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HEARING

BEFORE THE

SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENTAL RELATIONS

OF THE

COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

H.R. 12290

AUTHORITY TO CONTRACT FOR SUPERVISORY AFTERCARE OF DRUG DEPENDENT OFFENDERS

JUNE 8, 1978

Serial No. 63

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE
34-608 O WASHINGTON : 1978

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AUTHORITY TO CONTRACT FOR SUPERVISORY AFTERCARE OF DRUG DEPENDENT OFFENDERS

THURSDAY, JUNE 8, 1978

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ADMINISTRATIVE LAW
AND GOVERNMENTAL RELATIONS
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to other business, at 9:50 a.m., in room 2226, Rayburn House Office Building, Hon. George E. Danielson (chairman of the subcommittee) presiding.

Present: Representatives Danielson, Moorhead, and Kindness.

Also present: William P. Shattuck, counsel; James H. Lauer, Jr., assistant counsel; Allan F. Coffey, Jr., associate counsel, and Florence McGrady, clerk.

Mr. DANIELSON. We will now take up H.R. 12290, a public bill.

[H.R. 12290 follows:]

95TH CONGRESS
2D SESSION

H. R. 12290

IN THE HOUSE OF REPRESENTATIVES

APRIL 24, 1978

Mr. DANIELSON introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To enable the Department of Justice and the Administrative Office of the United States Courts to provide services and special supervision to drug dependent Federal offenders in an efficient and effective manner.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Contract Services for
4 Drug Dependent Federal Offenders Act of 1978".
5 SEC. 2. Section 3154 (4) of title 18, United States Code,
6 relating to the functions and powers of pretrial services
7 agencies, is amended by deleting, "and with the approval
8 of the Attorney General,".

I

1 SEC. 3. Section 3651 of title 18, United States Code,
2 relating to suspension of sentence and probation, is amended
3 by deleting from second to the last paragraph the colon
4 and everything thereafter, and inserting in lieu thereof a
5 period.

6 SEC. 4. Section 4255 of title 18, United States Code,
7 relating to supervision in the community of certain convicted
8 offenders, is amended to read as follows:

9 "An offender who has been conditionally released shall
10 be under the jurisdiction of the United States Parole Com-
11 mission as if on parole, pursuant to chapter 311 of this
12 title.

13 "The Director of the Administrative Office of the United
14 States Courts may contract with any appropriate public
15 or private agency or any person for supervisory aftercare of
16 an offender.".

17 SEC. 5. There is hereby authorized to be appropriated
18 such funds as may be required to carry out the purposes of
19 this Act.

Mr. DANIELSON. In case any of those present wonder why I say "public bill," it is because this subcommittee was set up to handle private bills, and we don't have many of them anymore.

We have H.R. 12290, the purpose of which is to enable the Department of Justice and the Administrative Office of the U.S. Courts to provide services and special supervision to drug dependent offenders in an efficient and effective manner.

Mr. Carlson, I know we have you with us this morning. Won't you please come forward? We also have Mr. Wayne P. Jackson present. He is Chief of the Division of Probation of the Administrative Office of the U.S. Courts.

Mr. Jackson, why don't you join Mr. Carlson and we will proceed with Mr. Carlson, but at least you are both up here.

TESTIMONY OF NORMAN A. CARLSON, DIRECTOR, BUREAU OF PRISONS, DEPARTMENT OF JUSTICE, AND WAYNE P. JACKSON, CHIEF, DIVISION OF PROBATION, ADMINISTRATIVE OFFICE OF THE U.S. COURTS

Mr. DANIELSON. You may proceed, Mr. Carlson.

Mr. CARLSON. Thank you very much. It is good to be back before you again.

I have a prepared statement which, with your permission, I would like to introduce into the record and summarize.

Mr. DANIELSON. Is there any objection? It is so ordered.

[The information follows:]

STATEMENT OF NORMAN A. CARLSON, DIRECTOR, BUREAU OF PRISONS

Mr. Chairman and members of the committee, I want to express my appreciation, Mr. Chairman, for the opportunity to appear before you today to discuss the importance of drug aftercare and the rationale behind the legislative proposal transferring aftercare from the Department of Justice, where it is administered by the Bureau of Prisons, to the Administrative Office of the U.S Courts. This legislation would enhance the ability of the Federal Criminal Justice System to provide services to drug dependent offenders following their release to the community after conviction, or after having served a term of incarceration.

Without question, drug abuse is one of the nation's leading social problems. Criminal offenders with drug problems are clearly a high risk group. Drug aftercare services give these persons greater supervision in the community, urine surveillance to detect drug use and needed services to assist them in overcoming their problem.

We estimate that 30 percent of the inmates in federal prisons, and a substantial number of all probationers have a history of drug use (excluding marijuana.) We presently have 162 contracts (with 183 separate units) providing aftercare services to over 2,300 offenders.

Supervisory drug aftercare was authorized by Title II of the Narcotic Addict Rehabilitation Act of 1966 (18 U.S.C., 4255.) In 1972, aftercare was extended to all federal offenders with drug dependency problems by Public Law 92-293. Drug aftercare services are performed almost exclusively on an outpatient basis, although there is a provision for temporary placement in a residential program. The Bureau of Prisons contracts with public and private agencies and individuals for all aftercare services.

The services that may be provided are varied. Urine surveillance and counseling are required by BOP from each drug aftercare contractor. Urine surveillance alerts staff to the need for more intensive supervision, and also is a means by which an offender can be returned to an institution. For example, if the offender fails his urine test twice, this can serve as a basis to send him/her to an institution.

Examples of other services that can be and are provided depend on individual needs. They include vocational guidance; education and training; job placement and skill testing; psychologial evaluation; psychotherapy; detoxification; temporary housing; residence in a community center; and emergency financial assistance.

Under current statute (18 U.S.C. 4255) the Bureau of Prisons has the contracting, monitoring and funding authority for drug aftercare. The offenders in the program, however, are under the supervision of the U.S. Probation Office. An agency providing aftercare service is neither legally nor fiscally responsible to the U.S. Probation Officer supervising the drug addict. The addict can manipulate this division of responsibility. Organizationally, it has frustrated the effective function of supervision by the U.S. Probation Officer. Management of the program is cumbersome, and leads to confusion and duplication of services and supervision.

To illustrate the problem, the Bureau of Prisons requires agencies to conduct periodic urinalysis in a prescribed manner, and to report the laboratory results promptly to the Probation Officer. The careful and timely execution of these procedures is essential in the management of drug dependent clients. These procedures have, at times, broken down within the contract agency. The U.S. Probation Officer lacks the authority necessary to remedy these difficulties. When problems with the contracts occur, the Probation Officer must call in a representative of the Bureau of Prisons who is often located a distance from the scene. If the U.S. Probation Officer could deal directly with the contractor, operational problems would be resolved more expeditiously and more effectively.

The major functions that would be assumed by the U.S. Probation Service if the legislation is passed include the identification and contracting for the most effective aftercare services available in all communities where there are drug dependent federal offenders; monitoring of these contractors to ensure that the quantity and quality of services agreed upon are provided; administering and monitoring of the Client Oriented Data Acquisition Process, a national statistical program managed by the National Institute on Drug Abuse, which gathers quantities of data on all persons receiving drug treatment services; and assisting in the development and participation in workshops between BOP institutional drug unit staff and aftercare contractors.

