MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

Held in Room 526, at the Statehouse at 3:30 a. m./p. m., on March 13, 19 79.

All members were present except:

The next meeting of the Committee will be held at 3:30 a. m./p. m., on March 14, 19 79.

These minutes of the meeting held on March 12, 19 79 were considered, corrected and approved.

JOSEPH J. HOAGLAND
Chairman

The conferees appearing before the Committee were:

Senator Elwaine Pomeroy
Senator Morris
Randy Hearrell, Judicial Council
Joan M. Hamilton, Shawnee County District Attorney's Office
Jim Marquez, Kansas Retail Liquor Dealers
Mark Boranyak, Kansas Beer Wholesales Association
Richard Burnett, St. Francis Boys' Homes, Salina
Ellen Richardson, Kansas Children's Service League
Charles Hamm, Attorney, SRS

Chairman Hoagland called the meeting to order at 3:30 p.m. and introduced Senator Pomeroy, sponsor of SB 42, who briefly described the bill to committee. This bill was introduced by request of the Judicial Council and was amended in the Senate Judiciary Committee, by deleting and adding some wording to the bill. He further explained the amendments to the committee. Senator Pomeroy then passed out copies of a statement from the Asssistant District Attorney in Wichita. (See Attachment # 1).

Randy Herrill, Judicial Council, testified briefly in favor of SB 42 and asked the committee to consider adding the word "wanton" in Section 1 of the bill.

Joanne Hamilton, Assistant District Attorney in Shawnee County, testified next in favor of SB 42.

Senator Morris, sponsor of SB 221 then explained the bill to committee. He handed out copies of an article from the Wichita Eagle and Beacon, dated Saturday, March 10, 1979, for the committee's information. (See Attachment # 2).

Senator Crofoot then explained SB 231, a bill dealing with false ID's. Jim Marquez, Kansas Retail Liquor Dealers Association, testified in support of SB 221 and SB 231. (See attachment # 3). Mark Boranyak, Executive Director of Kansas Beer Wholesalers also testified in support of SB 221 and SB 231.

Wayne Morris, Research Department then gave a brief description of the two interim bills, SB 22 and SB 23, concerning juvenile code.

Richard Burnett, St. Francis Boys Homes in Salina, testified in opposition to SB 23. (See attachment # 4).

Ellen Richardson, staff attorney for Kansas Children's Services League spoke in favor of SB 22, and recommended the bill as amended by the Senate be passed favorably.

Charlie Hamm, Attorney for SRS testified briefly their support of SB 22 and SB 23.

Harry M. Miller, Executive Director of Lifeline Children's Home, testified in opposition to SB 23 as written. He asked the committee to work on the bill to make it possible for Kansas children to get medical treatment.

Senate Bill 90 was then brought up for possible action. Wayne Morris, Research Department reported back to the committee on the statutes that require precedence. Rep. Glover then moved to pass SB 90 favorably. Seconded by Rep. Foster. Motion carried.

The meeting adjourned at 4:55 p.m.

CHIEF ASSISTANT
Patrick L. Connolly 268-7435
DOCKET & ASSIGNMENT
Paul W. Clark 268-7640
WARRANTS & COMPLAINTS
Larry D. Kirby 268-7293
APPEALS DIVISION
Stephen M. Joseph 268-7635
VESTIGATIONS
Wallace C. Hanks 268-7585

VERN MILLER
DISTRICT ATTORNEY
Of The 18th Judicial District
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535 North Main Street, Wichita, Kansas 67203
(316) 268-7781

CONSUMER PROTECTION DIVISION
Richard L. Schodorf 268-7921
CHECK DIVISION
Dietmar K. Caudle 268-7921
NARCOTICS DIVISION
Kiehl Rathbun 268-7176
FAMILY LAW
Gary Jarchow 268-7436

February 13, 1979

Senator Elwaine F. Pomeroy
Chairman Senate Judiciary Committee
Kansas State Senate
State Capitol
Topeka, Kansas 66612

Dear Senator Pomeroy:

Thank you again for returning my call one day last week.

The matter about which we spoke briefly is a situation we have found here in Sedgwick County and which exists in other counties based upon our conversation with other law enforcement and prosecuting officials.

