

MEMORANDUM

TO: Manny Lentine

CONFIDENTIAL

FROM: Tom Ginster

RE: Policy alternatives for proposed youthful offender prison.

DATE: February 6, 1995

Please consider this an addendum to my earlier memoranda concerning the same.

As you know, I deliberately withheld my recommendations to you/JE concerning the policy alternatives for the youthful offender prison pending the opportunity of DOC and DSS to formally comment concerning the same.

Recommendation: Juvenile Court judges should not have the authority to sentence young offenders to the adult prison under any circumstances. Only Circuit or Recorders Court judges should have this authority, after juvenile court jurisdiction has been waived.

Reasons:

1. The proposed 460 bed facility would be overcrowded within a very short period of time if probate judges have this option. Allowing probate judges to sentence juveniles to adult facilities would simply transfer overcrowding problems from one system (DSS) to another (DOC).
2. Enactment of our proposed reforms of the waiver process are already designed to divert most of the same target population now being sent to BTS and other secure DSS facilities.
3. There would not be any chargeback cost to the county for placement in Corrections (as their now exists for PA 150 wards) and therefore, there would be an incentive for judges to pursue this route for cost saving purposes.¹
4. Allowing probate judges direct access to the prison would circumvent the waiver process and otherwise create a disincentive for prosecutors and judges to formally waive youths into the adult court. Predictably, prosecutors and judges will follow the path of least resistance.

¹ Probate judges typically must seek approval from their county board of commissioners every time they exceed the number of slots that county budgeted at the beginning of the year for BTS. For example, one year in Saginaw County there were six slots budgeted for Act 150 wards @ \$35,000 per offender per year. By August, the probate judge had eight sentenced offenders in Maxey, (two over budget) three others in detention waiting a placement (waiting for other youths in the system to "graduate") and five others awaiting trial on serious charges that upon conviction likely would result in a Act 150 commitment.

5. Allowing less serious juveniles to be sent to this facility would detract from our goal of prioritizing the space for those formally waived to the adult court and who typically are most dangerous and violent offenders.

The best course is to defer this decision for one or two year trial period to see what the impact the proposed changes in the wavier process will have on the population of 150 status wards now being sent to BTS. Its my guess that most of these wards will be diverted due to changes in the waiver law without expanding the probate courts sentencing jurisdiciton.

If the decision is made to allow probate judges to sentence juvenile offenders to the youth prison at this time, then I would encourage the use of the alternative sentencing model. In my opinion, this is the only proposal that could survive a constitutional challenge.