In summary, this legislation will consolidate the authority for supervisory aftercare for drug dependent persons in a single agency. It does not alter the authority of the Courts or the U.S. Parole Commission to release an offender to the community, or commit him to prison, but is designed only to alleviate one of the inefficiencies that has evolved from 12 years of administering the aftercare program. It should result in more efficient and effective programs for drug dependent offenders and result in financial savings for the Government.

Mr. Chairman, I appreciate the opportunity which you have given me to talk about the aftercare program and the proposed transfer of this function to the Administrative Office of the U.S. Courts. This conludes my remarks, and I would be happy to answer any questions.

Mr. DANIELSON. We are always glad to have you with us.

Mr. CARLSON. Very briefly, this bill before the committee would transfer the authority for contract services for drug aftercare services to the Administrative Office of the U.S. Courts.

I support the concept, Mr. Chairman, and fully endorse the idea of transferring the authority and the funds one division to the other.

I think such a transfer would result in more efficiency and better management, and would end a very serious duplication of effort that currently exists.

By way of background, we estimate that 30 percent of the 30,000 Federal inmates now in custody were narcotic addicts at the time of commitment and very clearly a high-risk group, a group that requires special attention and consideration.

The Congress addressed this problem back in 1966 when it passed the Narcotic Addict Rehabilitation Act. That act provided limited coverage for all addicts who fell within the category specified by the statute and gave the Department of Justice the authority and the resources to provide specialized treatment for those addicts both while incarcerated and after release into the community.

The act was extended in 1972 to include all addicts, including those released from prison as well as those placed on probation under the supervision of the U.S. Probation Service.

At the present time, Mr. Chairman, the Bureau of Prisons contracts with a variety of public and private agencies to carry out the drug aftercare program.

We currently have 162 contracts throughout the country, and today we have 2,300 former inmates as well as 800 probationers who receive drug aftercare services.

The key element of the drug aftercare program is urine surveillance, which requires former addicts and probationers alike on a regular basis to submit to urine surveillance to determine whether or not they reverted back to drug use while under supervison.

We find urine surveillance is a tremendously important part of the program, because it does give us a handle on what is happening to former addicts while they are in the community.

In addition to the urine surveillance program, there are counseling, psychological and vocational programs, available to help offenders overcome drug addiction.

The current program has a number of administrative problems. That is the purpose of the bill before you today. The Bureau of Prisons has the contracting, monitoring, and funding authority for drug aftercare. The offenders in the program, however, are under the supervision of the U.S. Probation Office.

So, we have a bifurcated system, one with authority and responsibility in two separate agencies which are in separate branches of the Government.

This situation presents a number of problems for us: It is difficult to manage the program; it results in duplication of effort; at times it results in very poor communication between the various agencies involved.

For that reason, we would support the proposed transfer of the aftercare authority from the Department of Justice and the Bureau of Prisons to the Administrative Office of the U.S. Courts.

I understand that this recommendation has also been endorsed by the General Accounting Office in one of its reports, as well as by a White House paper on drug control issued several years ago.

That concludes my very brief summary. I would be happy to answer any questions you might have.

Mr. DANIELSON. Thank you very much.

Maybe we should have the other gentleman, Mr. Jackson, tell us his version now and then we can ask our questions to both of you.

Mr. JACKSON. Thank you, Mr. Chairman.

Also like Mr. Carlson, I have a prepared statement, if I could have that incorporated as read.

Mr. DANIELSON. Fine. Without objection it will be received in the record and you may proceed.

[The information follows:]

STATEMENT OF WAYNE P. JACKSON, CHIEF, DIVISION OF PROBATION, ADMINISTRATIVE OFFICE OF THE U.S. COURTS

SUMMARY OF TESTIMONY

This statement is offered on behalf of the Director of the Administrative Office of the United States Courts. This testimony, in addressing H.R. 12290, Contract Serv-

ices For Drug Dependent Federal Offenders Act of 1978, outlines the position of the Judicial Conference of the United States and the Administrative Office regarding the proposals of this Act.

Following a brief description of the organization and function of the Administrative Office, the Probation Division and the Federal Probation System, the testimony presents a review of the history and present status of drug treatment services in general, specifically, contract supervisory aftercare for Federal offenders.

The testimony outlines the position of the Judicial Conference regarding the Judiciary's role in providing contract services. That position is that ". . . the provision of drug treatment services seems to be a function more appropriate to the Executive Branch than the Judicial Branch." Recognizing that the need for such services is essential and pointing out problems with the existing procedures for providing those services, the Conference still has many reservations about the proposed transfer of contract authority to the Administrative Office. Duplication of Executive Branch funded programs, legal and financial considerations and the appropriateness of the courts running programs are all matters which led the Conference to question whether this type of operation is a proper judicial function.

Should this transfer of contract authority between the Federal Bureau of Prisons and the Administrative Office occur, the testimony recommends that language be added to the sections of the bill pertaining to pretrial services and conditionally released offenders which would allow the Director of the Administrative Office to negotiate and award contracts without regard to legal requirements for competitive bidding. In addition, funds are requested at a level above those now authorized for the Federal Bureau of Prisons, with those funds to remain available until expended.

The Conference and the Administrative Office believe that contract drug treatment services are essential but are an Executive rather than Judicial Branch function. They would, however, carry out any mandate from Congress to provide those services.

STATEMENT

Mr. Chairman and members of the subcommittee, I am Wayne P. Jackson, chief of the Division of Probation, Administrative Office of the United States Courts. I began my career in corrections in Tulsa, Oklahoma, where I was a police officer from 1954 to 1957. In 1957 I became a probation counselor for the Tulsa County Juvenile Court and in 1959 I was appointed as a United States probation officer in the Northern District of Illinois where I served until 1967. I then joined the Administrative Office as an assistant chief of the Probation Division and became chief of the Division in 1972. In addition to my duties in the Administrative Office, I also serve on the Advisory Corrections Council, authorized by Section 5002 of Title 18 of the United States Code, the Board of Directors of the American Probation and Parole Association, and several other boards and committees of correctional organizations. As chief of the Probation Division, and at the request of the Director of the Administrative Office, I appear before you today to address H.R. 12290—The Contract Services For Drug Dependent Federal Offenders Act of 1978.

Perhaps at this point a brief description of the organization and function of the Administrative Office, and the Probation Division, and our unique relationship to the Federal Probation System is in order.

The policy-making arm of the United States Courts is the Judicial Conference of the United States. Chaired by the Chief Justice of the United States, one of the functions of the 25-member Conference is the supervision and direction of the Administrative Office of the United States Courts.

The Administrative Office is responsible for the administrative functions of the United States Courts. Duties such as Financial Management, Personnel, Recordkeeping, etc., and program management responsibilities for bankruptcy, court clerks, public defenders, magistrates, and probation officers are handled by approximately 500 employees in 13 separate divisions.

The Division of Probation discharges the probation-related responsibilities assigned by statute to the Director of the Administrative Office. The 27 staff members of the division include a chief, 3 branch chiefs, 5 regional probation administrators, 4 probation program specialists, 1 editor, 3 pretrial services specialists, 3 data processors, and 7 secretaries. The 16 professionals in the Probation Division are unique to the Administrative Office in that all served as United States probation officers before joining the Probation Division. The Division investigates, evaluates, and enforces performance standards and makes recommendations concerning the work of the United States probation officers. The office assesses personnel and budget needs of the Probation System, recommends and reviews legislation affecting criminal law and corrections, coordinates training and research programs with the

Federal Judicial Center and administers the operation of ten pretrial services demonstration projects established by Title II of the Speedy Trial Act. The Division also provides staff support for sentencing institutes and for the Judicial Conference Committee on the Administration of the Probation System. The five regional probation administrators are assigned areas of the country which parallel the regional assignments of the Federal Bureau of Prisons and the United States Parole Commission. This regionalization enables the division to coordinate institutional and release programs and policies for the Probation System.