The problem concerns the affidavits necessary to support a search warrant or an arrest. The problem arose in Wilbanks vs. State, (224 Kan. 66 at Page 75) where the Kansas Supreme Court held as follows:

> "Arrest and detention are no less serious invasions of the rights of a citizen than are searches of a citizen's house, automobile, or place for rest. Warrants for arrest cannot be issued except upon probable cause. Statements to the contrary in our earlier cited cases not withstanding, we now hold that a verified complaint couched in the language of a criminal statute, standing alone, is not sufficient to support a finding of probable cause and the issuance of an arrest warrant".

This of course overrules 100 years of case law whereby, a verified complaint charging an offense which stems from the language of an statute was sufficient to support a warrant for arrest.

In this particular jurisdiction, the probable cause is placed in an affidavit as a separate document and attached to the complaint/information for review by the Court prior to a warrant being issued for the arrest of the individual charged with the crime in the complaint/information. Once the case is filed, the complaint/information together with the supporting affidavit become a matter of public record for perusal by anyone who desires to do so.

Atch. 1

From this comes the problem we have faced, and that is names of witnesses and victims have been published in the paper, and are available to friends of the defendant or defendant's themselves prior to arrest. Therefore, the victims and witnesses have been called, harassed and threatened by defendants or those interested in the outcome of the defendant's case. This of course creates an intolerable situation for an individual who was the victim of crime and upon doing his duty and reporting his observation to the police, finds himself the object of harassment.

As to the affidavit to support a warrant for search, the same problem could arise as mentioned above.

Viewed from the other side, it is obvious that should one's name with all the details of an arrest or search be available for public scrutiny this could be most embarrassing and could indeed ruin the reputation or career of an individual charged with a crime with a later finding or verdict of not guilty.

We do not argue with the law and feel that an arrest of an individual or a search of those places in which an individual might expect privacy, should not be conducted by the State without the appropriate probable cause. We do not argue with the proposition that a disinterested magistrate ought to make that determination. Our proposal would simply provide for the way in which those affidavits for probable cause are kept by the courts.

Our proposal would be as follows: an amendment to K.S.A. 22-2302 to provide the language substantially as follows:

> Affidavits or sworn testimony in support of the probable cause requirement hereunder shall not be made available for examination without a written order of the court.

We would further propose an amendment to Cahpter 22, Article 23 to read substantially as follows:

> Search warrants, affidavits or sworn testimony in support of the probable cause requirement to support applications for search warrants hereunder provided for shall not be made available for examination without written order of the court.

We believe with these amendments the documentation would be available to the defendant or his counsel, the prosecuting attorney and the court, and could be available to anyone else with an order of the court.

We respectfully request that the above committee which you chair, consider and propose for passage the above recommended statutory changes.

A representative of this office, a representative of the Wichita Police Department and the Sedgwick County Sheriff's Office will make themselves available to appear before the committee at the committee's convenience.

If we might be of any assistance to you whatsoever in this matter, or in any other concerning Sedgwick County, please do not hesitate to contact us.

Sincerely yours,

Paul W Clark

PAUL W. CLARK
Assistant District Attorney

PWC:mrc

Fake IDs 'For Amusement Only' Aren't Fun for Cops

By CASEY SCOTT
Staff Writer

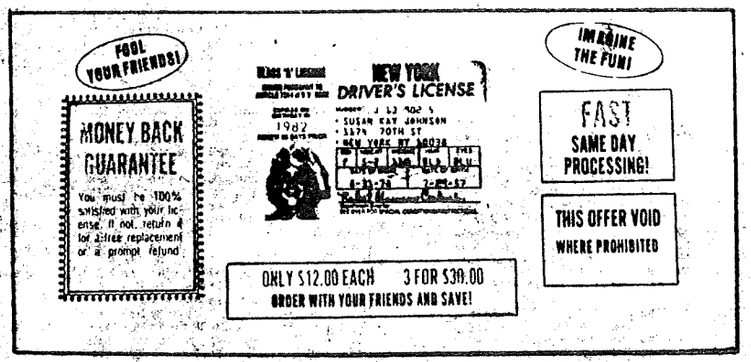
"Fool your friends!" the advertisement barks. "Imagine the fun!"

Fun, perhaps, for those 16- and 17-year-olds who are dying to have identification that will get them inside the local tavern with their 18-year-old buddies.

