

§ 676.11 [Amended]

(3) Section 676.11(c)(5)(i)(A) through (D) are added to read as follows:

(c) * * *

(5) * * *

(i) * * *

(A) For Title II Parts B and C.(1) Identification of those groups that have been determined for priority of service and most in need.

(2) A breakout of the eligible population by race, sex, national origin, and age, and the planned level of services to be provided for these significant segments in terms of the percent each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any significant segment varies above or below the group's incidence in the eligible population, a justification must be provided.

(B) For Title II Part D. A breakout of the eligible population by race, sex, national origin and age, and the planned level of services to be provided these groups in terms of the percentage each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any significant segment varies above or below the group's incidence in the eligible population, a justification must be provided.

(C) For Title VI. A breakout of the eligible population by race, sex, national origin and age, and the planned level of services to be provided these groups in terms of the percentage each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any significant segment varies above or below the group's incidence in the eligible population, a justification must be provided.

(D) For Title VII. An analysis of the eligible population by race, sex, national origin and age, and a presentation of the planned levels of service to be provided these significant segment in terms of the percent each group will constitute of those to be served (sec. 103(b)(2)). Where the planned level of service to any significant segment varies above or below the group's incidence in the eligible population a justification must be provided.

§ 676.12 [Amended]

(4) Part 676 is amended by deleting § 676.12(f).

§ 676.16 [Amended]

(5) Part 676 is amended by deleting § 676.16(c)(3)(v).

(6) Part 676 is amended at § 676.22 by adding the following paragraph (f):

§ 676.22 [Amended]

* * * * *

(f) Each prime sponsor shall maintain on-site a description of its:

(1) Personnel merit system,

(2) Allowance payment system, and

(3) Retirement system.

These descriptions must be available for review by authorized DOL staff.

§ 676.44 [Amended]

(7) Part 676 is amended by adding § 676.44(a)(6) as follows:

(a) * * *

(6) The Annual Report of Training Enrollments and Completions (sec. 313(g)).

§§ 676.15 and 677.56 [Amended]

(8) Part 677 is amended by deleting §§ 677.15(b)(1) and 677.56(b)(1).

§ 677.39 [Amended]

(9) Part 677 is amended at § 677.39(f) to read as follows:

* * * * *

(f) Subject to the limitations specified in § 676.40 (allowable costs under CETA), remaining funds may also be used by the Vocational Educational Board for the following activities:

* * * * *

§ 677.56 [Amended]

(10) Part 677 is amended by deleting the words "PSE Occupational Summary" from § 677.56(a).

(11) Part 677 is amended by deleting § 677.56(f).

(12) Part 677 is amended by deleting § 677.56(b)(3) (iv), (v), and (vi).

Part 678—[Amended]**§ 678.6 [Amended]**

(13) Part 678 is amended by deleting the words "and PSE Occupational Summary" from § 678.6(a).

(14) Part 678 is amended by deleting § 678.6(b)(3) (v), (vi), and (vii).

(15) Part 678 is amended by deleting § 678.6(b)(1).

(16) Part 678 is amended by deleting § 678.6(f).

Part 679—[Amended]**§ 679.5 [Amended]**

(17) Section 679.5(d)(1) is amended by deleting § 679.5(d)(1)(ii) and deleting the "(i)" before the sentence beginning "State the objectives . . ."

(Section 126 of the Comprehensive Employment and Training Act (29 U.S.C. 801 *et seq.*, Pub. L. 95-524, 92 Stat. 1907))

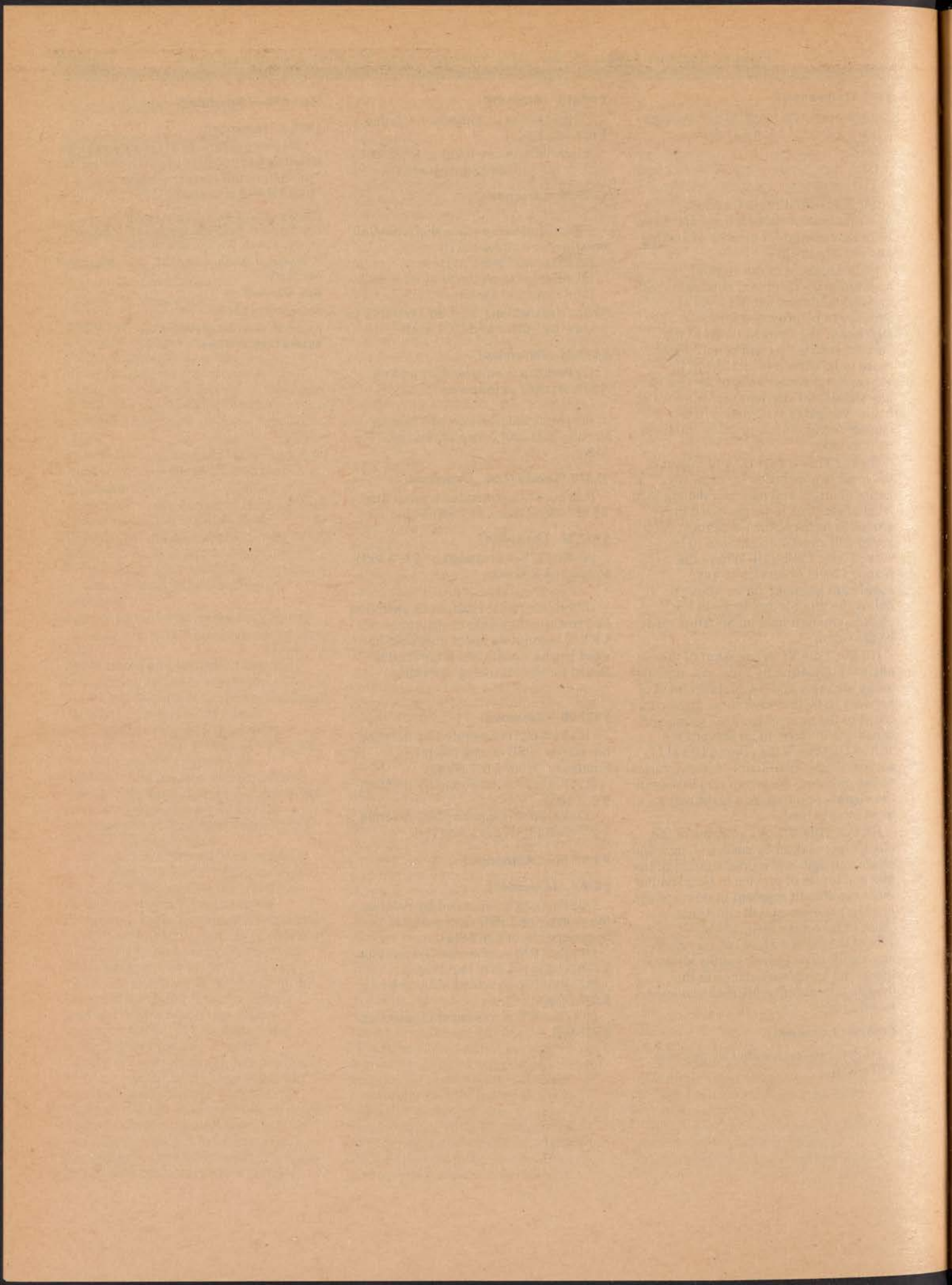
Signed at Washington, D.C. this 16th day of May 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-15555 Filed 5-19-80; 8:45 am]

BILLING CODE 4510-30-M



Test Report Federal

Tuesday
May 20, 1980

Part X

Department of the Interior

Office of Surface Mining Reclamation and
Enforcement

Surface Coal Mining and Reclamation
Operations; State Programs

DEPARTMENT OF THE INTERIOR**Office of Surface Mining Reclamation and Enforcement****30 CFR Parts 731 and 732****Surface Coal Mining and Reclamation Operations; State Programs**

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Final rules.

SUMMARY: OSM's permanent rules are amended to provide a ten month period for review and resubmission of State programs following their submission. The amendments revise timing for:

- (1) Review by the Regional Director;
- (2) Notice and public hearing requirements; and
- (3) Decision by the Secretary.

These revisions do not provide more total time for review than the regulations did when adopted March 13, 1979, but reflect a delay of the submission date ordered by a final court decision and subsequent opinion of the Solicitor allowing the required decision date to be likewise delayed.

EFFECTIVE DATE: May 20, 1980.

ADDRESSES: Copies of the December 5, 1979, Solicitor's Opinion (discussed below) are available at: Office of Surface Mining, U.S. Department of the Interior, South Building, Room 153, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, Room 224, South Interior Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone (202) 343-4221.

SUPPLEMENTARY INFORMATION: On March 13, 1979, the Secretary of the Interior promulgated the final rules for the permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act). The rules provided, in accordance with the requirement of Section 503(a) of the Act, that for a State to assume primary jurisdiction under the Act for the regulation of coal mining and reclamation operations on non-Federal and non-Indian lands within its borders, it must submit its proposed permanent program to OSM by August 3, 1979. Section 504(a) of the Act further provided that if no State submission is made by that date a Federal program will be implemented for surface coal mining and reclamation operations

within the State. The March 13, 1979, rules also required a final decision on program submissions by the Secretary no later than June 3, 1980. OSM's March 13, 1979, rules relating to State program submission are found in 30 CFR Parts 730-736, 44 FR 15323 *et seq.*

On July 25, 1979, the U.S. District Court for the District of Columbia, in response to a suit filed by the State of Illinois, preliminarily enjoined the Department of the Interior from requiring the submission of State programs under Section 503(a) of the Act until March 3, 1980.