Unlike many Federal agencies, the Probation System is not centralized. The employees are directly responsible to the courts they serve. The System is composed of 1,697 probation officers serving in approximately 300 field offices throughout 93 of the 95 judicial districts of the United States. Personnel also include 40 probation officer assistants and a clerical staff of 1,080. The 154 pretrial services agency employees are located in ten demonstration districts. The professional staff of the Probation System is well trained and highly qualified. Minimum qualifications for appointment include a bachelor's degree and not less than two years professional experience. Approximately 40 percent of the officers hold advanced degrees.

The central goal of the Probaton System is to enhance the safety of the community by reducing the incidence of criminal acts by persons under supervision. This is achieved through counseling, guidance, assistance, surveillance, and restraint of offenders to facilitate their reintegration into society as law abiding and productive members.

United States probation officers fulfill two principal responsibilities, preparing presentence investigation reports for the Unites States district courts they serve and provide supervision services for probationers. In addition, United States probation officers, as the official representatives of the United States Parole Commission in matters relating to parole, provide supervision services for individuals released from Federal institutions.

As of March 31, 1978, the Federal Probation System had a total of 66,628 persons under supervision, (48,981 probationers, and 17,647 parolees). During fiscal year 1977 probation officers completed 101,725 investigative reports for the courts, the Parole Commission, the Bureau of Prisons, and United States attorneys. The bulk of these reports, 32,738, were presentence investigation reports. Despite the large number of cases and investigative reports, the Probation system, as a result of increases in personnel authorized by Congress over the past several years, now devotes a greater amount of time to the supervision of probationers and parolees than ever before.

H.R. 12290, the bill under consideration today is related to the work of probation officers and the supervision of probationers and parolees having a history of drug-related problems. At present, probation officers call upon both private and public agencies for services which are rendered to these persons. Through contract authority the Attorney General now provides such services. It is the purpose of the bill to transfer this contract authority to the United States Courts.

The Probation Committee advised the Judicial Conference at its April 1976 session that the Director of the Bureau of Prisons had formally proposed the transfer of responsibility for drug treatment from the Bureau to the United States Probation System. The Committee noted that Congress had expressed policy in this area through the passage of Title II of the Speedy Trial Act extending limited contract authority to the Probation System for drug treatment programs and other supportive services for persons on pretrial release. The Conference report for that session contains this statement:

"The Committee is of the view that the provision of drug treatment services seems to be a function more appropriate to the Executive Branch than the Judicial Branch. The Committee recognizes, however, that the responsibility for persons on probation and parole rests with the Federal Probation System and that drug treatment services are necessary for the proper operation of the Probation System. Aside from the issue of who provides them, the services must be available. The Conference was advised that the Committee has endorsed a policy position that if the Executive Branch does not provide these programs and the Congress transfers the responsibility to the Probation System, then the probation system must do its utmost to carry out the intent of Congress."

The position of the Judicial Conference is that the services now being provided are absolutely essential and perhaps should even be expanded. In this regard the General Accounting Office recently completed a review of the management of the Probation System (October 1977). The study included a detailed review in five districts supplemented by visits to other districts, questionnaires to chief judges, chief probation officers and line probation officers, and an extensive review in the

Probation Division. One of the major results of the study was the finding that rehabilitation services from public service or Government programs often were not available in the community. Forty-seven of 91 chief probation officers questioned stated that there were persons under supervision in their districts with various needs that community services could not satisfy. Underlying the GAO finding is the recognition of need for these services.

A study in February of this year conducted by the Probation Division sought to identify the drug abuse treatment needs of those under supervision. A survey was conducted to take a one-time picture of drug use and treatment of persons under supervision. For the purposes of this survey a drug abuse case was defined as a person under supervision who had been or was suspected of being involved in the use of drugs or narcotics. That group of persons may or may not have been convicted of a drug violation. The survey identified those in treatment and types of abusers. The survey identified 15,800 persons under supervision with a history of drug abuse (25 percent of all persons under supervision). Ten thousand four hundred fifty-seven of those drug abuse cases were identified as not in treatment because they did not currently need treatment. Four hundred sixty-three persons refused treatment and 376 were not in treatment because a program was not available. Four thousand five hundred four persons were identified as being in treatment with 2,688 of those in treatment programs currently funded by the Federal Bureau of Prisons.

While only 5,343 persons out of the total of 15,800 were either in treatment or in need of treatment, the remaining two-thirds of the persons with drug abuse histories still demand a greater degree of supervision than do nondrug abusers. The nature and characteristics of drug abuse demonstrates a tendency to relapse hereby necessitating closer supervision.

The Probation System first became involved with drug aftercare treatment with the passage of Title II of the Narcotic Addict Rehabilitation Act of 1966, a program administered primarily by the Federal Bureau of Prisons.

In May of 1972, Public Law 92-293 amended the probation and parole laws making probationers, parolees, and mandatory releasees eligible for aftercare treatment. Also, the eligibility was expanded to include not only those using the so-called "hard" narcotics, but persons dependent on controlled substances such as barbiturates, amphetamines, hallucinogens, and marijuana. This law not only increased the number of persons under supervision who were placed in aftercare, but also increased the probation officer's involvement with aftercare agencies.

Until 1975 the Probation System was concerned with securing aftercare treatment, but was not involved in directly furnishing treatment services, or in administering treatment programs. At that time Title II of the Speedy Trial Act gave to the United States Courts the ability to procure services for drug offenders. This ability was limited to the Pretrial Services Agencies in ten judicial districts.

Notwithstanding our concern that drug treatment services are indispensable, the Judicial Conference and its Committee on Probation regard the provision of drug treatment services to be more appropriate to the Executive Branch than to the Judicial Branch. This position was taken in full knowledge of the recent General Accounting Office's suggestion to transfer contracting authority to the judiciary and of the 1975 White Paper on Drug Abuse, submitted to the President by the Drug Abuse Task Force of the Domestic Council which also recommended this transfer.

The position of the Conference in this regard is based on the realization that the contribution of the Federal courts and the Probation System to the solution of the drug problem, though important, is very small. Agencies in the Executive Branch, such as the National Institute on Drug Abuse, the Veterans Administration, and the Justice Department's Law Enforcement Assistance Administration have far more extensive programs which the courts could not possibly duplicate. Furthermore, there are extensive state programs, perhaps funded in whole or part by the Federal Government, which are extensive. The Probation System must, in any event, rely on those agencies for assistance.

There is also a potential conflict where courts operating treatment programs of this type may be faced with legal challenges to their operations on which they would then have to decide. Furthermore, the courts would be directly involved in the administration of such controversial medical programs as "methadone maintenance."

The cost would also be significant since the courts system would have to obtain or retain the expert advice needed to operate a program of aftercare drug service, something not now available to it.

These are some of the considerations which led the Conference to question whether this type of operation is a proper judicial function. The Judicial Conference has

also considered the difficulties which have arisen over the present arrangement for aftercare services. In September 1975, limitations of aftercare funds led to a reduction in the level of services provided Federal probationers and parolees. In its Fall meeting that year, the Judicial Conference addressed the problem of the reduction in drug abuse funds and the fact that there was little assurance that a person participating in a drug treatment program as a condition of pretrial release could continue that treatment once placed on probation. The Probation Division was asked by the Conference to explore this matter. Contact with field offices indicated that few other Government treatment resources were available. In addition, many that were available could not meet the standards of treatment expected by the Probation System. Few programs provide the broad range of services demanded by the court or Parole Commission.