They say that for $12, and with the proper application, a California firm will mail a laminated plastic "driver's license" including the applicant's photograph and the physical information provided — whether it's true or not.

The magazine advertisement says the offer is void where prohibited and can be sold for "amusement purposes only."

But, it's not amusing for everyone, including the Wichita police.



SAMPLE MAGAZINE AD FOR DRIVER'S LICENSE
. . . Teenagers can receive bogus identification

"THERE'S LOTS OF these driver's licenses floating around, lots of them with different states' names," said Capt. Troy Hampton, who recently found a lucrative license business which he says some South High School students operate.

The licenses look so authentic that police officials are concerned that an officer could be fooled if he weren't familiar with another state's license.

Glancing at the advertisement's sample New York license, Deputy Chief Bill Cornwell said, "Having not seen one before (an official New York license), I would probably accept that."

Hampton learned last week of the licenses when a mother of a South High student brought to him a Michigan license her daughter was using to get into taverns.

Apparently, Hampton said, a youth vacationing in California last summer saw the advertisement and sent for the license. A friend then ordered a card, and it was returned with a birth certificate matching the physical information.

THE YOUTHS APPARENTLY were successful in using the licenses for identification, and began ordering more licenses, for a fee, for their friends from the California company.

"We've heard that a hundred applications have been mailed in at once," Hampton said.

Hampton has also discovered a number of youths have ordered identification cards that are similar to the licenses, but say the card is issued for identification purposes.

The identification cards cost $7 from a Colorado company, and a photograph and physical information included with the application is placed on the card.

THE APPLICANT SPECIFIES the address and state on both the licenses and identification cards. In other words, a Wichita youth might be holding a Florida license with his picture.

Hampton said youths caught using the cards for identification to buy liquor or to operate a car could be prosecuted under city ordinances.

And tavern operators who accept the licenses as correct identification could be prosecuted for serving liquor to minors.

Hampton turned over information about the two mail order companies to the FBI to check for federal violations.

BUT LARRY WELCH, head of the local FBI office, said Friday that it ute to put it under," he said. "It appears it'll have to be prosecuted on a local level."

Hampton said he has instructed his officers to look for the licenses, but "we're just warning the kids that they're running the risk of getting into a lot of serious trouble," he said.

Atch 2

TO: The House Judiciary Committee
Mr. Joe Hoagland, Cahirman

FROM: Kansas Retail Liquor Dealers Association

Re: Senate Bill 221 and Senate Bill 231

The Kansas Retail Liquor Dealers Association strongly supports both Senate Bill 221 and Senate Bill 231.

Today the driver's license is the universally accepted card for identification purposes. Not only does the driver's license authorize a person to operate a motor vehicle it is also used for cashing checks and, in many instances, proving age for the purchase of liquor. On many occasions retail liquor store owners or clerks are forced to make decisions on whether a person purchasing liquor is of legal age. As a general rule a driver's license is used to prove age. In those cases where driver's licenses do not have photos on them a minor may use someone else's driver's license if he has the same physical characteristics. It may be impossible for the retailer to determine whether that is the person.

In addition, under Kansas Law, the presumption is that the retail liquor store owner or clerk knew the person was a minor and subjects that retailer to possible suspension or revocation of his license. Even though retailers are vigilant in avoiding sales to minors it does happen. When that happens the retailer will face administrative action and the minor may be charged in juvenile court, however, the person who loaned the driver's license to the minor usually is not prosecuted. This bill would help alleviate this problem and hopefully discourage persons from lending their driver's licenses for unlawful purposes. We hope this committee will pass this bill out favorably.

With reference to Senate Bill 231, many of the same arguments can be made and suffice it to say, the association supports the bill.

Atch. 3

Youth Alternatives #1
FEB 1979

OJJDP modifies definition of correctional facilities.

LEAA's Office of Juvenile Justice and Delinquency Prevention (OJJDP) will modify for the second time its controversial regulations defining the correctional facilities in which status offenders and nonoffenders may be placed. These definitions have been the subject of a bitter two year debate in the juvenile justice field and this second modification comes immediately after nearly forty states have submitted crucial reports on their compliance with the old definitions.