On August 21, 1979, the court ordered that its injunction remain in effect. The court's order did not explicitly alter, however, the requirement of Section 504(a) of the Act that a final decision by the Secretary on a State program must be made by June 3, 1980. As a result, the time period between the court-ordered deadline for program submission and the date for final decision by the Secretary set forth in the regulations was reduced to just three months, precluding adherence to the review schedule contained in 30 CFR 732.11, and 732.12 and 732.13 of the permanent program regulations. In accordance with the court order, OSM published amendments to Subchapter C on October 22, 1979, (44 FR 60969) extending the latest date for submission of a State program to March 3, 1980, making the review procedures in 732.11, 732.12 and 732.13 inapplicable to programs submitted after August 3, 1979, and requiring the Regional Director to establish appropriate adjustments in the timing of the review, notice and public hearings and decision for each program submission.

Prior to the court-ordered extension of the date for program submission, the Secretary had requested that Congress enact a seven month extension of the statutory dates. On June 25, 1979, a bill (S. 1403) was introduced in the Senate to extend both August 3, 1979, and the June 3, 1980, dates by seven months. 125 *Cong. Reg. S. 8411*, June 25, 1979. On September 11, 1979, the Senate passed a bill including provisions extending the dates 12 months. To this date the House has not passed the extension of the August 3, 1979, or June 3, 1980, dates.

On December 5, 1979, the Solicitor of the Department of the Interior issued an opinion noting the purpose of Section 503 of the Act, which provides ten months to review and approve or disapprove a State program submission, is to allow the Secretary to consult with and obtain approvals from other Federal agencies, allow for public participation in review of each State program, give

the Secretary adequate time to consider the program submission and allow the States to correct any deficiencies in their initial State program submission prior to the imposition of a Federal program. The Solicitor concluded that because each State is now entitled to submit its program no later than March 3, 1980, for those States which submit their programs on or before March 3, the June 3, 1980, deadline for promulgation of a Federal program must be extended as necessary to provide the opportunity for the full ten month review and resubmission period provided in Section 503.

The States' obligation to meet the March 3 deadline remains unchanged, however, and if a State failed to submit a program on or before March 3, a Federal program must be implemented.

Three State programs were submitted on or before August 3, 1979, and review was carried out according to the March 13, 1979, provisions under 30 CFR 732. Twenty-one programs were submitted between August 3, 1979, and March 3, 1980, and OSM made appropriate adjustments to the review procedures in accordance with amended 30 CFR 732 and taking the full 10 months for each program allowed pursuant to the December 5, 1979, Solicitor's opinion.

This amendment revises the sequence of the dates for public hearing and close of public comment in 30 CFR 732.12(a) (3) and (6) to allow five days after the public hearing for comment.

This amendment is being promulgated today without having been initially proposed since notice and public comment are in this case deemed impracticable and unnecessary. The basis for omitting notice and comment on this action is that the amendment merely reestablishes procedures that were originally established through a process that included extensive public review and comment. In addition, the March 3, 1980, deadline for program submissions has already passed and OSM has established review schedules for each of the 24 States. Therefore, the effect of this amendment on the States and the public is minimal.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14, 43 FR 58292, *et seq.* (December 12, 1979).

Primary author of this document is James Fulton, State Programs Division, Office of Surface Mining.

Dated: May 9, 1980.

Walter N. Heine,

Director, Office of Surface Mining.

Text of Amendment:

§ 730.12 [Amended]

1. 30 CFR 730.12(a) is amended by changing the date June 3, 1980 to January 3, 1981 both times it appears.

§ 731.12 [Amended]

2. 30 CFR 731.12(d) is deleted in its entirety.

§ 732.11 [Amended]

3. 30 CFR 732.11(d) is amended by changing the date November 15, 1979, to "104 days from the date of submission" both times it appears.

§ 732.12 [Amended]

4. 30 CFR 732.12(a) is amended by changing the date November 20, 1979, to "109 days from the date of submission."

5. 30 CFR 732.12(a)(3) is amended by changing "an opportunity" to "30 days from publication of the notice" so that the sentence begins "The notice shall afford interested persons 30 days from publication of the notice to submit * * *."

6. 30 CFR 732.12(b) is amended by changing "30" to "25" to read "25 days."

7. 30 CFR 732.12(b)(2) is amended by changing the date November 15, 1979, to "104 days from the date of submission."

[FR Doc. 80-15423 Filed 5-19-80; 8:45 am]

BILLING CODE 4310-05-M

United States Federal Reserve

Tuesday
May 20, 1980

Part XI

Department of Justice

Law Enforcement Assistance
Administration

Response to Public Comment and
Issuance of LEAA Program
Announcement "Removing Juveniles
From Adult Jails and Lock-Ups"

DEPARTMENT OF JUSTICE

Law Enforcement Assistance
AdministrationResponse to Public Comment and
Notice of Issuance of LEAA Program
Announcement, "Removing Juveniles
From Adult Jails and Lock-Ups"

AGENCY: Law Enforcement Assistance
Administration (LEAA), Justice.

ACTION: Notice of issuance and response
to public comment.

SUMMARY: Notice is hereby given that the Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601, et seq., is issuing an addition to the National Priority Program and Discretionary Program Announcement, published in the *Federal Register* on February 15, 1980. It will not in any way impact upon the programs or regulations presently set out in that announcement or affect the eligibility of those individuals applying for previously announced programs.

SUPPLEMENTARY INFORMATION: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), Law Enforcement Administration (LEAA), published in the *Federal Register* on March 25, 1980, a draft Program Announcement for a Program to Remove Children from Adult Jails and Lock-Ups. This notice sets forth the final program guideline and Appendix A of this notice summarizes the public comments received pertaining to the draft announcement and details the changes made.

FOR FURTHER INFORMATION CONTACT: Mr. Doyle A. Wood, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, N.W., Washington, D.C. 20531. (202) 724-7775.

Ira M. Schwartz,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

Office of Juvenile Justice and
Delinquency Prevention, Program
Announcement "Removing Juveniles
from Adult Jails and Lock-Ups"

A. Program Objective

Pursuant to Section 224(a)(2) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) is sponsoring a program to support the development and implementation of

projects which will address the problems of removing juveniles from adult jails and lock-ups. This program is consistent with the mandate of Section 223(a)(13) of the JJDP Act of 1974, as amended, which provides that juveniles shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because such adults have been convicted of a crime or are awaiting trial on criminal charges. This program is intended to provide the necessary resources, including both financial and technical, to jurisdictions to assist them in planning and implementing a viable strategy to remove juveniles from adult jails and lock-ups.

B. Program Description

1. Background

The detention of juveniles in adult jails and lock-ups has long been a moral issue in this country which has been characterized by sporadic public concern and minimal action toward its resolution.

It is suspected that the general lack of public awareness and the low level of official action are exacerbated by the absence of meaningful information, and the low visibility of juveniles in jails and lock-ups. This situation is perpetuated by official rhetoric which cloaks the practice of jailing juveniles in a variety of poorly-conceived rationales.

In fact, the time-honored but unsubstantiated "rationales" of public safety, protection from themselves or their environments, and lack of alternatives break down under close scrutiny.

In reality, the aggressive and unpredictable threat to public safety perceived by the community is often just the opposite. A recent survey of a nine-state area by the Children's Defense Fund indicates that 18 percent of the juveniles in jails have not even been charged with an act which would be a crime if committed by an adult. Four percent have committed no offense at all. Of those jailed on criminal-type offenses, 85 percent are there on property and minor offenses.

Not until 1971, with the completion of the National Jail Census, did a clearer and more comprehensive picture of jails surface. By its own admission, the Census showed only a snapshot of American jails and the people who live in them. Significantly, it excluded those facilities holding persons less than 48 hours. This is critical with respect to juveniles because it is the police lock-up and the drunk tank to which alleged juvenile offenders are so often relegated awaiting court appearance.

The Census did, however, give us the first nationwide indication of the number of juveniles held in jail. On March 15, 1970, 7,800 juveniles were incarcerated in 4,037 jails. A comparable census in 1974 estimated that the number had grown to 12,744. The inadequacy of the data is more apparent when a determination of the number of juveniles admitted to adult jails and lock-ups each year is sought. Children's Defense Fund states that even the half-million figure is "grossly understated" and that "there is an appalling vacuum of information . . . when it comes to children in jails." Regardless of the true figure, it is clear that the practice of jailing juveniles has not diminished during the last decade. People who do not belong in jail, and jail conditions that are not suitable for people, were the concerns that impelled representatives from more than 28 national organizations (including the National Association of Counties, the National Sheriff's Association, the National League of Cities, and others) to establish the National Coalition for Jail Reform. Its recent statement of position, which was agreed to by each organization of the coalition, is that no juvenile should be held in an adult jail.

2. Problem Addressed

Many communities have not been able to fully implement Section 223(a)(13). The limited number of alternative resources available to them has resulted in a heavy reliance on city lock-ups and county jails for youth who are held pending court appearance. This lack of resources is particularly serious since there is a significant number of juveniles, including both delinquents and status offenders, held in jails and lock-ups.