Mr. Chairman, while we are very much concerned about the propriety of the Judicial Branch having the responsibility for directly providing drug treatment services through contracts or otherwise, we do have problems in satisfying legitimate needs of persons under supervision. Because the need is great, the Judiciary would be willing to take over this contracting responsibility in the event Congress decides we should have it. In that event, however, we would suggest certain changes in the bill.

(a) That Section 2 of the bill be changed to further amend 18 U.S.C. 3154 by deleting the period from the last line and inserting a colon to be followed by: "*Provided,* That the Director of the Administrative Office of the United States Courts may negotiate and award such contracts without regard to Section 3709 of the Revised Statutes (41 U.S.C. 5)."

Section 3709 of the Revised Statutes requires competitive bidding which could limit consideration of the quality of a program when selecting treatment services. This would also slow the process of providing immediate service to those who need it. Drug treatment is often crisis intervention where services may be needed on an emergency basis. If this responsibility is assigned to the Administrative Office then we must be free to be able to provide services without first going through a detailed bidding procedure (precedent has been set in this area in 28 U.S.C. 624(3) wherein the Board of Directors of the Federal Judicial Center may contract for services without regard to Section 3709 of the Revised Statutes (41 U.S.C. 5).

(b) *Section 4* of the bill would amend 18 U.S.C. 4255 by providing that an offender conditionally released as if on parole would be governed by the general parole sections of Chapter 311 (18 U.S.C. 4201-4218). In addition, that section is also amended giving the Director of the Administrative Office contract authority for supervisory aftercare of an offender. We recommend that this section be further amended by adding the following language: "*Provided,* That the Director of the Administrative Office of the United States Courts may negotiate and award such contracts without regard to Section 3709 of the Revised Statutes (41 U.S.C. 5)."

(c) Regarding the funding of this Act, as set forth in Section 5, we would ask that, if this legislation is enacted, sufficient funds be provided to continue the needed services at a level substantially above that now authorized for the Federal Bureau of Prisons. Additional funding will also be necessary to increase the Administrative Office staff so that we may handle the added responsibilities of this contract authority. An increase in field personnel would be needed to replace the contract supervision function now performed by the community programs officers of the Federal Bureau of Prisons. We further recommend that any contract funds appropriated to carry out the provisions of this Act remain available until expended. This would enable the Administrative Office and the probation officers involved in supervision to continue treatment services without the need to renegotiate contracts on a year-to-year basis.

Finally, if this transfer is approved, we suggest that its effective date be October 1, 1979. This would allow for an orderly transfer of responsibilities from the Federal Bureau of Prisons to the Administrative Office.

CONCLUSION

In summary, Mr. Chairman, the Judicial Conference views the provision of drug offender treatment services for persons under the supervision of the Federal Probation System to be essential; believes that providing these services is an executive function rather than a judicial function; but would be willing to provide services directly if they cannot otherwise be provided, in the interest of assuring their availability.

TESTIMONY OF WAYNE P. JACKSON, CHIEF, DIVISION OF PROBATION, ADMINISTRATIVE OFFICE OF THE U.S. COURTS

Mr. JACKSON. On behalf of the Director of the Administrative Office, Mr. William Foley, I appreciate the opportunity to appear before you today to discuss the provisions of H.R. 12290, the Contract Services of Drug Dependent Federal Offenders Act of 1978.

The probation system is composed of 1,697 locally appointed probation officers serving in approximately 300 field offices throughout 93 of the 95 judicial districts of the United States.

Personnel also include 40 probation officer assistants and a clerical staff of 1,080. The 154 pretrial services agency employees are located in the 10 demonstration districts. Minimum qualifications for appointment to the position of a U.S. probation officer include a bachelor's degree and not less than 2 years' professional experience. Approximately 40 percent of the officers hold advanced degrees.

U.S. probation officers fulfill two principal responsibilities—preparing presentence investigation reports for the courts and providing supervision services for probationers.

In addition, officers act as official representatives of the U.S. Parole Commission in matters relating to parole and provide supervision services for individuals released from Federal institutions.

The workload of the Federal probation system include 66,628 persons presently under supervision, 48,981 probationers and 17,646 parolees.

H.R. 12290, the bill under consideration today is related to the work of the probation officers and the supervision of probationers and parolees having a history of drug-related problems.

Treatment services are now offered for probationers and parolees as a result of contract authority resting with the Attorney General. It is the purpose of this present bill to transfer the contract authority to the U.S. court.

While it has been noted by the Judicial Conference that Congress has expressed policy in the area of contract of authority for the courts to passage of title II of the Speedy Trial Act, which extended limited contract authority to the probation system for drug treatment programs and other supportive services for persons on pretrial release, the conference is on record at its April 1976 session as stating:

> The committee is of the view that the provision of drug treatment services seems to be a function more appropriate to the executive branch than the judicial branch. Recognizing that the probation system has responsibility for persons on probation and parole who have needs for drug treatment, the conference is advised that the Probation Committee has endorsed the policy position that if the executive branch did not provide the needed programs and Congress transferred the responsibility to the probation system, then the probation system would do its utmost to carry out the intent of Congress.

The recent review of the probation system by the General Accounting Office in October 1977, included as one of the major results of the study the finding that rehabilitation services from public service or government programs often were not available in the community.

Underlying the GAO finding was a recognition of need for services. The position of the Judicial Conference is in agreement with

that finding and states that the services now being provided are absolutely essential and perhaps should even be expanded.

A survey of all active cases was recently conducted by the Probation Division in order to take a one-time picture of drug use and treatment needs of persons presently under supervision.

For the purposes of the survey, a drug abuse case was defined as a person under supervision who had been or was suspected of being involved in the use of drugs and narcotics.

The survey identified the following: 15,800 persons under supervision with a history of drug abuse—25 percent of all persons under supervision—10,457 of those drug abuse cases were identifed as not in treatment because they did not currently need treatment; 463 persons refused treatment; 376 persons were not in treatment becuase a program was not available; 4,504 persons were identified as being in treatment with 2,688 of those in treatment programs currently funded by the Federal Bureau of Prisons.

While only 5,343 persons out of the total of 15,800 were either in treatment or in need of treatment, the remaining two-thirds of the persons with drug abuse histories still demand a greater degree of supervision than do nondrug abusers.

The probation system first became involved in drug aftercare treatment with the passage of title II of the Narcotic Addict Rehabilitation Act of 1966, a program administered primarily by the Federal Bureau of Prisons.

In May of 1972 Public Law 92-293 amended probation and parole laws making probationers, parolees, and mandatory releases eligible for the same aftercare treatment.

In 1975 title II of the Speedy Trail Act gave to the U.S. courts the ability to procure services for drug offenders. This ability was limited to the pretrial services agencies in 10 judicial districts.

That same year, the 1975 White Paper on Drug Abuse submitted to the President by the Drug Abuse Task Force of the Domestic Council recommeded a transfer of contracting authorities to the judiciary.

The Judicial Conference regards the provision of drug treatment services to be indispensable, but also to be more appropriate in the executive branch of government than the judicial branch.

It is felt that the contribution of the Federal courts and the probation system to the solution of the massive drug problem is very small. Many executive Branch agencies, such as the National Institute on Drug Abuse, and the Veterans' Administration, have far more extensive programs which the courts could not possibly duplicate.