Confusion surrounding the definitions stemmed from the fact that LEAA originally attempted to accomplish two goals with one guideline:

*first, to prohibit the placement of status offenders and nonoffenders in detention or correctional facilities, and
*secondly, to insure that if they were placed anywhere, it would be in a "shelter facility".

Congress, in the 1977 Amendments to the Juvenile Justice and Delinquency Prevention Act, later repealed this "shelter care" language in favor of an amendment offered by Representative George Miller (D-Ca.) calling for the placement of youth in the least restrictive, closest to home, small community based facility.

"The new guidelines will present a clear statement of what a correctional of detention facility is, and a clear statement of what the George Miller amendment means, and they (the guidelines) will separate them," OJJDP Administrator John Rector told Y.A. "We will no longer classify a large non-community based, non-secure facility as a correctional or detention facility. The Juvenile Justice Act puts a priority on small facilities; but those who oppose this emphasis have latched onto the unartful way of definitions were drawn to fight it, obscuring the issue."

PUBLIC AFFAIRS BULLETIN
CONFIDENTIAL PUBLICATION
OF NAHC PUBLIC AFFAIRS COMMITTEE

#2

Dr. Ian A. Morrison
Greer-Woodycrest Children's Services
Hope Farm
Millbrook, New York 12545

SPECIAL
Edition 0415
February 15, 1979

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* OJJDP GUIDELINE CHANGES

A DRAFT OF PROPOSED LEAA-OJJDP GUIDELINE REVISIONS HAS BEEN PREPARED BY OJJDP AND IS CIRCULATING AMONG OFFICIALS RELATED TO OJJDP. THE DRAFT REVISIONS APPEAR TO RESPOND TO OUR PARTICULAR PROBLEMS WITH THE GUIDELINES AND IN A DRAFT OF A PROPOSED STATEMENT FOR THE FEDERAL REGISTER, MR. RECTOR WRITES THE FOLLOWING:

> "...the proposed change will eliminate non-secure, non-community based institutions from the definition of 'detention or correctional facilities'
>
> "This change is more consistent with the JJDP Act's philosophy and mandates dealing with the deinstitutionalization of youth....it is inconsistent with the deinstitutionalization mandate of the JJDP Act to classify large, non-secure, non-community-based facilities as being juvenile detention or correctional facilities. OJJDP and LEAA cannot support this practice and continue to fulfill our responsibilities in administering and implementing the JJDP Act."

These statements, which reached us last Saturday morning, when taken together with his remarks made to the board of the Coalition for Children and Youth (of which NAHC is a member) late in January, would indicate that the revisions when promulgated made the guideline changes NAHC has been seeking since last March, but more particularly since August.

In January, Mr. Rector told the Coalition board that new definitions would be forthcoming and the two clauses were apt to have different sanctions. For the detention/correctional facilities clause, "states will lose their money if they have non-offenders placed in them; its very clear cut. On the other hand, if the states are not placing these youth in community based facilities, there is some argument whether the statute permits the same sanction."(!) So said John Rector.

Here is the draft wording:

> It is OJJDP's intention to substitute the following clause to criterion (A) in paragraph 52n of the Guideline Manual M 4100.1F, Change 3, which would prohibit the placement of status offenders and non-offenders in detention or correctional facilities in accord with Section 223(a)(12)(A) and if such juveniles are placed out of the home, require that such placements are in compliance with 223(a)(12)(B) of the Juvenile Justice and Delinquency Prevention Act:
>
> 52n(2)(a) For the purpose of monitoring, a juvenile detention or correctional facility is:
>
> (i) Any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders or non-offenders; or

(ii) Any secure public or private facility which is also used for the lawful custody of accused or convicted criminal offenders.

(b) For the purpose of monitoring 223(a)(12)(B) of the Juvenile Justice and Delinquency Prevention Act regarding out of home placement for juveniles described in 223(a)(12)(A), such juveniles, if placed in facilities, must be placed in facilities which:

(i) are the least restrictive alternatives appropriate to the needs of the child and community;

(ii) are in reasonable proximity to the family and the home communities of such juveniles; and

(iii) comply with 103(1) of the Juvenile Justice and Delinquency Prevention Act, in that they must be community-based which means a small, open group home or other suitable place located near the juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, and other rehabilitative services.