This program is aimed at providing alternative programs and services to alleviate the use of adult jails and lock-ups for the detention of children. It is also intended to challenge the policies and practices which result in the inappropriate placement of juveniles in adult jails and lock-ups. Persistent indicators consistently identify the less visible and often more brutal practice of inappropriate confinement of juveniles in jails and lock-ups which needs immediate attention and rectification. In virtually all of the rural areas of the country, the sole resource for those alleged juvenile offenders who cannot immediately be returned to their own homes pending court appearance is the local jail or municipal lock-up. These antiquated facilities are often unsuitable for adult offenders, much less juvenile offenders. The substandard living conditions found in many are the subject

of wide-spread litigation under the Eight Amendment.

The major areas of concern include:

- A general lack of alternative residential and non-residential programs for youth awaiting court appearance.
- Lack of community resources to deal effectively with status offenders and non-offenders in the schools and within the family structure.
- Legal services are often inaccessible on an immediate basis and/or unavailable even in the long run.
- Low public visibility of the practice of jailing juveniles brought on by a lack of organized or informal youth advocacy efforts geared to the deinstitutionalization issues.
- The existence of unique situations which greatly increase the incidence of status offenses in certain areas, particularly those involving out-of-state runaways on interstate highways and seasonal migration to resort areas.
- A lack of 24-hour intake screening and a lack of objective intake criteria.

3. Assumptions

a. Regular contact between juveniles and adult offenders is detrimental and should be eliminated in detention and correctional facilities.

b. Mere sight and sound separation of a juvenile from an adult offender in a jail or lock-up does not guarantee that children held in jails will receive services geared to their special needs. Alternative strategies should be developed which include the consideration of emergency foster care, home detention, 24-hour intake screening, crisis intervention services, shelter care, and, where appropriate, regional juvenile detention, as indicated by a comprehensive survey and analysis of the juvenile detention population and available community resources.

c. There are dangers inherent in any level of separation short of complete removal. These dangers include the potential for isolation of juveniles in adult facilities, which is counterproductive to the development of the child. Also, efforts to separate often result in costly renovation of facilities which still do not meet the needs of the community and the child.

d. Alternatives to incarceration are often scarce in rural communities, as the number of youth served is relatively small in comparison with urban areas.

4. Target Population

The population expected to benefit from this initiative is juveniles (delinquents, status offenders, and non-offenders) who are currently held in adult jails and lock-ups.

5. Results Sought

a. The removal of juveniles from adult jails and lock-ups.

b. The development of a flexible network of service and placement options for alleged juvenile offenders and non-offenders based upon: (1) The least restrictive alternative, and (2) maintenance of a juvenile's family and community ties.

c. A planning and implementation process for removal which: (1) is based upon a recognition of youth rights and due process and which promotes the advocacy of such, and (2) uses active citizen participation and youth involvement.

d. The development and adoption of intake criteria, consistent with the standards of the National Advisory Committee for Juvenile Justice and Delinquency Prevention and other nationally recommended standards, for alleged juvenile offenders and non-offenders who are awaiting court appearance.

e. An enhanced capacity for parents, schools, and police to resolve problems of youth in a non-judicial manner and thus alleviate the use of jails and lock-ups. This includes, where appropriate, the coordination and integration of public and private child welfare services.

f. An identification and description of viable alternatives to the use of jails and lock-ups.

C. Program Strategy

This program employs a two-phased approach. Phase I is a planning and analysis period during which local jurisdictions, with OJJDP assistance, will develop a systematic plan for removing juveniles from adult jails and lock-ups.

Phase II is the implementation of the plan in a selected number of those jurisdictions whose planning process and results support the need for program and service alternatives.

A National Program Coordinator (NPC), through a 24-month cooperative agreement with OJJDP, will receive an award of funds to implement this program. The National Program Coordinator will thus act as the conduit for funds to the local jurisdictions and provide jurisdictions assistance with data collection and analysis, training, designing survey instruments, facilitating community and citizen participation, developing alternative programs and services with the local jurisdiction, and program implementation.

1. Phase I: Planning and Analysis

a. Phase I is directed toward planning and analysis which will result in an action plan for removing juveniles from adult jails and lock-ups. Participants,

with technical assistance and other support from the National Program Coordinator, will undertake a planning process consisting of problem perspective and definitions, needs assessment, policy and plan development, plan implementation, and follow-up assessment and monitoring.

b. During Phase I, the following problems should be addressed:

(1) Need for the use of intensive supervision in the child's home as a placement alternative.

(2) Lack of emergency foster care, shelter care and independent living arrangements.

(3) Lack of crisis intervention services and short-term residential crisis intervention programs which can be used for conflict mediation, emergency holding and provision of emergency attention for youth with physical or emotional problems.

(4) Need for the development of objective intake criteria which are based upon a presumption of release, promote utilization of the least restrictive alternative, assure the protection of a child's right to due process, and maintain a child's ties to the family and community.

(5) Lack of coordination and cooperation between law enforcement officials, the judicial sector, public and private service providers, the community in general, etc., which attributes to the inappropriate placement of juveniles in jails and lock-ups.

(6) Need to develop a flexible network of services and programs which is amenable to the individual local jurisdiction's needs and capabilities.

(7) Need for 24-hour intake screening services.

2. Phase II: Program Implementation

Phase II is directed toward implementing a comprehensive strategy to remove juveniles from adult jails and lock-ups based upon the plan developed in Phase I. OJJDP, with the assistance of the National Program Coordinator, will provide financial and program assistance to support implementation of such plans. OJJDP will be issuing an RFP for a contractor to provide technical assistance in the area of alternative responses to delinquent behavior. Part of this contractor's responsibility will be to provide technical assistance to the recipients of Phase II of this initiative to remove juveniles from adult jails and lock-ups. At that point, the alternative responses to delinquent behavior contractor will assume all major technical assistance responsibilities to the local jurisdictions.

3. National Program Coordinator

The National Program Coordinator (NPC) will be the conduit for financial, planning, and program assistance to the local jurisdiction during both Phase I and Phase II. The NPC will provide the jurisdictions assistance in the following activities:

- a. Collection of information on trends for intake processing, intake criteria, alternatives to incarceration, planning strategies and cost.
- b. Training of data collectors.
- c. Design of survey instruments.
- d. Information and data analysis.
- e. Establishment of objective intake criteria.
- f. Survey of standards relative to implementation and operational aspects of alternative programs.
- g. Facilitating citizen participation.
- h. Developing alternative programs and service.
- i. Program implementation.
- j. Program follow-up.
- k. Assisting local jurisdictions in securing additional financial support from general revenue sources, foundations, other Federal agencies, or other sources of financial support.
- l. Identifying and developing technical assistance needs.

The National Program Coordinator, in cooperation with OJJDP, provides general guidance as to goals and organization of local projects; it assists with development of planning strategies and may work directly with particular key officials; it provides specialized assistance in relation to technical tasks of each phase; and finally it provides sites with a substantial amount of technical assistance material and assistance in financial accountability. The NPC, in cooperation with OJJDP, will be responsible for identification and description of viable alternatives to the use of jails and lock-ups for the detention of juveniles. The NPC will assist OJJDP with screening of potential sites; selections will be made by the NPC with final approval authority in OJJDP. The NPC and OJJDP will jointly develop selection criteria for Phase II participation. The NPC should coordinate activities within states with the respective State Planning Agency (SPA).

D. Dollar Range and Number of Grants

1. The period for this program is two years with a total funding commitment of \$3,000,000. The NPC will be selected by OJJDP with financial support through a cooperative agreement between OJJDP and the NPC. Support for the NPC shall not exceed \$360,000 (i.e., 12% of total the \$3,000,000 award). The remainder of the award will be contracted by the NPC to

local jurisdictions for implementation of Phase II of the initiative. Financial assistance provided under this program requires no matching contribution except as provided in Section D-3 of this announcement regarding construction funds. This agreement will be for two years with the potential for an additional 12-month grant based upon satisfactory performance, subject also to the availability of funds.

2. Up to 20 local jurisdictions will be approved by OJJDP to participate in Phase I which should be completed over a six-month period. Each local site will receive technical assistance for Phase I from OJJDP and the NPC. No financial assistance is provided to local jurisdictions during Phase I.

3. Those jurisdictions participating in Phase I and which satisfactorily complete Phase I by developing an adequate plan to remove juveniles from adult jails and lock-ups are eligible to participate in Phase II. Phase II financial support will range from \$50,000 to \$200,000 and will be made directly by the NPC to the local sites. Project periods for Phase II will range from 12 to 18 months, with the potential for an additional 12-month support for successful projects, subject also to the availability of funds.

Up to one-third of the funds received by a jurisdiction for Phase II may be used for construction or renovation purposes. All construction funds must be used for innovative, non-secure community-based facilities for less than 20 persons and must be matched dollar for dollar by the local jurisdiction. The local jurisdiction will be held accountable for adherence to Section 227 of the JJDP Act and the requirements for construction programs which are contained in LEAA Financial Guideline M 7100.1A, Change 3, Chapter 7, Paragraph 9, entitled "Identification of Construction Programs." In addition, the erection of new buildings or the renovation of jails will not be permitted with funds acquired through this program.