It is also felt that there may be a potential conflict where courts operate treatment programs and then may be faced with legal challenges to those operations on which the courts would then have to decide.

The Judicial Conference has also considered the difficulties which have arisen over the present arrangement for aftercare services. In 1975, limitations of aftercare funds led to a reduction in the level of services provided Federal probationers and parolees.

At its fall meeting that year the Judicial Conference addressed the problem and asked the Probation Division to explore the matter. The Division responded and found that through contract

with field offices there were few Government treatment resources available.

In addition, many that were available could not meet the standards of treatment expected by the probation system. Few programs provide the broad range of services demanded by the court of Parole Commission.

The Judicial Conference and the Administrative Office are very much concerned about the propriety of the judicial branch having the responsibility for directly providing drug treatment services through contracts or otherwise.

On the other hand, the Conference admits that the need for such services is great and the judiciary would be willing to take over this contract and responsibility in the event Congress decides we should have it.

In that event, however, there are several suggestions concerning the present structure of the bill.

One, I am recommending that section 2 of the bill be changed to further amend 18 U.S.C. 3154, by deleting the period from the last line and inserting the colon to be followed by "provided that the Director of the Administrative Office of the U.S. Courts may negotiate and award such contracts without regard to section 3079 of the revised statutes; 41 U.S.C. 5."

Section 3709 of the revised statutes requires competitive bidding which could limit consideration of the quality of a program when selecting treatment services. This would slow the process of providing immediate service in crisis intervention situations where services may be needed on an emergency basis.

Precedent has been set in this area wherein the Board of Directors of the Federal Judiciary Center may contract for services without regard to section 3709 of the revised statutes (41 U.S.C. 5).

I also recommend that in section 4 of the bill amending 18 U.S.C. 4255 that the same language be added whereby section 3709 of the revised statute would not be considered if the courts were to negotiate contracts regarding the funding of this act. It is felt that costs would be significant since a court might have to obtain or retain expert advice needed to operate a program of after care drug services.

In addition, we would specifically ask in section 5 of the bill that if this legislation is enacted such funds be provided to continue the needed services at a level substantially above that now authorized for the Federal Bureau of Prisons.

Additional funding will be necessary to increase the Administrative Office staff so that we may handle the added responsibility of contract authority, an increase in field personnel might be needed to replace the contract supervision function now performed by the community programs officers of the Federal Bureau of Prisons.

I am further recommending that any contract funds appropriated to carry out the provisions of this act remain available unless expended. This will enable the Administrative Office and probation officers involved in supervision to continue treatment services without the need to renegotiate the contracts on a year-to-year basis. If this transfer is approved we suggest its effective date be October 1, 1979.

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This would allow for an orderly transfer of responsiblities from the Federal Bureau of Prisons to the Administrative Office.

In conclusion, Mr. Chairman, the Judicial Conference views the provisions of drug offender treatment services for persons under the supervision of the Federal treatment system to be essential. It believes that providing these services is an executive function rather than a judicial function, but would be willing to provide services directly, if they cannot otherwise be provided, in the interest of assuring their availability.

I thank you for this opportunity to testify before the subcommittee, and I will be pleased to respond to any questions the committee might have.

Mr. DANIELSON. Mr. Kindness?

Mr. KINDNESS. The question of how much money is involved here seems to be a little nebulous. Are you in a position to be specific about the authorization level for this function now in the Bureau of Prisons and what apparently would be required in the Administrative Office?

Mr. CARLSON. A total of $2.3 million would be available during fiscal 1979.

Mr. DANIELSON. That is in the Justice appropriation?

Mr. CARLSON. That is correct.

Mr. DANIELSON. $2.3 million?

Mr. CARLSON. Yes, sir, $2.3 million.

Mr. JACKSON. Mr. Kindness, this is somewhat difficult, too, because, as the transfer is effected, if it is effected, our probation officers, due to the level of expertise they have in their jobs, might be able to provide some of the counseling presently contracted for. However, analysis of the urine specimens, et cetera, might be a factor. We really don't know.

Where we might pick up a substantially higher amount or degree of counseling, I think the costs in terms of the escalation might be impacted, in terms of the costs, would have greater confidence perhaps in the program or say a greater understanding. We would also have to intensify a training program to make the judges aware of the treatment facilities that the probation service would have and also to hone up the expertise of the officers in terms of drug abuse concepts.

Mr. KINDNESS. Do you currently contract for similar services for pretrial?

Mr. JACKSON. Yes, sir; we do, only in the 10 demonstration districts. As you know, under the Speedy Trial Act we were mandated to provide 4-year demonstration pretrial services in these 10 districts.

Mr. KINDNESS. Does that experience give you a basis for projecting what could be needed by way of additional personnel in handling the contracting end of it or perhaps additional personnel in terms of counseling in-house?

Mr. JACKSON. I think we really don't have, sir, any States at the present time. I perhaps can get them to the committee. As you know, for our probation officers currently we consider an adequate caseload of 50 persons under supervision for 1 officer. As Mr. Carlson and I testified the drug abusers required more supervision.

We would recommend caseloads of 15 to 25 instead of the 50 normal level because of the intensified contact with the cases.

Mr. KINDNESS. In the 10 demonstration areas, is such a contracting for services done on a diversified or centralized basis?

Mr. JACKSON. It is done basically as a result of the Pretrial Service Agency in the local districts. My office has responsibility to approve the contracts.

Mr. KINDNESS. Would you conceive of this legislation requiring much difference in personnel in the central office?

Mr. JACKSON. The pretrial service, for example, when it was implemented, we added four professionals to our staff plus three data analysts and a secretary to provide for all pretrial services. Again, one small segment of that would be the drug services or contract services in pretrial. So I think we could probably make an analysis of that. It would be quite difficult insofar as the 10 demonstration districts are also in basically 10 urban areas at this point, and we don't know what complexing factors that might have in terms of the rest of the districts or the other 85 judicial districts.

Mr. KINDNESS. Mr. Carlson, could you give us sort of the other side of that picture as to how many people you will lay off?

Mr. CARLSON. There would probably be none laid off. We only have 50 community programs officers now throughout the country. They have a number of responsibilities and the monitoring of drug abuse aftercare contracts is only one. They also take care of our Halfway House programs, monitor our jail contracts and inspect the State and local facilities used for Federal prisons. So the amount of manpower we use is comparatively light for this program.

Mr. KINDNESS. We are talking about two different things rather than the same function in transfer then, aren't we?

Mr. CARLSON. At the present time our community program officers have no supervisory responsibility over the offenders. All they do is monitor the contracts we enter into. That is only a small part of their total responsibilities. That is one of the points the bill tries to address, to take a more systematic approach and place authority and responsibility within the same agency rather than continue the present bifurcated system which gives us the responsibility for the contracting but no authority over the inmates under supervision.

Mr. KINDNESS. So it would be incorrect to say that we are talking about transferring a program or function but, rather, we are talking about an expanded or changed approach to this same problem.

Mr. CARLSON. I would agree with that assessment.

Mr. KINDNESS. I would be pleased to hear your views, Mr. Carlson, on the question of the propriety of these services being provided in the judicial branch rather than the executive branch, aside from the statements you have already made about it.

Do you see any particular problems, theoretical, Government organization basis, that experience of yours might point out?

