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Juvenile Justice

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JUVENILE JUSTICE

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INTRODUCTION

DUE TO RECENT marked increases in the rate of serious crime in the United States,¹ crime control has emerged as an issue of primary importance to Congress, especially in the last decade. Although crime is recognized as basically a responsibility of state and local governments, federal legislation in this area beyond that dealing with federal criminal law, has been justified considering the nationwide scope of the problem and the threat that it poses to the general welfare of the nation.² Such legislation has generally provided federal financial and technical assistance programs to help the states and localities cope with crime and design effective methods of prevention and control.³

In its development of crime control programs, Congress has attempted to direct federal efforts towards particularly serious factors in this most complex issue. A notable example of this approach is the Juvenile Justice and Delinquency Prevention Act of 1974.⁴ This legislation presents a comprehensive program for a coordinated federal response to the critical rate of youth involvement in crime.

A federal program to attack juvenile delinquency is nothing new. In fact, the original legislation establishing a federal role in providing assistance for crime control efforts was the Juvenile Delinquency and

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1. See UNITED STATES FEDERAL BUREAU OF INVESTIGATION, *Crime in the United States*, UNIFORM CRIME REPORTS 59 (1973) [hereinafter cited as UNIFORM CRIME REPORTS (1973)].

2. E.g., Crime Control Act of 1973, 42 U.S.C. § 3701 (1970).

3. See generally U.S. OFFICE OF MANAGEMENT AND BUDGET, SPECIAL ANALYSES, BUDGET OF THE UNITED STATES GOVERNMENT, FEDERAL PROGRAMS FOR THE REDUCTION OF CRIME 189-200 (1974) [hereinafter cited as FEDERAL PROGRAMS FOR THE REDUCTION OF CRIME].

4. Pub. L. No. 93-415 (Sept. 7, 1974).

Youth Development Act of 1961⁵ which was enacted in response to an alarming rise in the juvenile crime rate in the United States.⁶

However, the Juvenile Justice and Delinquency Prevention Act is unique among previous juvenile delinquency legislation and is worthy of close examination. Its comprehensive approach with emphasis on coordination responds to the administrative failures of previous programs. It is remarkable that in light of such failures, which often deal the death blow to legislation, Congress has reaffirmed in this act that juvenile delinquency has particular characteristics and is a problem of such magnitude that it merits the emphasis of a separate and distinct program.⁷

AN ASSESSMENT OF JUVENILE CRIME

In its extensive report on crime in America, the President's Commission on Law Enforcement and Administration of Justice concluded:

America's best hope for reducing crime is to reduce juvenile delinquency and youth crime. In 1965, a majority of all arrests for major crimes against property were of people under 21, as were a substantial minority of arrests for major crimes against the person. The recidivism rates for young offenders are higher than those for any other age group. A substantial change in any of these figures would make a substantial change in the total crime figures for the Nation.⁸

Unfortunately, the accuracy of this statement has been borne out in the years following this 1967 report. As the rate of serious crime has risen to unprecedented levels, juveniles continue to constitute a disproportionate share of the crime picture as we know it.

There are a number of difficulties in attempting to present an accurate assessment of the extent of juvenile crime. As far as the criminal justice system is concerned, a "juvenile" is one who is defined as such by state or federal law—depending upon which court has original jurisdiction over his delinquent behavior. In most states, a juvenile is one who is under age 18, but in a few states juvenile status may be lost at 17 or 16.⁹ Under the Federal Juvenile Delinquency Act,

5. Act of Sept. 22, 1961, Pub. L. No. 87-274, 75 Stat. 572.

6. S. REPT. No. 144, 87th Cong., 1st Sess. 1 (1961).

7. See Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. No. 93-415, § 101 (Sept. 7, 1974).

8. PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE, *THE CHALLENGE OF CRIME IN A FREE SOCIETY* 55 (1967) [hereinafter cited as *CHALLENGE OF CRIME IN A FREE SOCIETY*].

9. See NATIONAL CRIMINAL JUSTICE INFORMATION AND STATISTICS SERVICE, U.S. DEPARTMENT OF JUSTICE, *CHILDREN IN CUSTODY* 1 (1974). See, e.g. ILL. REV. STAT., ch. 37 § 702-7 (1973) (juvenile status is lost at age 17).

a juvenile is one under 18 or one who committed an offense under the act before he was 18.¹⁰ Another problem lies in the definition of "crime" as it relates to juveniles, and whether one wishes to include juvenile status offenses when considering the extent of juvenile crime.

However, the greatest difficulty faced by those trying to develop effective national policy in the area of juvenile delinquency is the absence of accurate and comprehensive statistical data. Two sources are commonly used as general indicators of the relative degree of nationwide juvenile crime: the arrest statistics reported annually by the Federal Bureau of Investigation in its *Uniform Crime Reports* and data on cases before juvenile courts in the United States reported in *Juvenile Court Statistics*, a regular publication of the Department of Health, Education and Welfare. To any student of criminal justice or statistics, the limitations of these reports should be obvious. Generally speaking, arrest data tell us nothing about the vast number of unsolved offenses that may have involved juveniles and juvenile court statistics reflect only the relative use of the juvenile court among a number of options for referral of juvenile offenders.