E. Project Eligibility/Applicant Capability

1. *National Program Coordinator*
Applications are invited from public agencies and private non-profit organizations which have extensive knowledge and experience in developing and/or implementing alternatives to the detention of juveniles in adult jails and lock-ups.

The applicant must:

- a. Demonstrate knowledge of and experience with juvenile justice systems, local jails and lock-ups in

which changes are to be sought, and the problems, strategies and program alternatives necessary to remove children from adult jails and lock-ups;

- b. Have the demonstrated capability or experience to develop management and fiscal systems necessary for the proper administration of Federal funds;
- c. Demonstrate its ability to fulfill the activities identified in Section C3 of this announcement;

- d. Have available experienced administrative and professional staff who demonstrate a commitment to and experience in providing alternatives to the detention of juveniles in jails and lock-ups; and

- e. Provide a detailed task specific description of activities which includes a proposed level of OJJDP involvement in each task.

2. Phase I

- a. Concept papers are invited from local agencies and private non-profit organizations and must contain the elements of Section H within this program announcement.

- b. Concept papers must demonstrate the following:

- (1) A documented history of placement of alleged juvenile offenders, status offenders, and non-offenders in adult jails or lock-ups.

- (2) Willingness on the part of the court, community groups and local governments to support positive change with regard to adoption of objective intake criteria, placement of children in the least restrictive alternative, and a regard for maintenance of family and community ties.

- (3) Willingness to develop community-based or other release options for juveniles.

- (4) Documented willingness to apply local financial resources to this effort.

- (5) Evidence of willingness to adhere to nationally recognized standards, regulations and guidelines pertaining to interim status of youth awaiting court appearance.

F. Application Submission Procedures and Deadlines

1. National Program Coordinator

Prospective applicants for the National Program Coordinator must mail or hand deliver one (1) original and two (2) copies of the application, using Standard Form 424, to Mr. Doyle Wood, Office of Juvenile Justice and Delinquency Prevention, LEAA, Room 442, 633 Indiana Avenue, NW, Washington, DC 20531, by July 18, 1980. Applications sent by mail will be considered to be received on time if sent by registered mail or certified mail no later than July 18, 1980, as evidenced by

the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service. Section G of this program announcement identifies what must be contained in the application for the National Program Coordinator.

2. Phase I Concept Papers

Those eligible jurisdictions who propose to participate in Phase I must submit concept papers by August 15, 1980. An original and two (2) copies must be sent to Mr. Doyle Wood, Office of Juvenile Justice and Delinquency Prevention, LEAA, Room 442, 633 Indiana Avenue, NW, Washington, DC 20531. Section H of this program announcement identifies what must be contained in the Phase I Concept Papers.

G. Contents and Selection Criteria for the National Program Coordinator Applications

These requirements are to be used in lieu of the Part D—Program Narrative instructions in the Standard Federal Assistance Form 424. In order to be considered for funding, applications for the National Program Coordinator must include the following:

1. Project Goals and Objectives

Translate the objectives and activities of the National Program Coordinator as outlined in this solicitation into the goals and objectives of your application. Establish a 24-month workplan which is broken down into six month segments. Discuss in detail the tasks necessary to accomplish the objectives outlined in the solicitation. State the goals, objectives and tasks necessary to complete each specific milestone or time frame. Each task should include a proposed level of OJJDP involvement.

2. Problem Definition

a. Discuss your understanding of: (1) The placement of juveniles in jails and lock-ups and the issues surrounding the removal of juveniles from them, (2) legislative activities related to juveniles in jail, and (3) promising programs, services and various approaches for achieving the removal of juveniles from jails and lock-ups.

b. Discuss the anticipated major difficulties and problem areas in management of the selection process, management of the Phase I activities, management of Phase II activities and the jurisdictions under contract to implement Phase II, and coordination with OJJDP, the Phase II contractors, the State Planning Agency and the national evaluator. This discussion of anticipated problems should also address potential or recommended approaches for their solutions.

c. Proposals must address the following points regarding qualifications and experience of the applicant.

(1) Describe experience with similar or related projects completed or now underway.

(2) Key personnel should be identified, along with their responsibilities and the approximate percentage of time and duration each will be available for this program. Resumes which indicate relevant education and experience are required. Recommended key staff, e.g., project director, will be subject to OJJDP approval.

3. Program Methodology

Provide a plan and program design to accomplish the following administrative and developmental tasks:

a. Administration.

(1) Propose an administrative, management and fiscal structure. This structure should reflect the relationship between contractors who will implement Phase II of this initiative and the applicant organization, as well as the relationship between the National Coordinator, OJJDP, and the State Criminal Justice Council (SPA).

(2) Provide an implementation plan which includes a schedule, management policies and organizational chart to show provisions for quality control and compliance with Federal requirements.

b. The plan for implementing Phase I and Phase II of the Removing Juveniles from Adult Jails and Lock-ups Program.

(1) Outline a plan for screening of potential sites for participation of Phase I and describe a cooperative process with OJJDP for identifying those sites which can be recommended to OJJDP for approval. Outline a plan for processing concept papers and selecting the most qualified applicants.

(2) Outline a plan for developing selection criteria and screening for Phase II participation. This outline must include a plan for screening and processing applicants.

(3) Outline a plan for assisting those jurisdictions which are selected for and satisfactorily complete Phase I with the development of their applications for Phase II.

(4) Outline a plan for the management of all Phase II contracts. This plan should include:

(a) Procedures for assuring the contractors' compliance with OJJDP/LEAA program and fiscal requirements;

(b) A plan for joint site monitoring to be coordinated with OJJDP;

(c) A plan for assuring that all contractors meet quarterly program and fiscal reporting requirements;

(d) A discussion of how the grantee will coordinate with the National Alternative Responses to Delinquent Behavior Technical Assistance Contractor in the effort to provide technical assistance to the contractors, a

discussion of how the grantee will identify all program and management technical assistance needs of the contractors, and a discussion of the cooperative relationship with the National Evaluation Contractor. The final detailed plan for management will be worked out in cooperation with and subject to the final approval of OJJDP.

4. Section Criteria for National Program Coordinator

Applications will be evaluated on experience, methodology and management capability as evidenced by the submitted documentation.

a. Application Capability—Applicants must evidence the following qualifications and experience: (40 points)

(1) Diversified experiences in working with issues related to the inappropriate placement of juveniles in adult jails and lock-ups and the programs, services and policy changes which serve as jail alternatives and result in the removal of juveniles from jail. (15 points)

(2) Ability to establish effective relationships with the juvenile justice system and alternative service providers. (5 points)

(3) Availability of key staff and consultants experienced in providing diverse populations with technical expertise in substantive topics related to the development of the projects. (10 points)

(4) Capability and expertise in maintaining and managing contracts where local projects will be implementing various techniques. (10 points)

b. Understanding of proposed methodology. Applicants must evidence an understanding of the following: (20 points)

(1) Provide a clear and concise discussion on the jailing of children, its causes and consequences, and the variety of methods which might be used to remove juveniles from jail. (10 Points)

(2) The required steps in the development of the planning and analysis phase (Phase I), the implementation phase (Phase II), and technical assistance to potential contractors in the application process and management of such including the necessary OJJDP approval at each decision point. (10 points)

c. Management Capability. Applicants must evidence management capability as follows: (30 points)

(1) The completeness of the plan with respect to organization, management of the project selection process, and management of the subcontracts. (10 points)

(2) The feasibility of the workplan with respect to milestones, time frames and costs. (5 points)

(3) The understanding of research and data requirements and the ability to coordinate with the National Evaluator. (5 points)

(4) The completeness of the plan for assuring compliance with LEAA, administrative and fiscal requirements. (10 points)

H. Contents and Selection Criteria for Phase I Concept Paper

1. Concept papers for Phase I should not exceed 15-20 pages and must include the information numbered and labeled, according to the following:

a. Name and address of jurisdiction, including name, address and phone number of contact persons.

b. Brief description of the jurisdiction's interest in the program.

c. Description of the project jurisdiction, size and the juvenile population.

d. Description of the current juvenile intake and detention processes, intake criteria, resources, constraints, legal framework (including a summary of all relevant laws and formal administrative policies and procedures bearing on the issue of detaining children in jails and lock-ups), and financial or funding sources.

e. Statement as to the number of adult jails and lock-ups in the jurisdiction and the holding capacity for both juveniles and adults in each.

f. Statement of need including a brief description as to the reasons why children are held in the local jails or lock-ups.

g. Total number of juvenile arrests and total number of adult arrests within jurisdiction for the latest 12-month period.

h. Total number of juveniles detained in each of the jurisdiction's facilities for the latest 12-month period; total number of these detained or incarcerated with adults and description of the facilities in which they are commingled.

i. A brief description of the existing jail alternatives, including both secure and non-secure alternatives.

j. Assurance that the court of jurisdiction is willing to reexamine its intake criteria and experiment with alternative criteria.

k. A documented statement of willingness to develop community-based or other release options, to apply local financial resources to the effort and to continue the effort once Federal financial support ceases, and to adhere to nationally recognized standards, regulations, and guidelines pertaining to juveniles awaiting court appearance.

l. Letters of support from local juvenile court officials, law enforcement officials and local child service providers which demonstrate a commitment to removing juveniles from adult jails and lockups.