The reader is referred to our (Special) Public Affairs Bulletin 0403, Aug. 3, 1978, to compare the language and note the changes. That edition also carried OJJDP definitions.

It is important to note that (ii) above eliminates the phrase "or non-secure". There is no mention in this draft of numbers of beds.

In proposing to substitute guideline (b) Mr. Rector has reverted to the Act itself, and its 1977 amendments (particularly the latter) and the language is lifted directly from the Compilation of the Juvenile Justice and Delinquency Prevention Act of 1974 as Amended through October 3, 1977.

The specific language used may be found in the above in Section 223 #12 paragraph B (p. 16) and in Section 103 #1(p. 2), in that sequence.

The question now arises, of course, whether or not this proposed guideline change satisfies the members of NAHC. With the realization that in an organization the size of NAHC it is impossible to have total agreement concurrently, this writer would say that the language, if written as substitute regulation and taken together with Mr. Rector's proposed accompanying language in the Register, satisfies most of our concern raised by the August guidelines and definitions.

We fully acknowledge that the language of the Act itself may be of deep concern to many, but that language is LAW as enacted by Congress in 1974 and further amended in 1977. It does appear however that there are no sanctions available with which the states may be penalized in the event the states do not monitor compliance with the draft item b (i)(ii)(iii); thus the states will lose federal money only if they refuse to comply with a (i) (ii).

#3

ORPSCCA Newsletter

Suite 310, 1346 Connecticut Avenue N.W., Washington, D.C. 20036/(202) 833-8023

Office of Regional, Provincial, and State Child Care Associations

Volume IV, Number 9 September 1978

OJJDP's Best of All Possible Worlds

MOST CHILD CARE FACILITIES WILL BE LABELED "CORRECTIONAL" BY 1981

It won't matter if homeless children are receiving decent and nurturing care. It won't matter if there are *no* juvenile delinquents in residence. What will matter is the number of beds in the facility, the geographic location of the facility, and whether or not the children are free to come and go at will. Come January 1, 1981, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) plans to use its interpretation of the JJDP Act and its control of sorely needed Federal funds to label as correctional institutions all public or private residential facilities for children (whether publicly or privately funded) unless such residential programs are located in the children's own community or have no more than 20 beds and entrances which are both psychologically and physically open at all times.

In a very slight and very temporary concession to the heavy volume of public protest, the Final Guidelines published August 16, 1978, allow facilities with no more than 20 beds to commingle status offenders, non offenders, and delinquents until 1981. Community-based facilities with no more than 40 beds may commingle and still be homes, not correctional institutions.

Make no mistake. This Federal regulation applies to all kinds of residential care for children. States need the Federal OJJDP money to help pay for juvenile residential programs, and to get the funds they have to comply with the Federal Guidelines. This means each State must account for *all* the residential programs for children in the State—count *all* the beds, label all the children.

In States which opt to refuse the Federal money (and reject the Federal Guidelines) children's residential programs are still in trouble, because the U.S. Census Bureau uses the OJJDP labels and categories for children's institutions. This is why it is so important for ORPSCCA affiliates to be wary of contributing to the Census questionnaires and the government data base which will result. ORPSCCA's Washington office has registered official protests with both OJJDP and the Bureau of the Census. For State action see Joseph Gavrin's letter inside.

In a strongly worded protest, Senators Jacob Javits (R-N.Y.) and Daniel Moynihan (D-N.Y.) state that "in promulgating this regulation, LEAA has not followed the intent of Congress as expressed in the Act." By 1981, OJJDP will be up for reauthorization, and Congress could clarify its intentions or redefine the whole program at that time. But a lot of damage could be done in the interim. More than one ORPSCCA State Association reports the closing down of needed children's facilities for want of funds to cover cost of care.

Reports from the field indicate that several States are adopting a temporary "hang tough" policy of continuing negotiations with OJJDP around needing time to establish baseline data and institute changes. At the August meeting of the Federal Coordinating Council, OJJDP Director John Rector allowed as how most State plans are "puffery" at this point.

One curious strategy facilities in various parts of the country are exploring is the possibility of getting out from under the OJJDP labeling altogether by seeking accreditation as children's mental health facilities and accepting children as voluntary mental health commitments. It is OJJDP's position that "all juvenile non-offenders in any category should not be placed in any secure facility . . . however, a juvenile committed to a mental health facility under State law governing civil commitment of all individuals for mental health treatment would be considered as outside the class of juvenile non-offenders."