The F.B.I. arrest statistics are collected annually from police agencies throughout the country. They are reported for the most common and serious crimes by offense and by the age of the arrested offender. According to the Bureau, a juvenile is counted as an arrest, "when he commits an offense and the circumstances are such that if the offender were an adult, an arrest would be made."¹¹

In 1973, persons under 21 accounted for 61.6 percent of total arrests for Crime Index offenses; persons under 18 accounted for 44.8 percent of these arrests; and, persons under 15 were involved in 18.8 percent of these arrests.¹² Arrests of persons under 21 charged with violent crimes¹³ were 39.6 percent of the total arrests counted for these crimes during 1973; persons under 18 represented 22.7 percent of these arrests.¹⁴ Young people also accounted for a characteristically

10. Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. No. 93-415, § 501 (Sept. 7, 1974), amending 18 U.S.C. § 5031 (1970).

11. UNIFORM CRIME REPORTS (1973), *supra* note 1, 121. The F.B.I. has selected "Crime Index" offense categories to measure the trend and distribution of crime in the United States. These crimes, serious by their very nature and by the volume in which they occur, are: murder, forcible rape, aggravated assault, robbery, burglary, larceny-theft and auto theft.

12. *See id.* at 130. These percentages were computed from total arrests given therein for crime index offenses. Note that subtotal percentages provided in this table include manslaughter by negligence which is not a crime index offense.

13. The F.B.I. defines violent crime as the offenses of murder, forcible rape, robbery and aggravated assault.

14. UNIFORM CRIME REPORTS (1973), *supra* note 1, at 130.

high percentage of arrest statistics for property crimes¹⁵ in 1973, persons under 21 representing 67.7 percent of these arrests and persons under 18, 50.8 percent.¹⁶

Although these statistics are alarming in themselves, data indicating the trend in youth crime in recent years is perhaps more significant to policy makers. For instance, F.B.I. arrest statistics show critical increases in the involvement of persons under 18 in violent crimes. During the period 1960-1973, there was a 247 percent increase in arrests of juveniles for these crimes, while arrests of adults during the same period in this category rose 109 percent.¹⁷ From 1968 through 1973 juvenile arrests (i.e., arrests of persons under 18) for crimes of violence rose 53 percent while adult arrests rose 41 percent.¹⁸

Skeptics may argue that the arrest data of the F.B.I. possibly offer an inflated picture of juvenile crime, for juveniles are the least professional criminals and are therefore more likely to be apprehended. Further, such skeptics argue that juveniles often act in groups more often than adults and that the numbers of their arrests may be out of proportion with the number of crimes actually committed.¹⁹ However, even taking these considerations into account, few would argue that the number of juveniles and young people involved in major crimes is not discouragingly disproportionate.

In the early development of federal juvenile delinquency legislation, juvenile court statistics compiled by the Department of Health, Education and Welfare were often cited in justification for programs in this area.²⁰ Probably because of the increased use of diversion and the development of increasing alternatives in communities for the referral of the juvenile offender, the data which only reflects the number of cases before juvenile courts are considered to offer a *deflated* picture of juvenile crime.²¹ Even so, the rate of juvenile delinquency cases before juvenile courts in the United States as compared to the population of children 10 through 17 years old has increased substantially between 1957 and 1972 (the latest year for which data are

15. The F.B.I. defines the property crimes as the offenses of burglary, larceny and auto theft.

16. UNIFORM CRIME REPORTS (1973), *supra* note 1, at 130.

17. *Id.* at 124.

18. *Id.* at 125.

19. See CHALLENGE OF CRIME IN A FREE SOCIETY, *supra* note 8.

20. See e.g., 107 Cong. Rec. 5643 (1961) (remarks of Senator Clark).

21. See OFFICE OF YOUTH DEVELOPMENT, U.S. DEPT. OF HEALTH, EDUCATION AND WELFARE, JUVENILE COURT STATISTICS 1 (1972).

available). In 1957, it was estimated that for every thousand persons in the child population 10 through 17, 19.8 cases came before the juvenile court. In 1972 this rate had risen to 33.6.²²

Statistical reports have also reflected a greater degree of repetitive criminal behavior among young people than any other age group. In one study, the F.B.I. traced the criminal histories of offenders released from the federal criminal justice system in 1965 for subsequent arrests through 1969. Of these offenders who were under 20 in 1965, 74 percent were rearrested by 1969. This compared to a rearrest rate of 71 percent for those offenders 20 through 24 years old, 65 percent for those 25 through 29, 62 percent for those 30 through 39, 53 percent for those 40 through 49, and 38 percent for those over 50.²³ An additional F.B.I. study of approximately 230,000 offenders arrested during the period 1970-1972 traced their previous arrest record through a computerized Criminal History File that contained fingerprint data from local, state and federal law enforcement agencies. Results revealed that offenders under 20 were rearrested more frequently than any other age group. They averaged one arrest every three months as compared to one every six months for the age group 20 through 24. There were proportionately less frequent rearrests for the older age groups.²⁴

In reviewing the problem of juvenile delinquency, the tangential issue of drug abuse should not be overlooked. The alarming misuse of narcotics and dangerous drugs by young people in recent years has been well publicized. It led to the arrest of over 125,000 persons under 18 in 1973,²⁵ and comparative data show that the increase in such arrests since 1960 was an astonishing 4673 percent.²⁶

Of course arrest statistics represent only a small portion of the total numbers of our youth experimenting with drugs. A 1973 national survey reported by the National Commission on Marihuana and Drug Abuse indicated that 8 percent of junior high students and 24 percent of senior high students have had some experience with marihuana; 5 per cent of junior high and 8 percent of senior high students reported

22. *Id.* at 11.

23. U.S. FEDERAL BUREAU OF INVESTIGATION CRIME IN THE UNITED STATES, UNIFORM CRIME REPORTS 37-42 (1970). Offenders in this survey may have had original contact with the federal criminal justice system by arrest only.

