAN	14,344	35
INNESOTA	6,309	7
ISSISSIPPI	1,170	244
ISSOURI	4,786	366
ONTANA	1,224	85
EBRASKA	546*D	624
EVADA	Not Participating	
EW HAMPSHIRE	200	0
EW JERSEY	217	29
EW MEXICO	2,376	48
EW YORK	7,933	2
ORTH CAROLINA	2,678	580
ORTH DAKOTA	Not Participating	
HIO	16,552	3,099
KLAHOMA	No data required	
REGON	4,110	71
ENNSYLVANIA	3,634	45
HODE ISLAND	1,572	17
OUTH CAROLINA	1,568	184
OUTH DAKOTA	Not Participating	
ENNESSEE	4,078	2,940
EXAS	4,722	976
TAH	2,448	689
ERMONT	218	36
IRGINIA	6,558	328
ASHINGTON	9,600	0
EST VIRGINIA	627	7
ISCONSIN	2,847	136
YOMING	Not Participating	
UERTO RICO	961	0
MERICAN SAMOA	4	0
UAM	228	39
RUST TERRITORIES	0	0
IRGIN ISLANDS	178	0
. MARIANAS	0	0

TOTALS	
Baseline	Current
199,341	22,833

*A - All Data is 12 month actual or projected to cover a 12 month period

*B - Baseline data is that provided as baseline data in 1979 report.

*C - Current data is that provided as current data in 1982 report.

*D - Nebraska baseline data is that provided as baseline data in 1981 report.

SECTION 223(a)(13)

Number of Juveniles Held in Regular Contact With Adults*A

	Baseline*B	Current*B
ALABAMA	3,300	1,104
ALASKA	824	349
ARIZONA	25	0
ARKANSAS	8,724	36
CALIFORNIA	3,041	2,612
COLORADO	4,750	1,537
CONNECTICUT	3	2
DELAWARE	0	0
DIST. OF COLUMBIA	0	0
FLORIDA	1,996	104
GEORGIA	1,769	10
HAWAII	1	0
IDAHO	2,011	?
ILLINOIS	777	3
INDIANA	8,580	235
IOWA	1,993	194
KANSAS	1,716	168
KENTUCKY	5,702	5,874
LOUISIANA	3,523	180
MAINE	1,186	0
MARYLAND	229	0
MASSACHUSETTS	0	0
MICHIGAN	0	0
MINNESOTA	3	0
MISSISSIPPI	2,280	108
MISSOURI	3,278	348
MONTANA	1,878	213
NEBRASKA	0	0
NEVADA	Not Participating	
NEW HAMPSHIRE	74	0
NEW JERSEY	42	17
NEW MEXICO	6,696	0
NEW YORK	27	0
NORTH CAROLINA	0	0
NORTH DAKOTA	Not Participating	
OHIO	5,751	480
OKLAHOMA	Not Participating	
OREGON	1,798	10
PENNSYLVANIA	3,196*C	14*C
RHODE ISLAND	176	0
SOUTH CAROLINA	3,984	0
SOUTH DAKOTA	Not Participating	
TENNESSEE	7,574	9,806
TEXAS	370	0
UTAH	22	449
VERMONT	0	12
VIRGINIA	5,624	0
WASHINGTON	2,088	0
WEST VIRGINIA	940	12
WISCONSIN	1,857	0
WYOMING	Not Participating	
PUERTO RICO	3	0
AMERICAN SAMOA	0	0
GUAM	0	0
TRUST TERRITORIES	3	2
VIRGIN ISLANDS	13	0
NO. MARIANAS	20	0

TOTALS	
Baseline	Current
97,847	27,552

*A - All data is 12 month actu or projected to cover a 12 month period.

*B - Baseline and Current data is that provided as basel and current in 1982 repor

*C - Pennsylvania data is that provided in 1980 report.