2. Phase I participants will be selected according to the extent they meet the eligibility criteria contained in Section E of this announcement and to the extent they demonstrate the need and willingness to remove juveniles from adult jails and lock-ups. Preferential consideration will be provided to those concept papers from jurisdictions in which the following exist:

a. The geography and the absence of alternatives to the use of jails are major obstacles in removing children from adult jails and lock-ups.

b. A group of contiguous counties or jurisdictions has jointly cooperated in the development and submission of one concept paper.

c. Local jurisdictions are currently under court order to remove children from adult jails and lock-ups.

1d. There exists a documented history and an exceptionally high rate of juveniles being detained and/or placed in the local jails and lock-ups.

I. Evaluation Requirement

1. An independent evaluation of this program is planned, to be undertaken by an independent evaluator selected by the Office of Juvenile Justice and Delinquency Prevention (OJJDP). The evaluator and OJJDP will select projects for intensive evaluation.

2. In addition to the normal self-assessment and monitoring activities all Phase II participants must propose an evaluation plan for their project.

3. Participants may be required to modify their proposed project specific evaluation plans in order to be integrated into the national level program evaluation design to be developed by the independent national evaluator.

4. All participants must indicate in advance their willingness to cooperate fully with the national evaluator and to participate in the program evaluation.

J. Civil Rights Compliance Requirements

Those who are selected for funding under this program will be required to comply with the following:

Each recipient of OJARS assistance within the criminal justice system which has 50 or more employees and which has received grants or subgrants of \$25,000 or more pursuant to and since the enactment of the Safe Streets Act of 1968, as amended, and which has a

service population with a minority representation of 3% or more, is required to formulate, implement and maintain an EEOP. Where a recipient has 50 or more employees, and has received grants or subgrants of \$25,000 or more and has a service population with a minority representation of less than 3%, such recipient is required to formulate, implement and maintain an EEOP relating to employment practices affecting women. This requirement shall be satisfied prior to the receipt of funds.

Applicants that do not meet any of the above criteria, educational institutions, public and/or private non-profit agencies shall maintain such records and submit to the OJJDP upon request timely, complete and accurate racial and ethnic data establishing the fact that no person or persons will be or have been denied or prohibited from participation in, benefits of, or denied or prohibited from obtaining employment in connection with any program or activity funded in whole or in part with funds made available under this initiative because of their race, color, national origin, religion, or handicap status.

In the case of any program under which a primary recipient of Federal funds extends financial assistance to any other recipient or subcontracts with any other persons or group, such other recipient, person or group shall submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out and assure its civil rights compliance obligations under the award.

K. Contact

For further information contact: Mr. Doyle A. Wood, Formula Grants and Technical Assistance Division, Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW, Washington, DC 20531, (202) 724-7775.

Appendix A—Summary of Comments Received and Changes Made to Draft Announcement of Program Removing Children From Adult Jails and Lock-Ups

The Office of Juvenile Justice and Delinquency Prevention received 22 letters in response to the Removing Children from Adult Jails and Lock-Ups Draft Guideline published in the March 25, 1980, *Federal Register*. An analysis of the comments indicates that most respondents were supportive of the guideline. Responses were received from a wide variety of public and private youth serving agencies and many useful suggestions and recommendations were made. The following summarizes the

comments received and discusses OJJDP's response to the comments.

A. Target Population

Comment: The target population should include all youth held in jail and not limited to those youth held in regular contact with adult offenders.

Response: OJJDP has accepted the recommendation and this portion of the guideline has been modified.

B. Program Strategy

1. *Comment:* The structure of the guideline which allow planning and technical assistance by a National Program Coordinator may be too rigid and does not allow flexibility in creating alternatives.

Response: New terminology has been incorporated into the program implementation description which will clarify the National Program Coordinator's role. Technical assistance responsibility during program implementation is clearly to the OJJDP Alternative Responses to Delinquent Behavior contractor.

2. *Comment:* The guideline fails to provide any role for the State Criminal Justice Councils and should be revised to provide the CJC's with appropriate involvement.

Response: The program strategy section has been supplemented with additional language to indicate the National Program Coordinator's responsibility to coordinate activities with respective CJC's. Also, a new section entitled contents and selection criteria for the NPC application was added which requires NPC applicants to address coordination, including the CJC, and to address the relationship between the CJC and the NPC in the proposed administration and management structure.

C. Dollar Range and Number of Grants

1. *Comment:* The guideline is not clear as to whether monies are available to jurisdictions for Phase I.

Response: A clarifying statement has been added which amplifies that no financial assistance is available to local jurisdictions during Phase I.

2. *Comment:* The elimination of a handful of sites during Phase II seems unnecessary and is a waste of time and dollars. It was suggested that all sites selected for Phase I continue during Phase II.

Response: The guideline has been modified to eliminate an automatic reduction in sites from Phase I to Phase II. The modified terminology allows all Phase I participants to participate in Phase II if they satisfactorily complete

the planning and analysis and develop an adequate plan during Phase I.

3. *Comment:* There were opposing views on the amount and percentage of funds which may be used for construction or renovation purposes. The comments ranged from a position that more emphasis should be placed on non-residential alternatives and less on construction to a position that the one-third limitation be increased because the nature of this initiative lends itself to construction and/or renovation.

Response: No change was made in response to these comments. Up to one-third of the funds received by a jurisdiction for Phase II may be used for innovative, non-secure community-based facilities. It is the position of OJJDP that certain jurisdictions may need a limited amount of dollars for the development of residential, non-secure jail alternatives; however, the primary emphasis of the initiative is to impact the jailing of children through the development and implementation of policy and procedural changes coupled with the utilization of existing resources, services and programs.

D. Contents and Selection Criteria for Phase I Concept Papers

Comment: The guideline has no assumption of cost provision. It is recommended that this provision be a criterion to insure that there are capabilities at the local level to continue the effort once Federal support ends. The guideline should require a commitment that the jurisdiction will not revert back to old practices once Federal dollars are no longer available.

Response: The Office of Juvenile Justice and Delinquency Prevention cannot mandate that efforts continue once Federal financial support ceases. However, the selection criteria is based upon the information required in the concept paper. The concept paper must provide a documented statement of willingness to apply local financial resources to the effort. Additional language has been added which broadens the statement of willingness to apply financial resources the continue to effort once Federal financial support ceases. The guideline also requires letters of support which demonstrate a continuing commitment to removing children from adult jails and lock-ups.

E. Evaluation Requirements

Comment: It was recommended that the National Program Coordinator concept be evaluated since it appears to be a new innovation in program implementation. A suggestion to add another subsection to the evaluation requirements to evaluate the efficiency

and effectiveness of the NPC concept was presented.

Response: An independent evaluation of this program is planned. A task of the National Evaluator will be to evaluate the efficiency and effectiveness of the National Program Coordinator concept.

F. Other General Comments

1. *Comments:* A concern was expressed that efforts to remove juveniles from jail will result in the development of regional detention centers and that the subsequent use of the facilities will result in the detention of more children and the removal of the juvenile from his community, family and legal representative.

Response: The structure of this program requires that a local jurisdiction assess its needs and develop the most appropriate, least restrictive alternative. The concern that over-use of detention will occur is discredited if in fact the local jurisdiction detains only those juveniles which require such, based upon objective criteria. If such criteria is used then *only* those juveniles which need a secure setting would be placed in detention, no more or no less.

2. *Comment:* It was recommended that OJJDP target the entire initiative toward one State and award all the funds to that state to achieve total removal statewide.

Response: One of the purposes of this initiative is to identify various methods and techniques which have proven to be viable in a jurisdiction's effort to remove children from adult jails and lock-ups. This information will then be transferred to other similar jurisdictions to assist in their efforts to prevent the jailing of juveniles. If only one State is targeted than all efforts would be developed in the framework of the legislative provisions of that State and would not be representative of a myriad of circumstances, attitudes, policy, standards, et cetera. To ensure there are a variety of concepts established in various frameworks, the guideline is not being changed to target on one State.

3. *Comment:* Comment was received objecting to the fact that the draft guideline was released for public comment for a 30-day period rather than a 60-day period.

Response: The 30-day external review period was approved by Homer F. Broome, Jr., Acting Administrator of LEAA. The 60-day review period was waived because it was deemed to be in the best interest of the public to provide for award of the grants under this Program by October 1, 1980.

4. *Comment:* General comments were received which related to the responsibility and relationship of the

National Program Coordinator to OJJDP, CJs, and local jurisdictions. It was suggested that the guideline provide additional detail and justification for the NPC activities and responsibilities.

Response: An entirely new section entitled Content and Selection Criteria for National Program Coordinator Applications was added to the guideline. This section details the information which must be addressed in the application and includes a statement of goals and objectives, problem definition, and program methodology for both administration and implementation. Applications for the NPC must clearly establish a structured relationship between themselves and State, Federal, and local agencies. The new section provides a clearer, more precise indication of the role of the NPC.

5. Comment: Several commentators simply expressed enthusiasm and support for an initiative to remove juveniles from adult jails and lock-ups.

Response: Thanks.

[FR Doc. 80-15392 Filed 5-19-80; 8:45 am]

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Federal Register

Tuesday
May 20, 1980

Part XII

Department of Justice

Bureau of Prisons

Control, Custody, Care, Treatment, and
Instruction of Inmates; Final and Proposed
Rules

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 544, 546, 550, 552, and 572

Control, Custody, Care, Treatment, and Instruction of Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Final Rules.