24. U.S. FEDERAL BUREAU OF INVESTIGATION, CRIME IN THE UNITED STATES, UNIFORM CRIME REPORTS 35-39 (1972).

25. UNIFORM CRIME REPORTS (1973), *supra* note 1, at 128.

26. *Id.* at 124.

experience with glue or similar inhalants; 3 percent of junior high and 9 percent of senior high students had tried LSD or similar hallucinogens; and small percentages of these students had at least experimented with narcotic drugs.²⁷ Students' surveys show these percentages to be even higher.²⁸

The numbers of youth running away from home also emerged as a major national problem in the 1960's.²⁹ Although there are no comprehensive national statistics on the number of runaways, estimates of witnesses before Congressional committees are that at least one million young people run away from home yearly, and that the average age of these runaways is decreasing.³⁰ This tragedy is compounded when many of these young people turn to crime in order to live in this situation.³¹

It is evident from all indicators that juvenile delinquency exacts a tragic toll both in human and economic terms. It was in light of this realization that federal activities in this area were first justified and continue to be crucial.

THE DEVELOPMENT OF JUVENILE DELINQUENCY LEGISLATION

Federal involvement in the area of juvenile delinquency can be traced to the establishment of a U.S. Children's Bureau in 1912 to investigate and report on ". . . all matters pertaining to the welfare of children."³² The Senate committee report on this legislation recognized the jurisdiction of the states in these matters. However, the committee saw a proper federal role in gathering and reporting information regarding children's problems.³³ The Children's Bureau was subsequently active in looking into juvenile delinquency, but these activities were necessarily limited due to the Bureau's many other duties.³⁴ Few other federal programs emerged prior to the 1960's.³⁵

27. NATIONAL COMMISSION ON MARIHUANA AND DRUG ABUSE DRUG USE IN AMERICA; PROBLEM IN PERSPECTIVE 74-76 (1973).

28. *See id.* at 77-84.

29. The situation was described in a report of the Senate Subcommittee to Investigate Juvenile Delinquency as follows:

The runaway problem is extremely serious and growing. The Subcommittee first examined the problem in 1955. At that time, it was estimated that 200,000 young people ran away each year. When the problem was reexamined in Subcommittee hearings in January 1972, testimony indicated that an estimated 1 million children run away each year.

S. REPT. No. 93-180, 93d Cong., 1st Sess. 5 (1973).

30. *Id.* at 5-6.

31. *See id.* at 6.

32. 42 U.S.C. § 192 (1970).

33. S. REPT. No. 141, 62d Cong., 1st Sess. 1 (1911).

34. *See generally* D. BRADBURY, FIVE DECADES OF ACTION FOR CHILDREN 11-143 (Children and Youth: Social Problems and Social Policy 1974).

35. *See* INTERDEPARTMENTAL COUNCIL TO COORDINATE ALL FEDERAL JUVENILE DELINQUENCY PROGRAMS 11-15 (1973).

One of the first signs of the increased Congressional concern over juvenile crime was the establishment of a Subcommittee to Investigate Juvenile Delinquency as part of the United States Senate Committee on the Judiciary in 1953. This subcommittee was primarily directed to determine the nature and extent of juvenile delinquency in the United States and the adequacy of federal laws in this area.³⁶ It conducted extensive hearings in communities throughout the country in this regard and issued its first major report in 1955. The subcommittee found current attempts to prevent juvenile delinquency by the Nation to be "feeble".³⁷ Regarding the federal role, it concluded:

The stakes involved in this Nation's fight against juvenile delinquency are enormous. The struggle relates not only to the millions of boys and girls who will become delinquent in the next five years, but the uncounted millions of future generations. Affecting as it does the very well-being of our Nation, the subcommittee is convinced that the Federal Government should and must assume a more vigorous leadership role if this war is to be brought to a successful conclusion.³⁸

. . . The subcommittee is strongly convinced, however, that the Federal Government's concern and responsibility relative to juvenile delinquency is not and cannot be confined to those aspects of the problem which are essentially interstate in nature. Important as these aspects may be, the seriousness and the size of the juvenile delinquency problem requires that the Federal Government assume responsibility for the provision of programs designed to and capable of strengthening local and State programs and service.³⁹

. . . there are certain kinds of remedial action required which only the Federal Government has the power and resources to take.⁴⁰

In order for the federal government to meet its responsibility, a four point program was recommended by the subcommittee which would include a capability to coordinate the efforts of national organizations and agencies involved in juvenile delinquency; to provide technical aid to state and local communities; to stimulate staff training in preventive and treatment services; and to provide "risk capital" for the establishment or continuation of programs to combat juvenile delinquency.⁴¹ Subsequent to the publication of the 1955 report, the Subcommittee to Investigate Juvenile Delinquency concentrated on some of the specific problems of juvenile delinquency and its causes,

36. S. RES. 89, 83d Cong., 1st Sess., 99 CONG. REC. 5800 (1953).

37. S. REPT. NO. 61, 84th Cong., 1st Sess. 5 (1955).

38. *Id.* at 97.

39. *Id.* at 98.

40. *Id.*

41. *Id.* at 99.

and its hearings and reports are still some of the most valuable and comprehensive resources in the field to date.⁴²

Juvenile crime continued to escalate in the 1950's, giving rise to legislative proposals and hearings by other Congressional committees for a federal program in this area.⁴³ Finally, in 1961 the Juvenile Delinquency and Youth Development Act was enacted.⁴⁴ This Act was the original predecessor of the Juvenile Justice and Delinquency Prevention Act of 1974.