TLE:

STATUS OF STATES RE: 223(a)(14) Carl W. Hamm, Chief, FG's 2/22/84 III

	YR.	Baseline Period	Current Period	VIOLOLATIONS Baseline	Current	Per Cent
LABAMA	82	1/82 - 3/82	1/83 - 3/83	295	198	32.8%
LASKA	83	1/76 - 12/76	1/81 - 12/81	864	787	9 %
RIZONA	82	1/82 - 8/82	1/82 - 8/82	29	29	0 %
RKANSAS	83	8/82	8/83			
ALIFORNIA	82	7/81 - 6/82	1/82 - 12/82	4365	5552	No Progress
OLORADO	83	1/80 - 12/80	1/82 - 12/82	6112	2070	66 %
ONNECTICUT	83	7/81 - 6/82	7/82 - 6/83	0	0	In Compliance
E_AWARE	83	12/81 - 9/82	12/82 - 12/83	0	0	In Compliance
IST. OF COLUMBIA		1/75 - 12/75	1/83 - 12/83	0	0	In Compliance
LORIDA	83	1/82 - 12/82	7/82 - 6/83	117	45	61.5%
EORGIA	82	9/81 - 8/82	9/81 - 8/81	130	130	0 %
AWAII	83	10/82 - 10/83	10/82 - 10/83	0	0	Questionable
DAHO	82		No Date Now			
LLINOIS	82	4/80 - 6/80	4/82 - 6/82	618	399	35%
NDIANA	82	-	7/82 - 9/82	-	1,782	?
OWA	82	7/81 - 6/82	7/81 - 6/82	1886	1886	0
ANSAS	83	2/83	2/83	101	101	0%
ENTUCKY	82	1/82 - 6/82	1/82 - 6/82	509	509	0%
OUISIANA	83	9/80 - 8/81	9/82 - 8/83	336	154	54.17%
AINE	83	1983	1983	0	0	In Compliance
ARYLAND	82	1/75 - 12/75	1/82 - 12/82	229	0	In Compliance
ASSACHUSETTS	83			0	0	In Compliance
ICHIGAN	82	1/82 - 12/82	1/82 - 12/82	23	23	0
INNESOTA	82	1/81 - 12/81	1/82 - 12/82	1639	533	67%
ISSISSIPPI	83	7/83 - 12/83	7/83 - 12/83	167	167	0%
ISSOURI	82	1/82 - 12/82	1/82 - 12/82	768	768	0%
ONTANA	82	1/80 - 12/80	1/81 - 12/81	934	766	18%
EBRASKA	83	1/80 - 12/80	1/82 - 12/82	3566	2804	21%
EVADA	NP					
EW HAMPSHIRE	83	10/81 - 11/82	10/82 - 9/83	0	0	In Compliance
EW JERSEY	83	1/82 - 12/82	1/83 - 12/83	0	0	In Compliance
EW MEXICO	82	8/75	2/57 - 8/82		2015	N/A
EW YORK	82	1/75 - 12/75	1/82 - 11/82	?	0	In Compliance
ORTH CAROLINA	83	8/82 - 10/82	8/83 - 10/83	266	132	50.04%
ORTH DAKOTA	—					
HIO	82	1/82 - 12/82	1/83 - 12/83	3741	2657	29%
KLAHOMA		- Not Required -				
REGON		1/75 - 12/75	10/82 - 9/83	1618	10	99%
ENNSYLVANIA	82	No Information available (exempt)				
HODE ISLAND	82	7/75 - 6/76	12/81 - 11/82	0	0	In Compliance
OUTH CAROLINA	83	1/82 - 9/82	1/83 - 9/83	1303	1232	5.4%
OUTH DAKOTA	NP					
ENNESSEE	82	1/82 - 6/82	1/82 - 6/82	1854	1854	0%
EXAS	83	Data Not Available				
TAH	83		1/83 - 12/83		64	0%
ERMONT	82	7/76	7/82	0	0	In Compliance
IRGINIA	83	7/79 - 6/80	7/82 - 6/83	3578	2075	42%
ASHINGTON	83	1/83 - 6/83	1/83 - 6/83	237	237	0%
EST VIRGINIA	83	1/80 - 12/80	1/82 - 12/83	189	78	39%
ISCONSIN	82	1/80 - 12/80	1/82 - 12/82	3741	2657	29%
YOMING	NP					
UERTO RICO	83	12/81 - 12/82	12/82 - 12/83	38	11	71%
MERICAN SAMOA	83	1/81 -12/81	1/82 - 12/82	0	0	In Compliance
UAM	83	9/81 - 9/82	9/82 - 9/83	0	0	In Complienc
RUST TERRITORIES	83	Not available		351	351	0%
IRGIN ISLANDS	82	7/81 - 12/81	1/82 - 12/82	0	0	In Compliance
O. MARIANAS	83		1/83 - 12/83		19	In Complete