If there is any light in this tunnel right now, it is probably to be found in OJJDP's monitoring procedures. OJJDP has announced and, indeed, demonstrated a practice of "rule of reason" in dealing with States at the OJJDP Monitoring Practices conference with State Planning Agencies where it was evident States will be dealt with on an individual basis. Although Rector says OJJDP will "go out on the street next year and find out what is happening," the monitoring system is not "set in concrete." This is evident in present OJJDP policy which permits States to monitor facilities by phone or mail.

WHAT'S HAPPENING IN WASHINGTON

Key Senate Subcommittee To Hold Hearings on Day Care and Institutional Child Abuse

Speaking before the American Legion Children and Youth Committee this month, Sen. Alan Cranston (D-Calif.), Chairman of the Senate Subcommittee on Children and Youth, announced his two top priorities for the next session of Congress. First, Cranston, who has held public hearings on day care this year, plans to introduce new day care legislation which he anticipates will be "prudent and incremental in its approach, designed to promote maximum choices and opportunities for parent and child and to keep families together."

Secondly, the Subcommittee will hold public hearings to call attention to the problem of abuse of children in institutions.

Agriculture Department To Survey Residential Child Care Institutions

The U.S. Department of Agriculture (USDA) has obtained clearance to survey 400 residential child care institutions to ascertain eligibility for the school lunch program. In addition to questions on meals served at the institutions, the questionnaire will include items on type of institution, number of children in residence, staff, auditing and accounting practices. Because of the peculiar approach USDA used to obtain its sample list, ORPSCCA will be especially vigilant in reviewing the survey. The USDA survey could have the same damaging effects as are implied in the Census Bureau and OJJDP surveys which require misleading self-categorization and contribute to a false Federal data base.

OJJDP Funds May Be Non-Federal Share For Title XX Matching Requirement

According to an Action Transmittal from the Administration for Public Services, OJJDP funds may be used as the non-Federal matching share for Title XX social services if: the particular juvenile delinquency program is determined by the Administrator to be essential; there is no other way to fund it; and the services and expenditures meet other Title XX requirements.

Learning Disabled Not More Delinquent But More Likely To Be Adjudicated

OJJDP has just renewed a grant to the Association for Children with Learning Disabilities and the National Center for State Courts to continue research on the link between learning disability and juvenile delinquency. The final report is not due until August 1980, but so far this three State study of 1,400 juveniles indicates that learning disabled youth are no more delinquent in their behavior than non-learning disabled, but are twice as likely to be brought into the juvenile justice system.

CHAMPUS Issues 1978-79 Handbook

The Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) has issued a 92 page Handbook for use by CHAMPUS eligible persons. Residential treatment centers are listed among services requiring preauthorization. Care that is not medically necessary is prominently excluded. Among other excluded services are: diagnostic admissions, unnecessarily high levels of institutional care, halfway houses or any inpatient confinement used primarily to control or detain a runaway child, counseling except for approved marriage and family counseling, custodial care or domiciliary care, camps for diabetic, obese or emotionally disturbed children, and services and supplies directed by a court instead of incarceration in a detention center or reform school. For copies of the CHAMPUS Handbook write to: Department of Defense, Office of Civilian Health and Medical Program of the Uniformed Services, Denver, CO 80240.

School Violence Resource Center Grants

State ORPSCCA Associations have received copies of OJJDP's grant application solicitation for the development of a school resource network of one national and four regional centers to help schools design and implement school violence and vandalism prevention programs through training, technical assistance and advocacy. OJJDP expects to make a single 15 month, $2,500,000 grant for this program but is encouraging subgrant arrangements.

Teenage Unemployment Conference

The U.S. Department of Labor, the Community Services Administration, and 29 other organizations are sponsoring The First Annual Conference on Teenage Unemployment, October 12-14 at the Carillon Hotel, Miami Beach, Florida. Program information is available from Stuart Alan Rado, Program Coordinator, (305) 284-3314.