The Juvenile Delinquency and Youth Development Act authorized the Secretary of Health, Education and Welfare to make grants to state and local or other public or non-profit private agencies to establish pilot projects that would demonstrate improved methods for the prevention and control of delinquency. Additional authorization was provided for grants to such agencies for personnel training and for the Secretary of HEW to render technical assistance and to disseminate information relating to juvenile delinquency prevention and control. In enacting this legislation, Congress felt that the program should appropriately be administered by HEW due to the accomplishments of the Children's Bureau up to that time in the area of juvenile delinquency.⁴⁵ Appropriations authorized for this Act were \$10 million each year for fiscal year 1962 through 1964.

The original intent behind the 1961 Act was not to make this program permanent, but simply to provide "seed money" for innovative demonstration projects.⁴⁶ However, it was extended in 1964 through 1966 to assure continued federal support for the completion of some of the funded projects,⁴⁷ limiting the funding authorization to \$10 million for fiscal year 1965 and whatever Congress authorized thereafter.⁴⁸ In 1966, the Juvenile Delinquency and Youth Development Act was again extended authorizing expenditures of \$6.5 million for fiscal year 1966 and \$10 million for fiscal year 1967.⁴⁹ The Senate report on this extension indicated an "impressive record" of the program. By that

42. See e.g., S. REPT. NO. 61, 84th Cong., 1st Sess. (1955); S. REPT. NO. 130, 85th Cong., 1st Sess. (1957); S. REPT. NO. 1593, 86th Cong., 2d Sess. (1960).

43. See e.g., *Hearings on H.R. 319, H.R. 772, H.R. 1084, H.R. 3464, H.R. 4649, H.R. 5345 Before a Subcommittee of the House Committee on Education and Labor*, 86th Cong., 1st Sess., pt. 2 (1959); *Hearings on Report on Juvenile Delinquency Before the Subcommittee of the House Committee on Appropriations*, 86th Cong., 2d Sess. (1960).

44. Act of Sept. 22, 1961, Pub. L. No. 87-274, 75 Stat. 572.

45. See H.R. REPT. NO. 1623, 86th Cong., 2d Sess. 2 (1960).

46. See 107 CONG. REC. 17951 (1961) (Remarks of Mr Brademas).

47. S. REPT. NO. 483, 88th Cong., 1st Sess. 6 (1963).

48. Act of July 9, 1964, Pub. L. No. 88-368, 78 Stat. 309.

49. Act of July 8, 1965, Pub. L. No. 89-69, 79 Stat. 212.

time some 98,000 youth were reportedly participating in funded demonstration projects and more than 12,500 persons had received training under the Act.⁵⁰ The Senate Committee felt that juvenile delinquency continued to be a serious problem and that these programs were beneficial.⁵¹ Federal funding under provisions of the Juvenile Delinquency and Youth Development Act and its amendments over its six year life amounted to \$47 million.⁵²

It is interesting to note that the approach of the Juvenile Delinquency and Youth Offenses Control Act of 1961 and its amendments was environmental. Rather than being aimed at determining the psychological bases of individual delinquent behavior, funding was directed towards the development of programs to alleviate those environmental conditions that were felt to contribute to delinquency.⁵³ The "youth development projects" provided under this program were primarily concentrated in deprived inner city areas where there was a large degree of delinquency. These projects could be considered the "pilot efforts" behind the more extensive programs of President Johnson's "war on poverty" such as the Community Action program of the Office of Economic Opportunity and the Model Cities program of the Department of Housing and Urban Development.⁵⁴ In fact, on the expiration of the legislation, all of the youth development projects remaining except one were transferred to the Office of Economic Opportunity.⁵⁵

In 1965, referring to crime as a "malignant enemy in America's midst",⁵⁶ President Lyndon Johnson established a commission of criminal justice experts to prepare a comprehensive report on the problem.⁵⁷ The Commission issued its report in early 1967 which contained numerous recommendations for activities at all levels of government.⁵⁸

50. S. REPT. NO. 318, 89th Cong., 1st Sess. 2 (1965).

51. *Id.* at 6.

52. *Hearings on H.R. 7642 Before the General Subcommittee on Education of the House Committee on Education and Labor*, 90th Cong., 1st Sess. at 15 (1967) (testimony of the Secretary of Health, Education and Welfare, Hon. John W. Gardner) [hereinafter cited as *Hearings on H.R. 7642*].

53. See Skoler, *New Directions in Federal Aid for Crime and Delinquency Control—An Analysis*, 45 J. URBAN L. 263 (1967).

54. *Id.*

55. H.R. REPT. NO. 91-1806, 91st Cong., 2d Sess. 59 (1971).

56. H.R. DOC. NO. 103, 89th Cong., 1st Sess. 1 (1965).

57. *Id.* at 7.

58. See CHALLENGE OF CRIME IN A FREE SOCIETY, *supra* note 8, at 293-301.

In response, President Johnson sent several messages to the Ninetieth Congress proposing legislation to establish federal programs to augment state and local efforts for crime prevention.⁵⁹ One of these proposals subsequently enacted was Title I of the Omnibus Crime Control and Safe Streets Act which provided for the law enforcement assistance grant program under the Department of Justice.⁶⁰ Another was the Juvenile Delinquency Prevention and Control Act of 1968.⁶¹