SUMMARY: This document contains final rules relating to the control, custody, care, treatment, and instruction of inmates. Included are final rules on (1) education tests, minimum standards; (2) alcohol testing; (3) hostages; (4) parole and mandatory release violator reports; (5) filing claims for inmate accident compensation; and (6) recreation programs, inmates. The document is intended to provide the public notice of the rules in this area, not just changes from prior policy.

DATE: Effective Date: June 22, 1980.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 910, 320 1st Street N.W., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724-3062.

SUPPLEMENTAL INFORMATION: In this document the Bureau of Prisons is publishing final rules relating to the following:

- (1) Education tests: minimum standards for the administration, interpretation, and use at all Bureau of Prisons institutions;
- (2) Alcohol testing;
- (3) Hostages;
- (4) Parole and mandatory release violator reports;
- (5) Filing claims for inmate accident compensation; and
- (6) Recreation programs, inmates.

Each subject has been published in the *Federal Register* previously as a proposed rule. Final rules (1)-(4) were published as proposed rules on January 12, 1979 (at 44 FR 2978 et seq.). Final rules (5)-(6) were published as proposed rules on December 27, 1979 (at 44 FR 76727 et seq.).

Interested persons were invited to submit comments on the proposed rules and public comments were received from various sources. On the basis of these comments and internal staff review of Bureau policies, some changes have been made. Members of the public may, of course, submit further comments concerning these rules by writing the previously cited address. These comments will be considered, but will

receive no further response in the *Federal Register*. Public comments which were received in these areas and the changes which were made are discussed below.

Summary of Changes/Other Comments

I. Part 544, Subpart B—Education Tests: Minimum Standards for the Administration, Interpretation, and Use at All Bureau of Prisons Institutions

1. § 544.10(a) has been revised to read "more than one year" (i.e., felony-type offense) as opposed to "one year or more". § 544.10(b) provides that other inmates with a sentence of a year or less (i.e., misdemeanor-type offense) may be given an SAT when test results are required for program placement. The final rule excludes Community Treatment Centers, Detention Centers, and Metropolitan Correctional Centers from the provisions of the rule on education tests, since full education programs are not feasible within these settings (see 44 FR 62251, October 29, 1979).

2. § 544.10—Because of the potential for abuse in the use of educational and psychological tests, particularly by unqualified individuals, a commenter suggests that each facility have appropriately trained persons, either on a full-time or consulting basis, to routinely review the utilization of the tests and their findings. The Bureau concurs with this concept. Internal instructions implementing this rule require that tests administered for education purposes be supervised by professional staff and that education personnel involved in administering, scoring and interpretation receive appropriate training. The Bureau also requires that persons who use test results periodically receive refresher training. Tests administered for psychological purposes are the responsibility of the Chief of Psychology Services.

A commenter suggested that SAT tests, when used for program placement, be administered in the inmate's first language. These tests are now available only in the English language. Pre-tests in other languages are available for inmates for whom English is not a first language.

A comment was received stating that it was "virtually impossible" to comment on this subpart without a description or presentation of the Bureau's educational program and its goals. On December 21, 1977 the Bureau of Prisons published its proposed rules (at 42 FR 64084) relating to Educational Program Goals and Characteristics.

These rules were finalized October 29, 1979 (at 44 FR 62251).

II. Part 544, Subpart D—Recreation Programs, Inmates

1. § 544.31—§ 544.31(d) is retitled "Hobbycraft Activities."

2. § 544.32—"28 CFR 544.81" is substituted for "44 FR 62251" in § 544.32(a)(3).

3. § 544.33—A comment on § 544.33(d)(1) suggested that the display of art work or hobbycraft is clearly protected by the First Amendment right of freedom of expression and may not be restricted by governmental agencies except under the "most narrow of circumstances". The commenter further cited *Procunier v. Martinez* saying § 544.33(d) does not fall within any of the valid purposes of correctional restrictions or goals. § 544.33(d)(1) is directed to public displays, which most frequently are showings of samples of inmate art and hobby work at special shows or on general display in the more public areas of the institution such as the lobby and visiting room. These in fact are public exhibitions, where people of all ages and backgrounds, including young children, may attend and observe the work. The Warden's determination on what may be displayed is based on expectations of decency in the local community. It does not place any limitations on the work of the inmates themselves, nor on their ability to distribute the work as noted in § 544.33(c). The rule does not obstruct the inmate's opportunity to create specific art or hobby works.

A comment stated that the rule fails to provide an inmate with notice that the work is unacceptable, an opportunity to object, and a right to further review by a person other than the one who initially disapproved the material. The Bureau's Administrative Remedy Procedure provides the opportunity for formal review of a complaint which relates to any aspect of the inmate's imprisonment.

4. § 544.34—An inmate objected to the showing of certain movies in the institution, citing a movie shown at his institution which he believed to reflect violence, immature behavior and a glorified image of street gangs. § 544.34 attempts to deal with this concern by having a committee composed of staff and inmate representatives select films on behalf of the inmate population and then submit their list for final approval of the Warden. In accordance with this procedure, the final rule deletes the proposed language of "X-rated films may not be shown", as all films are to be considered within the provisions of final § 544.34. These provisions strive to

ensure that movies shown are representative of the desires of the inmate population while not posing a potential danger to the individual inmate or to institutional security and order.

III. Part 550, Subpart B—Alcohol Testing

Part 550, Subpart B, originally titled "Marijuana and Alcohol Testing", is retitled in the final rule "Alcohol Testing". The proposed rule language on marijuana testing is withdrawn. Proposed §§ 550.12 and 550.13 become final § 550.10 (a) and (b).

IV. Part 552, Subpart D—Hostages

1. Proposed § 552.31 (a) and (b) are combined into final § 552.31(a). The proposed phrase, "staff who have a relationship with the captors" is deleted from the final rule. Relationship with the captors is only one consideration to be given in assigning staff. Negotiation training is another. These aspects are internal instructions to staff and are not subject to rules publication. Proposed § 552.31 (c) and (d) become final § 552.31 (b) and (c). Final § 552.31 (b) and (c) substitute the term "person" for "staff member", in recognition that outside assistance may be requested. Final § 552.31(b) substitutes the term "intermediary" for "go-between".

V. Part 572, Subpart D—Parole and Mandatory Release Violator Reports

1. Final § 572.31(e) is revised to read "Parole or mandatory release" as an inmate cannot simultaneously be on both parole and mandatory release on the same sentence.

2. A suggestion that the violator report contain comments by persons who are requested by the inmate and who have knowledge of the events surrounding the alleged violation is not precluded by the final rule. However, there is no basis to make this a mandatory aspect. Interested persons may communicate their knowledge directly to the U.S. Parole Commission.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 USC 552 (a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(t), 28 CFR Chapter V is amended as set forth below. The effective date of these rules is June 22, 1980.

Dated: May 14, 1980.

Norman A. Carlson,
Director, Bureau of Prisons.

1. Subchapter C is amended as follows:

A. Part 544, Subparts B and D are added.

B. Part 546 is added.

C. In Part 550, Subpart B is added.

D. Part 552 is added.

A. In Part 544, Subparts B and D are added.

PART 544—EDUCATION

* * * * *

Subpart B—Education Tests: Minimum Standards for the Administration, Interpretation, and Use at all Bureau of Prisons Institutions

Sec.

544.10 Purpose and scope.

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Subpart D—Recreation Programs—Inmates

544.30 Purpose and scope.

544.31 Definitions.

544.32 Goals.

544.33 Art and hobbycraft.

544.34 Movies.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

* * * * *

Subpart B—Education Tests: Minimum Standards for the Administration, Interpretation, and Use at all Bureau of Prisons Institutions

§ 544.10 Purpose and scope.

(a) The Bureau of Prisons administers appropriate educational tests to inmates confined within its institutions. Staff shall administer the Stanford Achievement Test (SAT) within one month of arrival of a newly committed inmate sentenced to a term of more than one year provided that the inmate reads English. Staff may administer the Revised BETA, the General Aptitude Test Battery (GATB), and other appropriate achievement and aptitude tests as needed to take a specific measure of achievement or aptitude. Community Treatment Centers, Detention Centers, and Metropolitan Correctional Centers are excluded from the provisions of this rule, as the test procedures described apply only to institutions and camps maintaining full educational programs.

(b) When test results are required for program placement and other purposes, the Warden may approve the administration of an SAT to a newly committed inmate who is serving a sentence of a year or less.

(c) Staff may not allow inmates to administer, score, or interpret tests which are the subject of this rule. Staff may not assign the clerical handling of such tests to an inmate.

Subpart D—Recreation Programs—Inmates

§ 544.30 Purpose and scope.

The Bureau of Prisons encourages an inmate to make constructive use of leisure time and offers the interested inmate opportunity to participate in a wide variety of sports and social activities, as well as arts and hobbycrafts. The Bureau of Prisons encourages the showing of movies whose chief value may be their entertainment potential. Except for such Community Treatment Centers, Detention Centers, and Metropolitan Correctional Centers where full recreation programs may not be feasible, the Warden shall operate a recreation program in the institution to provide an inmate the opportunity for maximum use of leisure time.

§ 544.31 Definitions.