THE WHITE HOUSE

WASHINGTON

March 12, 1984

MEMORANDUM FOR GREGORY JONES
LEGISLATIVE ATTORNEY
OFFICE OF MANAGEMENT AND BUDGET

FROM: JOHN G. ROBERTS
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Statement of William R. McGuiness Concerning H.R. 3498 -- Victim Compensation, March 14, 1984

Counsel's Office has reviewed the above-referenced testimony, and finds no objection to it from a legal perspective.

ID # 210809 CU

JV

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

John - dent

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: ~~Greg Jones~~

☐ **MI Mail Report** **User Codes:** (A) _____ (B) _____ (C) _____

Subject: Statement of William R. McGuness concerning H.R. 3498 - Victim Compensation Mar 14 84

ROUTE TO:		ACTION			DISPOSITION		
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD		Type of Response	Code	Completion Date YY/MM/DD
(W) Holland		ORIGINATOR	84/03/08	PY			1 1
CWAT18		Referral Note: R	84/03/09			S	84/03/19
		Referral Note:	1 1				1 1
		Referral Note:	1 1				1 1
		Referral Note:	1 1				1 1
		Referral Note:					

ACTION CODES:
A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet to be used as Enclosure
I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:
A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:
Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: Greg Jones X

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

5/81

DRAFT

210809 cw

STATEMENT

OF

WILLIAM R. MCGUINESS
DEPUTY ASSOCIATE ATTORNEY GENERAL
U.S. DEPARTMENT OF JUSTICE

BEFORE

THE

SUBCOMMITTEE ON CRIMINAL JUSTICE
HOUSE COMMITTEE ON THE JUDICIARY

CONCERNING

H.R. 3498 - VICTIM COMPENSATION

ON

MARCH 14, 1984

Mr. Chairman and Members of the Subcommittee,

I appreciate this opportunity to appear today on behalf of the Department of Justice to discuss H.R. 3498, the Victims of Crime Act, as well as the Administration's Victims of Crime Assistance Act. Assistant Attorney General Lois Haight Herrington will address the substantive provisions of this bill in detail. Before proceeding to the issue of victim compensation, however, I would like to take just a few moments to discuss our approach to the larger universe of victim assistance issues.

On August 17, 1981, the Attorney General's Task Force on Violent Crime issued its final report. In that report, the Task Force recognized the pivotal role of victims and witnesses in the criminal justice system. Among the specific recommendations of the Task Force was a call for federal standards for the fair treatment of victims of serious crimes and for a study of victim compensation programs.

On April 23, 1982, President Reagan signed Executive Order 12360 establishing the President's Task Force on Victims of Crime. This Task Force, chaired by Lois Herrington, was created to address the needs of the millions of Americans who are victimized by crime each year. The Task Force heard formal testimony in six cities, from over 200 witnesses and consulted approximately 1,000 other experts and victims. The final report of the

Task Force, which was submitted in December of 1982, made extensive recommendations for executive and legislative action at the federal and state levels to improve treatment of, and services to, crime victims. Specific recommendations contained therein related to the necessity of federal legislation that would provide funds for state crime victim compensation and victim/witness assistance programs.

During the period when the Task Force on Victims of Crime was conducting its hearings, the Congress commenced deliberations upon the Victim and Witness Protection Act of 1982. That measure enjoyed virtually unanimous support in the Congress and was quickly approved by the Senate and House. On October 12, 1982, the President signed the Victims and Witness Protection Act into law as P.L. 97-291. As you know, the stated purpose of the Act is to "ensure that the Federal government does all that is possible within the limits of available resources to assist victims and witnesses of crime without infringing upon the constitutional rights of the defendant."

Because of the importance of that Act, the balance of my remarks will be directed to a brief discussion of its most significant aspects and the current status of their implementation by the Department of Justice. Section 3 of the Victim and Witness Protection Act of 1982 requires the inclusion of a victim impact statement as part of a presentence report filed pursuant to Rule 32(c)(2) of the Federal Rules of Criminal Procedure.