The 1968 Juvenile Delinquency Act reestablished a juvenile delinquency assistance program in the Department of Health, Education and Welfare with a scope far broader than its predecessor. According to testimony by members of the Johnson administration, the program was designed to put into action those types of activities sponsored under the demonstration program that had been shown to be effective.⁶² In considering the bill that established this assistance program, the House adopted an amendment to assure state participation in administering the program. This amendment required that the major portion of assistance be allocated to the states through "block grants" after federal approval of a juvenile delinquency plan submitted by the states. Some assistance also was available directly from the federal government.⁶³ Among programs eligible for the block and direct assistance funds were those of juvenile justice and juvenile aid systems, courts, correctional systems, law enforcement and other agencies dealing with juveniles. The Act also provided for the training of personnel employed or intending to be employed in the area of juvenile delinquency. Authorizations for this three-year program were \$25 million for fiscal year 1969; \$50 million for fiscal year 1970; and \$75 million for fiscal year 1971.⁶⁴

The Juvenile Delinquency Prevention and Control Act of 1968 was seen by Congress as only a part of a network of existing federal programs that were related to the problems of delinquency.⁶⁵ Among these programs was the Law Enforcement Assistance Administration (LEAA), newly established under Title I of the Omnibus Crime Control and Safe Streets Act of 1968.⁶⁶ It generally provided a block

59. *E.g.*, H.R. Doc. No. 53, 90th Cong., 1st Sess. (1967); H.R. Doc. No. 250, 90th Cong., 2d Sess. (1968).

60. Omnibus Crime Control and Safe Streets Act, 42 U.S.C. § 3701 (1970).

61. Juvenile Delinquency Prevention and Control Act, 42 U.S.C. § 3801 (Supp. 1972).

62. *Hearings on H.R. 7642, supra* note 52, at 17.

63. 113 CONG. REC. 26882.

64. Juvenile Delinquency Prevention and Control Act, Pub. L. No. 90-445, 82 Stat. 462 (1968).

65. *See e.g.*, S. REPT. NO. 1332, 90th Cong., 2d Sess. 10 (1968).

66. Omnibus Crime Control and Safe Streets Act, 42 U.S.C. § 3701 (1970).

grant program for assisting crime control activities in the states and localities which included those activities relating to juvenile delinquency.

Section 407 of the Juvenile Delinquency Act stated that:

To avoid duplication of efforts, it shall be the responsibility of the Secretary (of HEW) to consult and coordinate with the Attorney General and such other Federal officers as are charged with responsibilities in the area of combating juvenile delinquency or crime in general.⁶⁷

THE JUVENILE DELINQUENCY PREVENTION AND CONTROL ACT OF 1968: LEGISLATIVE MANDATE VERSUS ADMINISTRATIVE RESPONSE

In the early 1970's, Congress reviewed the progress of the federal juvenile delinquency programs through several oversight and legislative hearings conducted by committees in both the House and Senate.⁶⁸ The conclusion reached by the Senate Subcommittee to Investigate Juvenile Delinquency was representative of the findings of these committees:

[T]he Federal effort to combat juvenile delinquency has generally been uncoordinated, fragmented and has had virtually no impact on the rising rate of juvenile crime. Testimony of both Government and non-Government witnesses indicated that there was no central responsibility within the Federal Government for juvenile delinquency programs.⁶⁹

Congress had assigned primary responsibility for federal juvenile delinquency program coordination to the Department of Health, Education and Welfare in the Juvenile Delinquency Prevention and Control Act of 1968.⁷⁰ However, according to Congressional findings, HEW had a poor record in administering this Act, had given the Act a low priority among its other programs, and, as a result, the influence of HEW's juvenile delinquency program had been far less than that which was intended under its original Congressional mandate.⁷¹

67. Juvenile Delinquency Prevention and Control Act, Pub. L. No. 90-445, § 407, 82 Stat. 462 (1968). See 42 U.S.C. § 3888 (Supp. 1972).

68. Oversight hearings were held by the House Select Committee on Crime (91st Cong., 2d Sess.) and the Subcommittee to Investigate Juvenile Delinquency of the Senate Judiciary Committee. Hearings on proposals to extend the Juvenile Delinquency Prevention and Control Act were held in the 92d Cong., 1st Sess., by the Senate Judiciary Subcommittee and by the General Subcommittee of the House Committee on Education and Labor.

69. S. REPT. NO. 92-922, 92d Cong., 2d Sess. 2 (1972).

70. Juvenile Delinquency Prevention and Control Act, 42 U.S.C. § 3812, 3891(5) (Supp. 1972).

71. See *Hearing on S. 1732 Before the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary*, 92d Cong., 1st Sess., at 1-2 (1971) [hereinafter cited as *Hearings on S. 1732*].

Several factors were cited in reaching this conclusion. One was that a director for the administering office was not appointed for 18 months after the Act became effective. Administrative guidelines were not issued for a year, and when they were, they prescribed an "almost impassable maze of administrative requirements" for the approval of aid applications.⁷² Congressional critics also felt it significant that only a small portion of the amounts authorized for the program were requested by HEW, and subsequently appropriations were still lower. Authorizations for the three fiscal years 1969-1971 were \$150 million, appropriations amounted to \$30 million.⁷³

The HEW program's influence was especially diminished by the fact that by 1971 the major recipient of federal juvenile delinquency grant funds was the Law Enforcement Assistance Administration (LEAA) under the Title I program of the Omnibus Crime Control and Safe Streets Act.⁷⁴ LEAA's budget increased from \$63 million in fiscal year 1969 to \$480 million in fiscal year 1971. During the first two fiscal years 1969 and 1970, LEAA estimated that over \$35 million had been expended on juvenile delinquency program grants; the estimate for fiscal year 1971 spending in this area was \$70 million.⁷⁵ However, at that time LEAA was not acting as a coordinator of juvenile programs even in light of this generous funding. Testifying officials explained that the primary responsibility of this agency was in the area of adult crime control and they did not have the administrative capability to monitor the content and quality of *per se* juvenile delinquency programs.⁷⁶

Both the House and Senate committees considering legislation to extend the Juvenile Delinquency Prevention and Control Act in 1971 recommended a one year extension of the program through fiscal year

72. H.R. REPT. NO. 92-282, 92d Cong., 1st Sess. 3 (1971).

73. APPROPRIATION HISTORY OF THE JUVENILE DELINQUENCY PREVENTION AND CONTROL ACT OF 1968
[in thousands of dollars]

	Estimate to the Department	Department estimate to the OMB	President's budget	House allowance	Senate allowance	Appropriation
Fiscal year:						
1969.....	25,000	19,200	19,200	5,000	12,000	5,000
1970.....	30,000	30,000	15,000	5,000	15,000	10,000
1971.....	40,000	20,000	15,000	15,000	15,000	15,000

Hearing on S. 1732, *supra* note 71, at 26.