ORPSCCA COMMUNICATIONS LOG

ORPSCCA is a federation of Regional, Provincial and State Child Care Associations. If you are a local child care agency receiving this newsletter, it means that your state Association is a member of ORPSCCA or is considering affiliation with ORPSCCA or that your agency is affiliated with the Child Welfare League of America. The national ORPSCCA staff send each State or Provincial Association a substantial amount of information and materials which they generally share with local affiliates. **ORPSCCA Newsletter lists all communications sent to Associations so that agencies will know what has been sent. ORPSCCA affiliate agencies should request items directly from their State or Provincial office. CWLA affiliated agencies may request items from the ORPSCCA office in Washington.**

July 31: Advance Copy of the LEAA Definitions and Guidelines, M 4100, IF Change 3.
August 10: Action Alert—Residential Treatment Center Specific Regulations for Residential Facilities.
August 14: ADAMHA Survey of Residential Treatment Facilities for Emotionally Disturbed Children.
August 21: Information Memo on ORPSCCA.
August 25: Final Guidelines and Analysis—OJJDP August 16 Formula Grant Provisions.
September 11: Guidelines for OJJDP Discretionary Grant Program—National School Resource Network.
September 13: Announcement of National Conference on Teenage Unemployment.
September 15: Juvenile Justice Standards, Institute of Judicial Administration, American Bar Association. Sections on Abuse and Neglect, Rights of Minors, and Juvenile Delinquency and Sanctions.
September 25: Copy of Letter to Congressional Committees Protesting Use of Reprogrammed LEAA Funds for Monitoring Activities and Response from Senate Appropriations Committee.
September 27: Copy of Memorandum Regarding Consortium on National Standards and Mailgram Clarifying Project Goals.

WHAT'S HAPPENING IN THE STATES AND PROVINCES

Mary Wagoner

WASHINGTON: Mary Wagoner, Director of the Washington Association of Child Care Agencies, visited ORPSCCA's national office this month to discuss some of WACCA's concerns. Wagoner would be interested in an ORPSCCA conference on placements and accountability for placements. She suggests that it would be useful if State Associations could exchange information on a variety of common issues such as: exactly what are the rates the States are paying for residential care? how much liability insurance do agencies need? what do State Associations do for their members? how are State Associations funded? and what are the membership standards of various State Associations?

WISCONSIN: Four different State committees are mandated to study care for children in Wisconsin. A Child-Care Licensing Study Committee will look at all non-correctional child care institutions and recommend regulation procedures. A Special Committee on Juvenile Correctional Facilities will report in November on the capacity and utilization of present facilities as well as their programs. A Master Plan Committee is reviewing the entire juvenile correctional system. And an Adoption Advisory Committee is studying delivery of adoption services.

OHIO: Under the headline "More Juvenile Justice Insanity," the *O.A.C.C.A. Newsletter* reports that the Ohio Youth Commission is holding young men in custody at Fairfield School for Boys beyond their scheduled release dates because a new State law specifies that the population at the Fairfield facility must not drop below 300!

COLORADO: The 36 members of the Colorado Association have just gone through three months of tough negotiations over the State's inadequate funding for residential child care. The conclusion: two facilities closed, and most facilities had to sign contracts at rates below the cost of care. The State people are urging the facilities to go out and raise private money to make up the differential.

Testimony and hearings before the Joint Budget Committee failed to produce the actual allocation of more adequate funding authorized by the Long Bill which was passed by the State Legislature. The Association is holding conversations with legal counsel regarding possible injunctions or a class action suit.

Rates in in-State facilities vary from $1,967 to as low as $500. The average is $903. The average cost for out-of-State residential care is $1,260, yet the number of children placed out of State has more than doubled in the past few months.

NEW YORK: In response to ORPSCCA's briefings and Action Alerts, Joseph Gavrin, Executive Director of the New York State Council of Voluntary Child Care Agencies, has sent the following letter to the U.S. Bureau of the Census concerning its proposed census of "Juvenile Detention, Correctional, and Shelter Facilities:"

"We have studied the census form CJ-29, consulted with local and National child welfare associations, and considered your letter. In our opinion, form CJ-29 cannot achieve 'consistent and comprehensive' results on the kinds of living situations provided for delinquents and status offenders in the New York State foster care system.