Mr. CARLSON. I feel that responsibility for contracting for aftercare should be in the same agency that supervises offenders in the community. At the present time we provide this service for the probationers and parolees under Probation Service supervision. The bottom line is a system in which the Bureau of Prisons has

comparatively little authority over the offenders, yet we have contracting responsibility for the aftercare services. This presents problems in communications and duplication of services, and generally from the administrative standpoint it is not a good system.

Mr. KINDNESS. In regard to the authorization bill for the Justice Department for the next fiscal year, was this potential transfer of function taken into account to the best of your knowlege?

Mr. CARLSON. To my knowledge it was not.

Mr. KINDNESS. Thank you.

I have no further questions, Mr. Chairman.

Mr. DANIELSON. I learned a lot from this testimony, some facts that I was aware of at all.

Mr. Carlson, you say you have only 50 community service personnel?

Mr. CARLSON. Approximately 50 community program officers throughout the country.

Mr. DANIELSON. We have 96 judicial districts?

Mr. CARLSON. That is correct.

Mr. DANIELSON. Obviously, you cannot cover even one to a district.

Mr. CARLSON. That is correct.

Mr. DANIELSON. Take my own area of Los Angeles; how many do you have there?

Mr. CARLSON. We have one in the Los Angeles area, southern California.

Mr. DANIELSON. You are talking about a population of 10 million people, roughly.

Mr. JACKSON. We have 118 probation officers in the Central District of California.

Mr. DANIELSON. What is the total number of probation officers that you have?

Mr. JACKSON. We have 1,697.

Mr. DANIELSON. The related function in the Bureau of Prisons is only 50?

Mr. CARLSON. That is correct.

Mr. DANIELSON. Now, Mr. Carlson, I know that you are presently trying to utilize the new procedures. A person comes out of prison into a halfway house, for example. You do the contracting for the halfway houses?

Mr. CARLSON. That is correct.

Mr. DANIELSON. At that stage, Mr. Jackson, do the probation officers have any role to play?

Mr. JACKSON. They just have a collateral role, Mr. Chairman, in terms of cooperating with the community treatment center until the point of release however the probation officer had no jurisdiction.

Mr. DANIELSON. That is what I mean. Even though we go from prison to a halfway house, the convicted person would still be under the jurisdiction of Prisons?

Mr. CARLSON. That is correct, Mr. Chairman.

Mr. DANIELSON. He must leave any type of physical restraint before he comes under the parole function or whatever you call it, or probation; is that correct?

Mr. JACKSON. That is correct. There is a small exemption to that, however, somebody on probation or parole can be committed to a community treatment center as a condition of his probation, for example.

Mr. DANIELSON. But at that point they are no longer under the Bureau of Prisons, true?

Mr. JACKSON. That is correct. He is under the supervision of the Federal Probation Service but using the contract facility of the Federal Bureau of Prisons.

Mr. DANIELSON. I am trying to find out when he leaves one jurisdiction and enters the other. Probation covers parole as well as probation.

Mr. JACKSON. That is right.

Mr. DANIELSON. Once the prisoner leaves some form of confinement then he becomes the ward of the probation system.

Mr. JACKSON. That is right.

Mr. DANIELSON. Under this plan, if this bill became law, would this fact alone require an increase in personnel in the probation department?

Mr. JACKSON. I would say it would, Mr. Chairman. As I indicated earlier to Mr. Kindness, due to the fact that it would probably require probation officers who handle these types of cases to have reduced caseloads because, as recognized, the drug abuser is a more difficult person to supervise just to be sure that he made the regular contracts required of urine surveillance would require significant more time.

Current requirements for the counseling of drug abusers is 30 minutes a week. The probation service at this point just would have to have an increase in staff, at last a minor increase in staff to meet the additional supervision responsibilities.

Mr. DANIELSON. Mr. Carlson, do your current program officers have duties in addition to the type of duty we are describing here?

Mr. CARLSON. Yes; they also supervise our contracts with non-Federal community treatment centers or halfway houses, with jails, and with State and local juvenile institutions.

Mr. DANIELSON. So the supervision function that we are talking about here is only a portion of their duties?

Mr. CARLSON. A small portion.

Mr. DANIELSON. I would think since this wheel doesn't squeak quite so loudly as the other it gets less attention.

Mr. CARLSON. It does.

Mr. JACKSON. I might say the community program officer is providing a sigificant function and, as Norm indicated, the bifurcated system makes it sometimes very awkward but the Federal Bureau of Prisons has always given us splendid cooperation in all the matters of transition from the Bureau of Prisons, the confinement facilities to the supervision.

Mr. DANIELSON. Your one person in the Los Angeles area covers both the Central and Southern districts?

Mr. CARLSON. That is right.

Mr. DANIELSON. I wonder what he does in his spare time?

I agree with you, Mr. Jackson, and it is evident all the way through this testimony. You sound like you really don't want it, the Administrative Office of the Courts really doesn't want it but

you will take it if you have to. It is not a judicial function, as I perceive judicial functions, but I don't know where else it goes. It doesn't fit your function, Mr. Carlson?

Mr. CARLSON. It falls between the two agencies in reality.

Mr. DANIELSON. That is right, it is falling between the cracks here.

Mr. CARLSON. I think the offenders are the ones who suffer.

Mr. DANIELSON. And the public, generally.

Mr. CARLSON. That is right.

Mr. DANIELSON. You say 30 percent of our Federal prisoners?

Mr. CARLSON. Thirty percent are drug addicts at the time of commitment.

Mr. DANIELSON. They are the ones who probably give you folks in probation the larger amount of your behavior problems.

Mr. JACKSON. Yes, sir, very definitely. We had some recent census figures that show up until 1955 the number of persons received under supervision who have had drug related crimes has escalated tremendously.

Mr. DANIELSON. I can see why you don't want this function, Mr. Carlson. I would not want it. I can see why you, Mr. Jackson, are reluctant to take it at all. Somebody has to. We have to be King Solomon here, Mr. Kindness.

Mr. KINDNESS. I was thinking, in terms of the insurance business, you would call these people your repeat business, I suppose. But I am greatly concerned that we don't have a very good measurement of cost, nor how many personnel are going to be involved in the expansion, nor what the program would become under the changed circumstances.

Indeed, it appears to me—and I thank the gentleman for yielding——

Mr. DANIELSON. There are only two of us here. I am not standing on formalities.

Mr. KINDNESS. I am little concerned that perhaps we are overlooking the possibility that the matter ought to be—I ought to wash my mouth out with soap for saying this—but maybe it ought to be taken over by a third group located in the executive branch. One which is more closely allied to this subject area in terms of expertise. Would either of you care to comment in that area?

Mr. CARLSON. I would have to express reservations about a third party. I think adding a third agency would make the problem worse.

I agree with the Chairman that our ability to contract is rather limited in terms of resources and because of our lack of authority over the offenders under Probation Service supervision.

I really have reservations about interjecting a third party or third agency in this area. I think the present system is better than that. I should also point out, Mr. Chairman, that should this bill not pass I will assure you that we will continue on the present course.

We are certainly not going to cut back on what we are doing now. It is a very much needed service for the public and the offenders we are talking about. So there is no intention on the part of the Department of Justice to change what we are currently doing.

We were only suggesting that perhaps it could be done more effectively by placing all authority and responsibility in the same agency.

Mr. KINDNESS. Just pursuing that line a little further, if I may, is there any other program within the Justice Department or a portion of the Justice Department concerned with drug addict comprehensive services or treatment? Somewhere there is, isn't there?

Mr. CARLSON. LEAA does have part of its program devoted to the treatment of narcotic addicts.