Effective March 1, 1983, presentence investigations include an appropriate section describing the impact of the offense upon the victim. The primary objective of this provision is to ensure that information pertaining to the effect of the crime upon its victims is brought to the attention of the sentencing court.

With regard to Section 4 of the Act, which involves obstruction of justice and witness tampering provisions, we have communicated to the United States Attorneys in the field as well as to all Department of Justice attorneys the important changes in the obstruction of justice laws and have provided them with detailed guidance through the U.S. Attorneys' Manual, as to the application of these provisions. Significantly, Section 4 of the Act provides for a civil injunctive remedy to restrain harassment of victims or witnesses, and Section 8 of the Act makes non-violation of these intimidation and harassment statutes a condition of any release on bail. The Criminal Division of the Department has maintained ongoing supervision of these statutes to provide necessary advice to prosecutors and to resolve issues which may arise in the application of those statutes.

The Victim/Witness Guidelines mandated by Section 6 of the Act were issued on July 9, 1983, by Attorney General William French Smith. These guidelines entail a significant administrative directive to Department of Justice components with respect to the delivery of victim services and assistance contemplated by the Act. The guidelines incorporate all the recommendations in

the Victim and Witness Protection Act of 1982 as well as some proposals of the President's Task Force on Victims of Crime. The basic approach of the Guidelines is to set out general guidance as to the rights of victims and witnesses and the obligations of prosecutors and investigators.

These guidelines apply to all Department of Justice components engaged in the detection, investigation or prosecution of crimes and are intended to apply in all cases in which victims are adversely affected by criminal conduct or in which witnesses provide information regarding criminal activity.

The Attorney General's guidelines establish procedures to be followed in responding to the particular needs of both crime victims and witnesses. They are intended to ensure that responsible officials, in the exercise of their discretion, treat victims and witnesses fairly and with understanding. The guidelines are also intended to enhance the assistance which victims and witnesses provide in criminal cases and to assist victims in recovering from their injuries and losses to the fullest extent possible, consistent with available resources. Special attention is directed toward victims and witnesses who have suffered physical, financial, and emotional trauma as a result of violent criminal activity. The amount and degree of assistance provided will, of course, vary with the individual's needs and circumstances.

These actions were followed, on August 29, 1983, by a set of comprehensive instructions to all United States Attorneys, issued by Associate Attorney General D. Lowell Jensen, pertaining to the implementation of the restitution provision of P.L. 97-291. Since the restitution provision of the Victim and Witness Protection Act raised a number of issues relating to the prosecution of criminal offenses, these instructions sought to address these outstanding questions and to provide a common Department policy and approach regarding restitution matters.

Concurrent with the issuance of the Attorney General's Guidelines, the Executive Office for U.S. Attorneys distributed materials to all U.S. Attorneys designed to aid their offices in meeting the obligations under both the Act and the Guidelines during the initial phase of implementation. These materials, as well as internal office procedures, are currently being refined. In addition, the Administration's FY 1985 budget has requested $3,090,000 to fund 94 Victim/Witness-LECC coordinator positions for U.S. Attorneys' Offices. These Victim-Witness coordinators would help to ensure that the Act and guidelines are implemented as fully and expeditiously as possible.

To assist prosecutors, victim-witness coordinators, and other Departmental personnel charged with implementing the Act, the Department has initiated formal training sessions. The Attorney General's Advocacy Institute has for some time included course material directed toward new prosecutors and their

responsibilities under the Act. In April, personnel from each U.S. Attorney's Office, investigative agency and litigating division will attend a training session designed to address implementation of the Act. A Technical Assistance Team comprised of Department attorneys has been designated to visit representative United States Attorney's Offices in order to fully assess training needs. Furthermore, the FBI has initiated training of agents at the FBI Academy in Quantico on this subject and the Federal Law Enforcement Training Center in Glynco, is likewise developing a program to be included in their training structure.

Finally, the Department of Justice has forwarded to Congress for consideration the Administration's Victims of Crime Assistance Act of 1984. As you know, this bill would authorize federal financial assistance to state victim compensation programs and would improve the assistance offered by every level of government and the private sector to victims of crime.

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