This form is to be filled out by all facilities it is sent to, unless they are non-residential or small foster homes. However, Section IVA forces a facility to define itself as primarily one of the six given types. As was indicated in prior correspondence, very few of our agencies can properly be designated any of these choices, with the exception of the group home category. Therefore, most agencies which might respond to this questionnaire will undoubtedly be interpreted in the light of the answer to Section IVA. We have serious question regarding the validity of the results.

NYSCOVCCA and its member agencies fully appreciate the need for and value of accumulated and collated current information on the living conditions of status offenders and delinquents in foster care placement. We and our members are very willing to provide information which accurately represents living situations for these children in New York State.

It is our considered opinion that census form CJ-29 can result only in misleading and skewed information. We are therefore recommending to our agencies that they refuse to fill out this form. Be assured that should an appropriate form be devised to complete your purpose, we will be more than happy to participate in the census."

OKLAHOMA: The Association for Children's Institutions and Agencies has issued a revised edition of its comprehensive Directory on residential care in the State and a study of "Public Attitudes Toward Residential Care and Treatment for Children in Oklahoma." For copies of the study, write to OACIA, 423 Mayo Building, 420 South Main, Tulsa, OK 74103.

MARYLAND: The General Assembly passed a bill which creates an Office of Children and Youth within the Executive Department. The new Office will identify unmet needs of children, analyze departmental plans and budget requests, review Federal funding for children's programs, and advise the Governor and the legislature.

Child Care Food Supplements Program

Unique to the Child Care Food Program is the national average payments for supplementary food served in the program. For the period July 1 to December 31, 1978, these payments will be: 6.25 cents for each supplement served; an additional 12.50 cents for each supplement served to children from families whose incomes meet the eligibility criteria for reduced price school meals; and an additional 18.75 cents for each supplement served to children from families meet the criteria for free school meals.

Correction

The July ORPSCCA Newsletter incorrectly reported the raise in Illinois foster care payments as up to $181 per month. This should have read $282 per month.

IOWA JOINS ORPSCCA

The Iowa Association of Private Children's Agencies is the latest State Association to vote to affiliate with ORPSCCA. This brings ORPSCCA membership to 15 State and Provincial Associations, representing approximately 706 agencies:

Executive Director of the Iowa Association is John Dengler, 1101 Walnut, Des Moines, Iowa 50309, (515) 288-2899.

ORPSCCA MEMBERS

Alberta Association of Child Care Centres
Arizona Council of Child Care Agencies
California Association of Children's Residential Centers
Colorado Association of Child Care, Inc.
Connecticut Association of Private Nonprofit Child Care Agencies
Child Care Association of Illinois
Iowa Association of Private Children's Agencies
Massachusetts Council of Voluntary Child Care Agencies
Michigan Federation of Private Child and Family Agencies
New York State Council of Voluntary Child Care Agencies
Ohio Association for Child Caring Agencies
Oklahoma Association for Children's Institutions and Agencies
Pennsylvania Council of Voluntary Child Care Agencies
Washington Association of Child Care Agencies
Association for Wisconsin Child Care Institutions

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ADMIN. OFFICER—CRIMINAL JUSTICE SERVICES

March 7, 1979

The Hon. Joe Hoagland
Chairman, House Judiciary Committee
State Capitol Building
Topeka, Kansas 66612

Re: Senate Bill No. 221

Dear Sir:

Thank you for returning my call concerning Senate Bill No. 221. As you know, this bill deals with the fictitious use of a driver's license. The present wording of Section 1(a) and Section 2(a) does not make allowances for any exemptions. As we are sure you are aware, it is often necessary for undercover law enforcement personnel to use such identification. Under the present wording of K.S.A. 8-260, the law enforcement officer is guilty of a Class C misdemeanor. We would suggest an exemption for law enforcement officers in the performance of their duty, to remedy this problem.

We are not requesting nor do we intend for such an exemption to apply to Section 1(c) or Section 2(c) concerning the driver's license and the purchase of alcoholic liquor. We feel that the use of false identification by a law enforcement officer is a well recognized tool and one of which the legislature does not mean to prohibit or deny the use of.

If necessary, the Bureau will appear on behalf of this suggested amendment to Senate Bill No. 221. As Chairman of the House Judiciary Committee, any comments you have regarding this matter will be appreciated.

Sincerely,

Thomas E. Kelly
Director

Kurt J. Shernuk
Assistant Attorney General - K.B.I.

TEK:KJS:as