74. Omnibus Crime Control and Safe Streets Act, 42 U.S.C. § 3701 (1970).

75. Hearing on the Role of the Federal Government in the Area of Juvenile Delinquency Before the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary, 92d Cong., 1st Sess. 11-12 (1971).

76. S. REPT. NO. 92-922, 92d Cong., 2d Sess. 2.3 (1972).

1972 with the intent that HEW would improve its administration and that some of the problems with coordination would be solved.⁷⁷ This extension included amendments aimed at strengthening its operation. The federal share of funding for juvenile rehabilitation was raised from 60 to 75 percent to make it consistent with funding under the Safe Streets Act. Authorization was provided for grants to nonprofit private agencies in addition to public agencies for rehabilitation programs and a \$75 million authorization was provided for adequate funding of the program. Further, a coordinating mechanism for all federal juvenile delinquency programs was created in an interdepartmental council, to be composed of cabinet-level officials from the agencies involved in juvenile delinquency programs.⁷⁸

An exchange of letters between the Attorney General and the Secretary of Health, Education and Welfare in May, 1971, outlined the directions these agencies intended to take in refocusing the juvenile delinquency programs for improved coordination. In general, HEW would concentrate its funding on prevention programs outside the juvenile justice system. LEAA would then concentrate its juvenile delinquency funding on programs within the juvenile justice system.⁷⁹

In 1972, this delineation was legislated in an act extending HEW's juvenile delinquency program for two years.⁸⁰ When this legislation was being considered, HEW officials testified that they felt that the change in the structure of the 1968 Act to bring it into accord with its new direction would make its program more effective and would lessen the jurisdictional problems with LEAA.⁸¹ The 1972 legislation eliminated the block grant requirement for HEW's program and authorized a system of direct grants to the state and local governments for the development of community-based preventive and diagnostic services. There were also provisions for grant assistance for training personnel in these services and for technical assistance and information dissemination in these areas.⁸²

Congress found some improvement in HEW's juvenile delinquency program prior to supporting the two-year extension in 1972. For

77. See S. REPT. No. 92-220, 92d Cong., 1st Sess. 4 (1971); H.R. REPT. No. 92-282, 92d Cong., 1st Sess. 3,4 (1971).

78. Act of June 30, 1971, Pub. L. No. 92-31, 85 Stat. 84.

79. *Hearing on S. 1732, supra* note 71, at 21-23.

80. 42 U.S.C. § 3811 (Supp. 1972).

81. See *Hearing on H.R. 14817 Before the General Subcommittee on Education of House Committee on Education and Labor* 92d Cong., 2d Sess. 14 (1972).

82. Act of Aug. 14, 1972, Pub. L. No. 92-31, 85 Stat. 84.

example, the Senate committee pointed to HEW's concentration on prevention in directing its funding towards the development of youth service systems—in fiscal year 1971, twenty-three of these systems had been established.⁸³ In recommending the enactment of the 1972 legislation this committee indicated, however, that it did not consider it to be a comprehensive approach to delinquency programming and stated that the two-year extension would permit the committee to “. . . develop a full hearing record on the type of restructuring that may be needed before recommending new, comprehensive legislation.”⁸⁴

THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974: THE COMPREHENSIVE APPROACH

Against the background of HEW's disappointing achievement in implementing previous federal juvenile delinquency legislation, the Ninety-third Congress developed a comprehensive proposal to combat the continuing problem of youth crime. This bill, the Juvenile Justice and Delinquency Prevention Act of 1974, was enacted with little opposition in both the House and Senate and signed into law by President Ford on September 7, 1974.⁸⁵

The provisions of the Juvenile Justice and Delinquency Prevention Act are “comprehensive” since they establish a structure for the entire federal effort in the area of youth crime. This structure was designed with two considerations. One was to provide a legislative framework that would respond to some of the administrative problems that led to the failure of earlier legislation, and the other was to include provisions covering areas where federal legislation and programming may have been incomplete. These intentions are evident in the declaration of purposes contained in Title I.

In Title II, the Act establishes the coordinating mechanism for all federal juvenile delinquency programs. It provides for an Office of Juvenile Justice and Delinquency Prevention within the Law Enforcement Assistance Administration to administer major provisions of the Act. It is headed by an Assistant Administrator of LEAA, to be nominated by the President with the advice and consent of the Senate.⁸⁶

83. S. REPT. No. 92-867, 92d Cong., 2d Sess. 7-8 (1972).

84. S. REPT. No. 92-1003, 92d Cong., 2d Sess. 2 (1972).

85. Pub. L. No. 93-415 (Sept. 7, 1974).

86. *Id.* § 201.

