does not mean that inmates will be idle but rather that the offender will choose how he/she can productively use his/her time.

Norval Morris in his previously cited book develops a sound rationale for volunteer programs. We feel that movement in this direction will greatly improve the quality and benefits from our program efforts.

Summary

This article attempts to trace the history and development of the Federal Prison System and, at the same time, share with the reader the reexamination of mission and programs currently occurring in the Federal system.

We have found no single method, no panacea for solving these problems. The offender population is as heterogeneous as the rest of society. Each man and woman has a different set of needs to help him or her make the decision to give up criminal activity and to take a respected place inside rather than outside the law.

To protect our society against crime, we need a highly efficient criminal justice system that apprehends the offender, brings him speedily to trial, metes out a just sentence to the guilty, and gives him encouragement to change his life style. This process can succeed only if law enforcement officers, the prosecutors, courts, and our "correctional system" work in cooperation and harmony, backed by the solid support of the American people.

Abolish Parole?

BY MAURICE H. SIGLER*
Chairman, U.S. Board of Parole

PROBABLY no component of corrections is under attack today more than the function of parole. My desk these days is a repository for an endless flow of critical articles, adverse court decisions, and bitter—sometimes savage—letters from convicts and their families, friends, and attorneys.

It used to be the prison—not long ago—that took all the heat for the shortcomings of corrections. But our society has worked through this issue and concluded by now, with considerable justification, that the prison is a hopeless place to undertake the rehabilitation of the criminal. Parole has now become the scapegoat of all of corrections' ills. There is little indication in the pile of paper on my desk that anyone remembers what the inmate did in the first place—or who put him in prison. It is the parole board who won't let him out, and the keeper of the keys has never been a popular figure in fiction or in fact.

Our society has its imperfections, and this is certainly true of the criminal justice system. Everyone knows how high the rate of reported crime is, and that the actual number of crimes that take place is three to five times higher than the number reported—but no one really blames the police or the prosecuting attorneys because the number of convictions is an insignificant fraction of either rate. Everyone knows that whatever sentence the convicted criminal receives—suspended sentence, probation, jail, or a long or short prison term—depends more on the particular judge handling the case than on any other factor, but only a few law school professors take particular note of this pervasive inequity. But it is the parole board, of all institutions in our society, that is supposed to be totally fair and just in its decisions.

The emotionalism that is associated with the current fashionable attack on parole is evident, for example, in a recent article (November 1974) in the *New York State Bar Journal.* The author, in a sharp paragraph summarizing the shortcomings of parole, concludes that on the basis of his studies and observations, the parole boards, among other things, do not have even "the commitment to perform (rationally or even equitably) the discretionary release function."

The parole board members that I know are not the irresponsible monsters that this passage would suggest. What it actually suggests is the lack of objectivity characterizing attacks on parole today.

I do not mean that parole should be sacrosanct; certainly it has its problems and deficiencies, and we need all the help and expertise we can get in resolving them. Yet our critics ought to be as fair about it as they want parole boards to be in the exercise of their responsibilities.

Parole a Generation Ago

Parole used to be pretty bad by today's standards, and perhaps it still is in some places. It also used to be a tougher and harder world, and corrections itself, in the days when administrators had total discretion and the courts kept hands off, was tough and hard. It was a world of its own, sealed off from public scrutiny. I do not need to review the literature in this respect for the readership of FEDERAL PROBATION.

My own career in corrections started in that world—some 36 years ago—as a prison guard. The "parole judge" of that day was an austere, unapproachable figure. He was one of the few persons from the outside world admitted to the prison, and preparations for his visit were those befitting a foreign potentate.

The hearing room was cleaned and dusted to antiseptic perfection. There was an enormous mahogany desk, and it was polished to a high sheen. Particular care was taken with the chrome-plated carafe and tray, and the fancy crystal glasses; they shone brilliantly. The carafe was filled with icewater, and it was replaced by an attendant every time the "judge" poured a glassful.

The part of the prison in which the hearing room was located was highly controlled; there had to be absolute quiet. The inmates to be heard were lined up outside the hearing room, and they had to stay rigidly in place without smoking or talking.

One at a time, the inmates were admitted to the room, and they stood stiffly before the desk. The "judge" asked each a question or two, and the hearing was concluded. If the inmate had more to say, he was cut off, and if necessary, a guard led him out.