Mr. KINDNESS. I can understand the reticence to have the complications of a third function or party or a third entity involved, but in a sense it is not a third entity under the Justice Department organization is general. There is nothing that the Bureau of Narcotics and Dangerous Drugs would add to this picture, I take it?

Mr. JACKSON. I don't think so, Mr. Kindness. I think one aspect you have to look at in terms of the provision of drug services throughout the United States, if you are talking about a third agency, is that it is very difficult due to the courts being spread, as I said, in 95 district courts throughout the United States and its territories.

When you come up with a third agency you are going to have to have resources, as Mr. Carlson alluded to, in very sparsely populated parts of the country, where probation officers are already in place and will be able to provide that function as a segment of their normal duties, where you would have to have one staffer in Wyoming or the Dakotas to travel wide sections of the community and would not be in tune with the communities as our people would be in some 300 offices in the United States.

Mr. KINDNESS. Thank you.

Mr. Chairman, I just would contribute a thought that this bill is only the tip of the iceberg, I think. I am very reticent to see us proceed with action on this until we look at the picture a lot more closely as to what might better serve this function.

There are other dollars, taxpayer dollars, going into drug treatment programs and rehabilitation programs and so on that I would like to review. The Department of HEW is spending dollars that might have some bearing on this, because in a general sense all those programs that affect people who are addicted to the use of narcotics and dangerous drugs have to be concerned with the law enforcement aspect of it in some degree, because of the high incidence of crime among users of narcotics and dangerous drugs.

So there has to be some duplication here someplace. Maybe we still have not looked far enough for the answer to this question.

Mr. DANIELSON. I would like to comment, if I may, here.

You were not asking a question, as I understand it?

Mr. KINDNESS. No, I was being a little philosophical, I guess, Mr. Chairman.

Mr. DANIELSON. I think there are two or three things here that we have to keep in mind.

First, this bill does not contemplate setting up and it does not set up any new program. The program contemplated is already in the law.

Mr. CARLSON. That is correct.

Mr. DANIELSON. It would simply be relieving the Bureau of Prisons of the obligation to supervise the persons receiving this treatment and transfer that responsibility to the Probation Department. So we are not creating a new program. We are simply switching the responsibility for a portion of it from the Bureau of Prisons to the judicial branch, under Probation.

I would also be reluctant to set up a new program without a pretty profound study. But we are not setting up a new program.

Second, as I see it, under the present setup of the program there really is very litle supervision of this drug treatment. Your 50 people in their spare time simply don't have any opportunity to supervise it. I am not so sure Mr. Jackson that your 1697 will have a lot of opportunity, but they would have more opportunity.

Your people, Mr. Jackson, do have the responsibility and opportunity to be in contact with probationers and parolees periodicially. So I would think that your mechanism is better suited to this responsibility than yours, Mr. Carlson. I can't see that there would be a great deal of difference in cost. Probably there would be no substantial difference.

A third point is that under the present setup, my guess is that there is practically no supervision in most cases, or at least minimal.

Mr. CARLSON. Supervision is minimal, Mr. Chairman.

Mr. DANIELSON. Under the proposed change, Mr. Jackson, there would be a bettering of supervision, there would be more of it, more detailed and more direct. Maybe it would not be enough, but it would be better.

So I can't see that anything here exists except to mitigate in favor of the transfer, even though I am sure the judiciary doesn't want it. I am sure it is like a lot of other things in life, there are a lot of things that people don't want but we have to take care of them.

Mr. Jackson, I believe you pointed out that there are many areas in the country where there simply are not any places where you can contract for the kind of services needed here.

Mr. JACKSON. That is right.

Mr. DANIELSON. What would you plan to do in those cases?

Mr. JACKSON. Again, what we would try to do, as I mentioned before to Mr. Kindness, is to see if we could enhance the training in the Federal Probation Services so that probation officers who did not have the skills perhaps to either identify or to work as closely with drug cases as they do now, that they could be honed up and our probation officers then could assume some of the responsibility for the services and then perhaps use mail order urine surveillance procedures to supplement.

This is what I am saying. Again, with the geographical spread, I think the Probation Service is in place and can really provide a much more better attuned service to the community than the Bureau of Prisons with their 50 community program officers spread throughout the United States.

Mr. DANIELSON. I just don't think there is any real solution to that. A probationer or parolee in Valentine, Nebr., doesn't have available to him the kind of treatment that was contemplated by this law which might be available in Los Angeles, New York or

Washington. Geography makes that presently impossible except maybe under your theory.

As to the funding, if we were to do this, I wish to point out that I just simply don't agree with any authorization which is open-ended. Of course, the format of this bill calls for that.

I think the only way—we are now in June, the 8th day. If this bill is going to mean anything, it has to be acted on by both Houses of the Congress, I believe, on or before the first of October. If we are to report out this bill, I would want to modify the authorizing clause to at least put a deadend on it, maybe authorize to appropriate these funds for the period ending October 1 or whatever it is, let's say 1981 or 1982, with the admonition or suggestion to you gentlemen that before you go to the Appropriations Committee for some money, you do a little cost accounting so you can tell them what you are going to need.

I think if we are to get into it, Mr. Kindness, there is no way that we could cover it responsibly, the financial authorization, because there is not that much time remaining.

But perhaps if this moves further, you could, before the Appropriations Committee, have some hard figures that you could present. I don't really have anything else that I am able to do.

Let me ask you this: Is it not a fact under the present system, and I am drawing this inference and want to know if I am right, that many people who need the treatment simply are not getting it.

Mr. CARLSON. That is correct.

Mr. JACKSON. That is correct.

Mr. DANIELSON. If we pass the bill, there will be at least an improvement in the delivery of this kind of treatment to the addicts who need it and thereby the public benefits?

Mr. CARLSON. That is correct.

Mr. KINDNESS. One further thought along that line. You are saying many people who need the treatment are not getting it, but you don't really know the answer to that question because there are a lot of community-based, State and Federal supported drug treatment functions or programs going on in communities around the country which may involve some of these people.

What is missing is the knowledge that they are and the surveillance or the control over the surveillance, your surveillance program.

I am concerned, Mr. Chairman, that there are other resources out there that maybe ought to be gathered together in this effort, somehow, without necessarily increasing the burden so much on the Probation Division.

Mr. JACKSON. Mr. Kindness, I would interject at this point that we would not propose to provide the service if there was an agency in the community that could provide it. In fact, in some of our offices right now we are providing good narcotic after-care services through locally-funded projects.

So if there was something in place, we would not seek to take this contractual service on ourselves, but we would avail ourselves of whatever resources were in the community.

To go back to the chairman's remarks, it would be unavailable to us in the areas where there was none to enable us to provide for

some contractual services. Several of our larger offices in the urban areas have a bevy of supportive services and agencies that we can draw upon. We do use these services routinely.

Mr. DANIELSON. We are talking about contract services here?

Mr. JACKSON. Yes, sir.

Mr. DANIELSON. We are not putting the Probation Department in the job of actually delivering drug rehabilitation?

Mr. JACKSON. That is right.

Mr. KINDNESS. Some of the counseling would follow.

Mr. JACKSON. We will pick up as much as we could.

Mr. DANIELSON. But you have the counseling anyway. I don't see where that makes much of a change except under this plan not only can you counsel but you can contract for some tangible assistance.

I don't believe I have any more questions for you gentlemen.

Mr. CARLSON. We appreciate the opportunity, Mr. Chairman.

Mr. DANIELSON. Thank you very much, both of you, very much.