The Administrator of LEAA is responsible for the implementation of the overall policy, objectives and priorities of *all* federal juvenile delinquency programs in consultation with a Coordinating Council and an Advisory Committee for Juvenile Justice and Delinquency Prevention.⁸⁷ These advisory bodies are also created under Title II. The Coordinating Council on Juvenile Justice and Delinquency Prevention is an independent organization within the executive branch of the government which has a membership of cabinet officers and other officials involved in federal juvenile delinquency programs much like the previously existing interdepartment council.⁸⁸ While the function of this Council is to oversee all federal juvenile delinquency programs,⁸⁹ a National Advisory Committee on Juvenile Justice and Delinquency Prevention is also created to recommend policy, priorities, operations and management of federal programs.⁹⁰ This group is composed of 21 Presidential appointees at least 7 of whom must be under the age of 26 at the time of their appointment and who are particularly knowledgeable in the field of juvenile delinquency.⁹¹

Title II also establishes a federal assistance program to be administered through the Office of Juvenile Justice in LEAA for activities at the state and local level relating to juvenile delinquency. Such activities would include those aimed at developing more effective education, training, research, prevention, diversion, treatment and rehabilitation capabilities, and those designed to improve the juvenile justice system.⁹² The major portion of assistance is available through "block" or "formula" grants allocated to the states according to their relative populations under 18.⁹³

Although the juvenile delinquency assistance program is separate and distinct from the LEAA assistance program, the block funding under the Juvenile Justice Act is distributed in much the same manner and is coordinated with LEAA funding. In order for a state to receive its allocation, it must submit a state plan that meets certain criteria prescribed by the Act.⁹⁴ The same state planning agency that is established to administer the Law Enforcement Assistance program

87. *Id.* § 204.

88. *Id.* § 206.

89. *Id.*

90. *Id.* § 207.

91. *Id.*

92. *Id.* § 221.

93. *Id.* § 222.

94. *Id.* § 223.

within the state is designated to supervise the preparation and administration of the juvenile delinquency plan.⁹⁵ The Juvenile Justice Act amends Title I of the Omnibus Crime Control Act to require that these state planning agencies include representatives of public and private agencies concerned with delinquency prevention and control.⁹⁶

There is also provision in the Juvenile Justice and Delinquency Prevention Act for direct grants to public and private agencies for certain special emphasis programs such as programs showing new methods and techniques, programs providing alternatives to incarceration, diversion programs, activities to improve the capabilities of agencies serving delinquent youths or those in danger of becoming delinquent, programs to prevent school dropouts and any other programs that may be exemplary of recommendations of the Advisory Committee on Standards for Criminal Justice (a subcommittee of the National Advisory Committee described above).⁹⁷ At least 25 percent but no more than 50 percent of the funds available for the total assistance program are available for these direct grants.⁹⁸

Among the new activities introduced in the Juvenile Justice and Delinquency Prevention Act of 1974 is the National Institute for Juvenile Justice and Delinquency Prevention.⁹⁹ The Institute, located within the Office of Juvenile Justice and Delinquency Prevention, fills a communications void that has long existed in our national juvenile delinquency effort. It serves as a national clearinghouse for juvenile delinquency information through the collection of data and research materials covering all aspects of the subject and through the preparation, publication and dissemination of this information. The Institute is also authorized to conduct research itself and to evaluate the effectiveness of programs assisted under the Act or under any other federal, state or local juvenile delinquency program.¹⁰⁰

Further, and of great importance, the Institute acts as a national training center for persons who are working or preparing to work with juveniles. Under this provision it may develop, conduct or provide for both training programs for persons who are to work with juveniles, as well as for seminars and workshops for federal, state and local government employees engaged in the juvenile justice field. The

95. *Id.* § 223 (a) (1).

96. *Id.* § 542.

97. *Id.* § 224.

98. *Id.* § 224.

99. H.R. 14950, 91st Cong., 1st Sess. (1969).

100. Pub. L. No. 93-415, § 242-243 (Sept. 7, 1974).

Institute is also required to conduct its own program of short term instruction in the latest "proven effective methods of prevention, control and treatment of juvenile delinquency" for professional and lay people in juvenile delinquency related programs.¹⁰¹ Additionally, the Institute may develop training teams to assist state and local governments to establish their own training programs.¹⁰²

The enactment of legislation creating this Institute has been long coming, although the concept has had strong support since the measure was originally introduced. The first bill, House Resolution 14950, introduced in the Ninety-first Congress, was co-sponsored by over one hundred House members.¹⁰³ Hearings were held by the House Judiciary Committee during both that Congress and the Ninety-second Congress when the bill was reintroduced as House Resolution 45.¹⁰⁴ Senator Charles Percy had introduced the legislation in the Senate during these Congresses and hearings were also held by the Senate Committee on the Judiciary.¹⁰⁵ The measure passed the House in April of 1972 but no further action was taken during the Ninety-second Congress.¹⁰⁶ House Resolution 45 was reintroduced in the Ninety-third Congress, and the House Education and Labor Committee included the proposal in the bill it developed to establish a comprehensive juvenile delinquency program.¹⁰⁷ A similar measure was also included in the omnibus bill passed by the Senate.¹⁰⁸ Elements of these two bills were eventually enacted as the 1974 legislation.

Among other major provisions of the Juvenile Justice and Delinquency Prevention Act is a program for runaway youth. The Runaway Youth Act, contained in Title III, authorized the Secretary of Health, Education and Welfare to make grants and to provide technical assistance to local governments for the development of facilities to serve the needs of runaways *outside* the juvenile justice system.¹⁰⁹ There is also a provision in this title for a comprehensive statistical survey of runaways—an area in which we have little information.¹¹⁰

101. *Id.* § 244.