(a) *Leisure Activities*. Describe a wide range of activities in which an inmate may engage when not performing assigned duties. Leisure activities include organized or informal sports, table games, hobbycrafts, membership in social and cultural organizations, and attendance at movies and stage shows. Religious activities, education classes, and activities conducted by Psychology Services are not included within this definition.

(b) *Organized Activities*. Are activities for which there is an accounting by registration or roster of individual participation.

(c) *Art Work*. Includes all paintings and sketches rendered in any of the usual media (oils, pastels, crayons, pencils, inks, and charcoal), with the exception of printers or india ink, consistent with institution guidelines.

(d) *Hobbycraft Activities*. include leatherwork, models, clay, mosaics, crocheting, knitting, sculptures, woodworking, lapidary, and other forms consistent with institution guidelines.

§ 544.32 Goals.

(a) The Warden is to insure, to the extent possible, that:

(1) Leisure activity programs are used to meet the social, physical, and psychological needs of inmates;

(2) Leisure activities are designed to attract inmate participation regardless of ethnic, racial, age and sex differences, and to provide positive carry-over for post-release involvement;

(3) An inmate with the need, capacity, and desire has the opportunity to complete one or more prescribed leisure activities (see CFR 544.81);

(4) A hobbycrafts program is available in the institution;

(5) Music programs are offered in the institution to provide an inmate the opportunity to learn basic theory, and to develop appreciation, as well as musical skills; and

(6) Intramural competitive activities are organized for each appropriate season of the year.

§ 544.33 Art and hobbycraft.

(a) An inmate engaged in art or hobbycraft activities may obtain materials through:

(1) The institution art program (if one exists);

(2) The commissary sales unit;

(3) Special purchase commissary orders, if the sales unit is unable to stock a sufficient amount of the needed materials; or

(4) Other sources approved by the Warden.

(b) Each inmate shall identify art or hobbycraft materials by showing the inmate's name and registration number on the reverse side of the item.

(c) Completed or abandoned art or hobbycraft articles may be disposed of in the following manner:

(1) Upon approval of the Warden, by giving the item to an authorized visitor;

(2) Mailing the item to a verified relative or approved visitor; postage, unless otherwise determined by the Warden, must be paid by the inmate;

(3) Selling the item through an institution's art and hobbycraft sale program (if one exists) after sales prices have been determined by the institution's Price Committee; or

(4) Other methods approved by the Warden.

(d) *Restrictions.*

(1) The Warden may restrict, for reasons of security and housekeeping, the size of inmate paintings. Paintings mailed out of the institution must conform to both institution guidelines and postal regulations. If an inmate's art work or hobbycraft is on public display, the Warden may restrict the content of the work in accordance with community standards of decency.

(2) The Warden may set limits, in compliance with commissary guidelines, on the amount of money an inmate may spend on art or hobbycraft material.

(3) The Warden may restrict for reasons of security, fire safety, and housekeeping, the use or possession of art and hobbycraft items or materials.

(4) The Warden may limit hobbycraft projects in the cell/living areas to those which can be contained/stored in designated personal property containers. Exceptions may be made for such items as a painting where the size would prohibit placement in a locker.

Hobbycraft items must be removed from the living area when completed.

(5) The Warden shall require completed hobbycraft articles to be mailed out of the institution, at the inmate's expense, within 30 days of completion or disposal through approved sales. However, articles offered for sale must be sold within 90 days of completion, or be mailed out of the institution at the inmate's expense.

§ 544.34 Movies.

The Warden may approve the showing of movies at the institution. A committee designated by the Warden shall select and review suggested films and submit the list to the Warden for final approval. The committee shall include staff and inmate representatives.

B. Part 546 is added.

PART 546—SAFETY

Subpart A-B [Reserved]

Subpart C—Filing Claims for Inmate Accident Compensation

Sec.

546.20 Purpose and scope.

546.21 Procedures.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 4126, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99, 301.5.

Subpart A-B [Reserved]

Subpart C—Filing Claims for Inmate Accident Compensation

§ 546.20 Purpose and scope.

The Bureau of Prisons recognizes an inmate's right to file a claim for inmate accident compensation when the claim results from a work-related injury incurred while confined in federal custody. The Warden shall ensure that an inmate who sustains a work-related injury while confined in federal custody is advised of the right to file a claim for inmate accident compensation prior to release from confinement or transfer to a Community Treatment Center. The Warden shall document this notification in the inmate's record.

§ 546.21 Procedures.

(a) As part of the institution's Admission and Orientation Program, staff shall discuss with the inmate the accident compensation procedures and shall provide each inmate with a copy of the Inmate Accident Compensation Procedures Booklet and with a copy of the Uniform Basic Safety Regulations. Staff shall obtain a signed and dated receipt from each inmate, for placement in the inmate's central file.

(b) Staff shall interview the inmate who has incurred a documented work-

related injury while in custody approximately 30 days prior to the inmate's scheduled release from confinement or transfer to a Community Treatment Center. In the interview, staff shall advise the inmate of the right to file a compensation claim and of the importance of filing the claim prior to release from confinement or transfer to a Community Treatment Center. Staff shall request the inmate sign an appropriate form acknowledging advisement of the right to file a compensation claim. In the event the inmate refuses to sign, the staff member who made the advisement shall document this refusal on the form and sign the form himself. Documentation of the notification is then placed in the inmate's central file.

(c) In addition to staff action as described in paragraph (b) of this section, an inmate may elect to directly contact staff regarding filing a claim for accident compensation. Such a request should not be made until approximately 30 days prior to the inmate's scheduled release from confinement or transfer to a Community Treatment Center.

C. In Part 550, Subpart B is added.

PART 550—DRUG PROGRAMS

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Subpart B—Alcohol Testing

Sec.

550.10 Purpose and scope.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subpart B—Alcohol Testing

§ 550.10 Purpose and scope.

The Bureau of Prisons maintains a surveillance program in order to deter and to detect the illegal introduction or use of alcohol in its institutions. In an effort to reduce the introduction or use of alcohol, the Warden shall establish procedures for monitoring and testing individual inmates or groups of inmates who are known or suspected to be users of alcohol, or who are considered high risks based on behavior observed or on information received by staff.

(a) Staff may prepare a disciplinary report on an inmate who shows a positive substantiated test result for alcohol.

(b) Staff may initiate disciplinary action against an inmate who refuses to submit to an alcohol test.

D. Part 552 is added.

PART 552—CUSTODY**Subpart A-C [Reserved]****Subpart D—Hostages**

Sec.

- 552.30 Purpose and scope.
- 552.31 Negotiations.
- 552.32 Hostages—no authority.
- 552.33 Non-negotiable items.
- 552.34 Notifications.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subpart A-C [Reserved]**Subpart D—Hostages****§ 552.30 Purpose and scope.**

The Warden of each institution has the authority to resolve a situation in which a hostage is taken in the institution. Staff's primary objectives in these situations are to safely free the hostage and to regain control of the institution.

§ 552.31 Negotiations.

(a) The Warden is not normally directly involved in negotiations, generally assigning this responsibility to another individual.

(b) A person assigned as negotiator has no decision-making authority but acts as an intermediary.

(c) A person assigned as negotiator shall attempt to keep communications open at all times with the captors.

§ 552.32 Hostages—no authority.

Captive staff have no authority, and their directives shall be disregarded.

§ 552.33 Non-negotiable items.

The following items are non-negotiable:

- (a) Release of captors from custody;
- (b) Immunity from prosecution.

§ 552.34 Notifications.

(a) The Warden shall assign staff to handle all news releases and news media inquiries in accordance with the rule on Contract with News Media (see 28 CFR 540.65).

(b) The Warden shall arrange to have the family members of the hostages notified as soon as practical after the incident occurs.

2. Subchapter D is amended by adding Subpart D to Part 572.

PART 572—PAROLE

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Subpart D—Parole and Mandatory Release Violator Reports

Sec.

- 572.30 Purpose and scope.
- 572.31 Procedures.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

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Subpart D—Parole and Mandatory Release Violator Reports**§ 572.30 Purpose and scope.**

The Bureau of Prisons provides the United States Parole Commission with a Violator Report for use at the revocation hearing of a parole or mandatory release violator, when that hearing is conducted in an institution of the Bureau of Prisons.

§ 572.31 Procedures.

Staff shall prepare the Violator Report to include the following information:

- (a) The inmate's original offense, sentence imposed, date and district;
- (b) Description of release procedure;
- (c) Alleged violation(s) of parole or mandatory release;
- (d) Inmate's comments concerning the alleged violation(s);
- (e) An outline of the inmate's activities while under supervision on parole or mandatory release; and
- (f) At the option of the inmate, statement of current release plans and available community resources.

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DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 524

Control, Custody, Care, Treatment and Instruction of Inmates; Proposed Rulemaking and Request for Comments

AGENCY: Bureau of Prisons, Justice.

ACTION: Proposed rules.

SUMMARY: The Bureau of Prisons is proposing another set of rules for the management of inmates in Federal penal and correctional institutions. Published rules of the Bureau of Prisons relate to the control, custody, care, treatment, and instruction of inmates. This installment encompasses the Bureau of Prisons' proposed rules on Central Inmate Monitoring System. Discussed are Bureau procedures to monitor and control the transfer and community activities of certain inmates who present special needs for management. A proposed rule on this subject, published in the *Federal Register* July 17, 1978, is withdrawn.