Are there any other persons who wish to testify and feel that they can make a contribution to this bill?

There being none, the hearing on this bill is concluded.

[Whereupon, at 11:53 a.m., the subcommittee proceeded to other business.]

Additional Material

Costs of aftercare program

ADMINISTRATIVE OFFICE OF THE
UNITED STATES COURTS
SUPREME COURT BUILDING
WASHINGTON, D.C. 20544

WILLIAM E. FOLEY
DIRECTOR

JOSEPH F. SPANIOL, JR.
DEPUTY DIRECTOR

June 19, 1978

Honorable George E. Danielson
Chairman, Administrative Law and
Governmental Relations Subcommittee
2447 Rayburn Office Building
Washington, D. C. 20515

Dear Congressman Danielson:

I write in response to a request of your counsel for a cost analysis of operating contract narcotic aftercare programs within the judiciary. This is a proposed transfer of contract authority from the Federal Bureau of Prisons to the Administrative Office of the United States Courts that would be authorized by the passage of H.R. 12290, the Contract Services for Drug Dependant Federal Offenders Act of 1978. I note that at the markup session held on June 12, 1978, your subcommittee voted to limit the funding authorization of the bill to $3 million per year for 3 years following the effective date of October 1, 1979.

I am compelled not only to submit the requested cost analysis but to respond to the above action taken by your subcommittee as well. As I understand it, the intent of the Federal Bureau of Prisons, in proposing the transfer was to effect the placement of financial and supervision responsibilities for drug dependent probationers and parolees in one agency. From the Bureau's standpoint this was merely to be a transfer of an existing program from one agency to another. The subcommittee, however, reduced authorization below the amount the Bureau of Prisons will spend to operate their aftercare programs during fiscal year 1978. This means that the Administrative Office would, in a year and a half, assume responsibility for more than 160 contracts involving 2,000 to 3,000 Federal offenders with less funding. The Federal Bureau of Prisons anticipates it will spend over $3 million for aftercare programs in fiscal year 1978 alone. The Bureau has also projected funding levels for fiscal years 1979 and 1980 at considerably higher levels

than that for 1978. (While the anticipated total for fiscal year 1980 is over $4 million, current budget requests for the Bureau of Prisons show lower figures based upon the expectation that the Administrative Office would assume the contract authority for aftercare services).

COST ESTIMATE

In February 1978, the Probation Division of the Administrative Office surveyed all persons under probation and parole supervision. The survey identified 2,688 persons under the supervision of the Federal Probation System in aftercare treatment programs funded by Bureau of Prisons contracts. There were 376 cases identified as being in need of treatment, but not in treatment because a program was not available. In round numbers, this is a total of 3,100 persons either in contract treatment or in need of that treatment.

The Bureau of Prisons and the Probation Division have established minimum standards for counseling and urine testing for clients enrolled in aftercare treatment. Those standards are not less than one 30-minute session per week of counseling and at least two urine tests per week. Based on an average cost of $5.00 per test, the Probation Division estimates that it would cost $1,600,000 per year for urine testing of the 3,100 clients. Using the counseling standard, and an average cost of $25.00 per hour for counseling, the Division estimates an expense of at least $2,000,000 per year for counseling. The total potential treatment cost at the present time would be $3,600,000 per year. It should be noted that urine testing and counseling are 2 of the 14 services now available to clients under the Bureau of Prisons programs. The additional services, while not used in every case, include methadone (detoxification and maintenance), psychotherapy, temporary housing, therapeutic community placement, and others. Further, the draft legislation has made no allowance for cost increases as a result of inflation.

The Administrative Office expects that the assumption of aftercare contract responsibility will result in several additional costs. While not included in the appropriation for contract services, the subcommittee should be aware that if this legislation becomes law, the judiciary will request funds for evaluation. It is our position that the proper administration of this program would require a two-level evaluation component.

Level one is a continuing evaluation of contract services currently available, to facilitate choice between competing bidders.

This includes setting minimum standards and a professional appraisal of the capacities of contractors. It is estimated that initially this would require one full time position in grade GS-14 (currently $30,750 per year), and one full time secretary ($11,523 per year), and $15,000 per year for consultant fees. The latter is necessary since frequently the evaluation would require expertise in toxicology, pharmacology, and other related medical areas.

Level two is a capacity to evaluate generally the drug treatment modalities provided by contract to persons on probation and parole. Persons on Federal probation and parole are a unique group and research should be conducted to aid in identifying the best way to spend the contract dollar. This is an important new capacity that is essential to the proper operation of the program. Without this evaluation capacity decisions on what contract resources to use are made in the dark.

We estimate that this will require a minimum of 6 percent of the funds spent for contracting, or $180,000 per year under the limit in the present bill.

In addition to evaluation, the Administrative Office would develop, in conjunction with the Federal Judicial Center, an extensive training program for all United States probation officers. While the Probation System presently has officers with drug abuse expertise, there are many who have had limited experience in identifying the drug abusing offender. This training would include general areas pertaining to drug abuse and treatment, and concentrate on specific topics such as identifying the drug abuser, characteristics of drug abuse, and treatment modalities. All officers would receive basic training in how to identify the drug abuser with an emphasis on developing skills of detecting addiction.

In addition to training in areas of drug abuse some officers will require training in contract management and monitoring. If this legislation is passed, probation officers will be responsible for many of the duties now handled by the Bureau of Prisons community programs officers. The Probation System does not have field personnel who are skilled in the area of contracting.

If the Probation System assumes full responsibility for this program it is anticipated that with expanded training probation officers will be able to identify additional drug abusing offenders and place them in treatment. With closer supervision and

with an increased number of drug abusers identified, an increase in probation personnel will be required. In this event the additional personnel costs would be at least partially offset by a reduction in contract expenditures for counseling.

The Administrative Office will require additional personnel to handle the contract process that would be assigned to us. The Bureau of Prisons has estimated that they administer the drug aftercare programs with the equivalent of five full time staff members. The Administrative Office would require at least that number.

To recapitulate, the contract authority, in 1978 dollars, that we will need in 1980 is as follows:

Contract Authority	$3,600,000
Evaluation	180,000
	$3,780,000

Further, we estimate that the costs of administering this program will be $220,000. It is our understanding that the authorization for the appropriation, as contained in H.R. 12290, relates only to contract authorization and not to general administration costs. The latter will be budgeted under the existing appropriation process. Please note also that the above figures do not include any reduction in the Bureau of Prisons budget. We do not have any way of estimating what the appropriate offset figures would be.

Summary

Mr. Chairman, I have tried to point out to the subcommittee the anticipated costs of the Judiciary operating drug aftercare programs. The Judicial Conference of the United States views the provision of drug treatment services for persons under the supervision of the Federal Probation System to be essential; believes that providing these services is an Executive function rather than a Judicial function; but would be willing to provide services directly if they cannot otherwise be provided, in the interest of assuring their availability. I have the general feeling that, to date, this program has not been adequately funded. While we are not asking for a lot of additional funding, we do want enough to do the job right, and so that we do not take on a new program with our hands tied. There are few other Government treatment programs which not only meet the high standards of treatment expected by the Probation System, but also provide the broad range of services demanded by the courts or Parole Commission. Therefore, if the

Administrative Office receives authority for supervisory aftercare, that responsibility should be accompanied by sufficient funds to provide the first-class level of service expected from the Federal Probation System.

I hope this report will assist you in your future work on H.R. 12290. Thank you for your thoughtful consideration of our concerns.

Sincerely yours,

William E. Foley
Director

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