102. *Id.*

103. *Hearings on H.R. 45, 92d Cong., 1st Sess. and H.R. 14950, 91st Cong. Before Subcommittee No. 3 of the House Committee on the Judiciary, 92d Cong., 1st Sess. 79 (1971).*

104. H.R. 45, 92d Cong., 1st Sess. (1971).

105. *Hearings on S. 1428 Before the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary, 92d Cong., 2d Sess. (1972).*

106. 117 CONG. REC. 13121.

107. H.R. 15276, 93d Cong., 2d Sess. (1974).

108. S. 821, 93d Cong., 2d Sess. (1974).

109. Pub. L. No. 93-415, § 311 (Sept. 7, 1974).

110. *Id.* § 321-322.

In addition, the legislation creates a National Institute of Corrections with similar authority to the National Institute for Juvenile Justice and Delinquency Prevention in the area of adult and juvenile corrections. However, this new Institute is within the United States Bureau of Prisons where a capability for this function has already been established.¹¹¹

Authorizations for the programs under Title II are \$75 million for fiscal year 1975, \$125 million for fiscal year 1976 and \$150 million for fiscal year 1977. It is also stipulated that in addition to any of these appropriated funds, funding for juvenile delinquency programs assisted under provisions of Title I of the Omnibus Crime Control and Safe Streets Act must be at least the same level that it was for such programs during fiscal year 1972.¹¹² There are separate authorizations for HEW's runaway program amounting to \$10 million for fiscal years 1975, 1976 and 1977, with an additional \$500,000 authorizations for the survey on runaway youth.¹¹³

Part A of Title V amends the Federal Juvenile Delinquency Act (18 U.S.C., §§ 5031-5042) with the general purpose of guaranteeing certain rights to juveniles who come within federal jurisdiction. In justifying these amendments, the Senate report pointed out that the Federal Juvenile Delinquency Act did not reflect the due process rights for juveniles called for in the Supreme Court decision in *In Re Gault*.¹¹⁴ It was felt that these amendments would provide the necessary due process protections as well as incorporate into the Act ". . . the rehabilitative concepts of juvenile proceedings as promulgated in model juvenile court acts."¹¹⁵ These amendments generally revise the definition of "juvenile" for federal legal proceedings, and provide for deference to local courts in delinquency proceedings. Other amendments related to custody, right to counsel, detention, speedy trial, disposition, juvenile records, commitment, support, probation, and parole.¹¹⁶

111. *Id.* tit. V, pt. B.

112. *Id.* § 261. This amount was estimated to be \$140 million by Richard Velde, Administrator of the Law Enforcement Assistance Administration. *Hearings on S. 3148 and S. 821 Before the Subcommittee to Investigate Juvenile Delinquency of the Senate Committee on the Judiciary*, 93d Cong., 1st Sess. 637 (1973).

113. *Id.* § 331.

114. 387 U.S. 1 (1967).

115. S. REP. No. 93-1011, 93d Cong., 2d Sess. 48 (1974).

116. Pub. L. No. 93-415 (Sept. 7, 1974).

THE OUTLOOK

In passing the Juvenile Justice and Delinquency Prevention Act of 1974, Congress reaffirmed its conviction that the federal government should and must continue its specific efforts to control the serious problem of youth crime. Certainly, the federal role in juvenile delinquency prevention and control established in this legislation is an extensive one but its effectiveness will be dependent upon administrative action. At this early stage it is difficult to project the administrative commitment to this legislation. When President Ford signed the bill into law he stated that due to inflationary pressures on the budget he would not seek appropriations for new programs in the bill for fiscal year 1975. He further explained that an estimated \$155 million was provided under current programs in the 1975 budget and that this would provide "a continuation of strong Federal support."¹¹⁷ However, it was apparent from Congress's authorization of \$75 million for a *new* assistance program to combat juvenile delinquency that the funds already appropriated for other programs, namely the LEAA assistance program, had not, in the opinion of Congress, been strong *enough* support for effective action.

Despite the initial remarks of the President, assurances have been made by LEAA Administrator Richard Velde that he is committed to getting the new program started. He said that one possible alternative to a new appropriation would be to reallocate and spend up to \$20 million of LEAA monies that were not expended to date.¹¹⁸ Of course another possibility would be for Congress to pass supplemental appropriations for the program.

Although the assistance program is a major aspect of the new Act, there are certainly other important provisions that do not require appropriations. These would include the establishment of the Office of Juvenile Justice and Delinquency Prevention and the other administrative mechanisms. To date, the President has not nominated the Assistant Administrator to direct the Office, but it is the author's understanding that the Justice Department has made its recommendations for this post, and a decision should be imminent.¹¹⁹

Crime in the United States is one of our most serious domestic problems and its reduction is a high priority of the federal government.

117. 10 WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS 1119.

118. Interview with Richard Velde, Administrator, Law Enforcement Assistance Administration, in Washington, Dec. 18, 1974.

119. *Id.*

In fiscal year 1975, an estimated \$3 billion in federal funds will be spent for this purpose, a large portion of which will include assistance monies to support activities of state and local governments for prevention and control.¹²⁰ Characteristically, programs aimed at the reduction of youth crime have received only a small portion of this effort although statistics indicate a disproportionately high incidence of criminal activity for this age group.

The Juvenile Justice and Delinquency Prevention Act of 1974 was enacted by Congress to correct this imbalance and to redirect federal programming in crime control so that it will be more responsive to youth crime. The effectiveness of future federal activities to reduce crime depends in large part on whether the Administration and Congress recognize and support the potential of this legislation.

120. FEDERAL PROGRAMS FOR THE REDUCTION OF CRIME, *supra* note 3.