DATE: Comments must be received on or before July 21, 1980.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 910, 320 1st Street, NW, Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724/3062.

SUPPLEMENTAL INFORMATION: Pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director of the Bureau of Prisons in 28 CFR 0.96(t), notice is hereby given that the Bureau of Prisons intends to publish in the *Federal Register* its proposed rules on Central Inmate Monitoring System.

Portions of this rule were proposed previously in the *Federal Register* (July 17, 1978, at 43 FR 30575-30576), and are now withdrawn. The present set of rules on Central Inmate Monitoring System discusses the Bureau of Prisons' procedures to monitor and control the transfer and community activities of certain inmates who present special needs for management. This monitoring is not for the purpose of precluding inmates from transfer or participation in community activities, when the inmate is otherwise eligible, but rather to provide protection for all concerned and to ensure the safe and orderly running of the institution.

Interested persons may participate in this proposed rulemaking by submitting

data, views, or arguments in writing to the Bureau of Prisons, Room 910, 320 1st Street, NW, Washington, DC 20534. Comments received before July 21, 1980 will be considered before final action is taken. Copies of all written comments received will be available for examination by interested persons at the Bureau of Prisons, Room 910, 320 1st Street, NW, Washington, DC 20534. The proposed rules may be changed in light of the comments received. No oral hearings are contemplated.

In consideration of the foregoing, it is proposed to amend Subchapter B of 28 CFR, Chapter V by adding Part 524 to read as follows:

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER

PART 524—CLASSIFICATION OF INMATES

Subpart A—E [Reserved]

Subpart F—Central Inmate Monitoring System

Sec.

524.70 Purpose and scope.

524.71 Responsibility.

524.72 Central inmate monitoring case categories.

524.73 Procedures.

524.74 CMC activities clearance.

524.75 Review of CMC status.

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5015, 5039, 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

Subpart A—E [Reserved]

Subpart F—Central Inmate Monitoring System

§ 524.70 Purpose and scope.

The Bureau of Prisons monitors and controls the transfer and community activities of certain inmates who present special needs for management. Such inmates, known as Central Monitoring Cases (CMC), require Central Office of Regional Office approval for transfers or community activities recommended by the Warden. This monitoring is not for the purpose of precluding inmates in the system from transfers or participation in community activities, when the inmate is otherwise eligible, but rather to provide protection for all concerned and to ensure the safe and orderly running of federal institutions.

§ 524.71 Responsibility.

Authority for actions relative to the Central Inmate Monitoring System is delegated to the Assistant Director, Correctional Programs Division, Regional Directors, and Wardens. Each of these persons shall designate a CMC

coordinator for the Central Office, each Regional Office, and each institution, respectively. The CMC coordinator shall ensure that no inmate has direct contact with any CMC data or information.

§ 524.72 Central inmate monitoring case categories.

(a) Central inmate monitoring cases are designated according to the following categories.

(1) 01 *Witness Security Program:*

Those inmates who are under the Department of Justice Witness Security Program.

(2) 02 *Witness Protection Unit:* Those inmates who are under the DOJ Witness Security Program and/or BOP Witness Security Program and who are housed in an MCC Witness Protection Unit.

(3) 03 *Sophisticated Criminal Activity:* Those inmates who have been involved in large-scale, sophisticated criminal activity.

(4) 04 *Secret Service Surveillance:* Those inmates who have made threats to government officials or have been identified by the U.S. Secret Service as requiring special surveillance.

(5) 05 *Broad Publicity:* Those inmates who have received widespread publicity.

(6) 06 *Disruptive Groups:* Individuals who belong to or are closely associated with prison gangs, which have a history of disrupting institutional operations and security in either state or federal penal facilities.

(7) 07 *Assaultive Persons or Escape Risks (Special):* Extremely assaultive inmates or escape risks who require housing in special control units and may not function in general population.

(8) 08 *Assaultive Persons or Escape Risks (General):* Extremely assaultive inmates or escape risks with a recent history of violence or escape attempts or actions who can function in general population.

(9) 09 *Special Supervision:* Inmates who require special supervision and/or placement for their protection from unknown inmates.

(10) 10 *Further Separations:* Those individuals who may come into federal custody in the future and should be separated from individuals currently in federal custody.

(11) 11 *Separation (State):* Those inmates who are housed in state facilities for separation and protection purposes.

(12) 12 *Separation:* Those inmates who may not be confined in the same facility with other specified individuals.

(b) Except as provided in § 524.74(c)-(f):

(1) The Central Office will control confirmation of cases, transfers, and

community activities of persons designated in Categories (01) through (06) of this section;

(2) The Regional Office will control confirmation of cases, transfers, and community activities of persons designated in Categories (07) through (11) of this section; and

(3) The Regional Office will control transfers and community activities of persons, and the Warden will control confirmation of cases in Category (12) of this section.

(c) When an inmate is designated and/or tentatively designated a central inmate monitoring case in two or more categories, the highest confirming authority shall control confirmation, transfers, and community activities (except as provided in § 524.74(c)-(f) for that inmate. For example, where an inmate is tentatively designated both a Category 04, Secret Service Surveillance, and a Category 12, Separation, the Central Office Inmate Monitoring Program Section shall make the decision as to confirmation.

§ 524.73 Procedures.

Staff shall use the following procedure in making central inmate monitoring designations.

(a) An inmate may be identified at any time for tentative designation as a central inmate monitoring case by the appropriate staff at the Central Office Regional Office, or institution. This tentative designation takes effect when proper notifications are made to authorities at the institution where the designated inmate is confined and at the Central Office or Regional Office.

(b) The institution's CMC Coordinator shall advise the inmate in writing as promptly as possible of the tentative designation and the basis for it. The notice of the basis may be limited in the interest of security or safety. For example, in separation cases under § 524.72, notice will not ordinarily include the names of those from whom the inmate must be separated. On the other hand, in sophisticated criminal involvement cases under § 524.72, adequate notice shall include specific reference to the sophisticated criminal involvement, that is, the crime or crimes for which the inmate was convicted or explicit and reliable information of other sophisticated criminal activity.

(c) The institution's CMC Coordinator shall give the inmate an opportunity to respond and object in writing to the designation if the inmate desires to do so. If the inmate indicates that information must be obtained from outside the institution, the inmate will be given a reasonable time (ordinarily not to exceed 30 days) to provide it. The

CMC Coordinator shall have the inmate sign a notification form as conformation that the inmate was notified of the tentative designation. A copy of this form is provided to the inmate.

(d) The CMC Coordinator shall forward to the confirming authority complete information regarding the central inmate monitoring case designation, including, but not limited to, a summary of the inmate's objections and a copy of all written material submitted by the inmate under paragraph (c) of this section.

(e) The confirming authority shall make a final decision based on material submitted and shall notify the institution's CMC Coordinator in writing of the decision. The CMC Coordinator shall notify the inmate of the final decision. At the time of notification, the CMC Coordinator also advises the inmate that the inmate may appeal the final decision through the Administrative Remedy Procedure. The inmate shall sign for and receive the original of the notification form, with a copy being placed in the inmate's central file. When the inmate is not confirmed as a CMC case, staff shall remove from the inmate's central file all references to the tentative designation, with the exception of the notification form and original documentation.

(f) When an inmate's name is ordered removed from the central inmate monitoring list, staff shall remove all references to the designation from the inmate's file and any other written material in such a way that any person reviewing the file material will not be able to ascertain that such a designation was made. The confirming authority shall notify the inmate in writing of the removal of the specific CMC designation. The inmate shall sign for and receive the original of this notification form.

§ 524.74 CMC activities clearance.

(a) If designated or tentatively designated a central inmate monitoring case, an inmate may not be transferred (except for medical emergencies) and may not participate in community programs without specific prior approval from the appropriate confirming authority.

(b) Except as provided in paragraphs (c)-(f) of this section, clearance by the Central Office or Regional Office (depending upon designated category) is required prior to the CMC inmate's participation in the following activities:

(1) Transfer to another federal facility (except a satellite camp at the facility where already located);

(2) Transfer to non-federal facilities or contract CTCs (for continued service of federal sentence);

(3) Writ release to federal, state, and/or local jurisdictions;

(4) Furloughs, including day passes;

(5) Escorted trips outside a 25 mile radius of the institution; and

(6) Work or Study Release.

(c) The Warden may approve the transfer of a CMC inmate in Categories 03-12 from the Warden's institution to that institution's satellite camp.

(d) The Warden may approve a CMC inmate in Categories 03-12 for an escorted trip within a 25 mile radius of the institution.

(e) Furloughs and Work or Study Release placements for a CMC inmate in Categories 03-12 require approval of the Regional Director, and if the inmate is designated Category 03-06 the approval of the Central Office is also required.

(f) The Central Office Inmate Monitoring Section shall be the confirming authority on all activities clearance for a CMC inmate in Category 01-02.

§ 524.75 Review of CMC status.

With the exception of CMC Category 01 and Category 02 inmates, the Warden shall ensure that each CMC inmate is reviewed on a semi-annual basis for new information, or change in behavior or status which may substantiate the inmate's removal as a central monitoring case.

Dated: May 14, 1980.

Norman A. Carlson,
Director, Bureau of Prisons.

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