The inmate had to remain in ignorance of his parole decision for weeks—often months. And when he got it, if it was a denial, there were no reasons of any kind given. All he got was a slip of paper with his name on it, and a terse "Parole denied." And there was nothing he could do to appeal the decision.

The "judge" often took pride in the number of cases he heard in one day. If the prison was located in a bad climate, or in an unattractive part of the country, the number of cases heard in one day tended to increase so he could get out of there. I have known of a "judge" to hear as many as 50 or 60 cases a day.

The "judge" often had his prejudices and peculiarities. If the inmate was less than perfect in his demeanor, or didn't exercise care in what he had to say, the "judge" might give him a severe lecture. Or the judge may have had certain types of cases he was hell on. I knew at least one "judge" who, for example, would never parole an inmate convicted of a Mann Act violation, and those were the days when the Mann Act was often used to sequester men whose across-state-line adventure involved only youthful romance. Other "judges" didn't like burglars, or car thieves, or income tax violators—or whatever.

Parole in those days should have been subjected to severe criticism, but it never was. Our modern critics would have had a field day.

Changes in Federal Parole

Parole has come a long way since then. The improvements came gradually over the years, but they were accelerated by the *Morrissey* v. *Brewer* decision and related court decisions of recent years. The Federal system has been particularly transformed, but many of the same changes have taken place in the states.

In the Federal system, the parole "judge" has gone. The members of the U.S. Board of Parole are policy-makers and administrators. Five of them head up our regional offices, and three are located in Washington.

The hearings are conducted by pairs of examiners—all of them chosen on the basis of extended experience in corrections. The hearing room no longer has the trappings of an august tribunal. The examiners borrow somebody's office while they are at the institution. The atmosphere is informal, and the inmate applicants for parole are given a full opportunity to make their case. If they wish, they may be accompanied by an advocate—family members, friends, prison supervisors, or attorneys.

A tentative decision is given to them on the spot, and if it involves a continuance to another hearing at a specified future date, or until their

* The views expressed herein are personal, not as a member of the U.S. Board of Parole, and are not necessarily the opinions of the Department of Justice.

prison time is up, the reasons for this decision are discussed with them, and they are free to dispute the reasoning.

The U.S. Board of Parole, through a grant from the Law Enforcement Assistance Administration, and research done by the National Council on Crime and Delinquency, has developed a system of decision-making intended to bring about fairness and equity. When the application of this system results in a decision to parole, we of course encounter no accusations of unfairness. But when it results in a set-off for a future hearing, or no parole, inmates and their families and attorneys sometimes find it difficult to accept. This is understandable, no system that could possible be devised could avoid it.

First, the examiner panel gives each case a salient factor score, ranging from zero to 11, with the higher the score, the better the prospects for successful completion of parole. The case gets points, or loses them, on the basis of such factors as prior convictions, prior commitments, education, employment history, marital status, etc. All of the factors were determined on the basis of research to have some predictability for success on parole.

The case is then given an offense severity rating—low, low moderate, moderate, high, very high, and greatest. This rating does not depend simply on the subjective judgment of the examiners. They are provided with a chart that lists offense categories under each severity rating.

Then, with the salient factor score, and the offense severity rating in hand, the examiners consult a second chart which indicates the amount of time an offender with a given background and salient factor score should serve for an offense of a given severity, assuming reasonably good institutional performance. For example, an offender with a salient factor score of 11 and an offense severity rating of low might be expected to serve 6 to 10 months before going out on parole. Or an offender with a salient factor score of 3 and a severity rating of very high may be expected to serve 55 to 65 months. For an offender with a severity rating of greatest, the most serious or heinous offenses, there is no maximum range stipulated.

For most offenders, the mix of salient factor score and offense severity rating involves a certain amount of risk in parole, and the system is intended to bring about a reasonable degree of fairness by insuring that they serve about the same amount of time as others in their situation.

But, for those cases where in the clinical judgment of the examiners the inmate has a much better prospect of success on parole than his score and rating suggests, the examiners can shorten the amount of time to be served below those specified by the guidelines. Or where the prospect of success on parole is much worse than that suggested by the score and rating, the examiners can extend the amount of time to be served beyond that specified.

Our statistics on the use of this system indicate that currently at initial hearings about 85 percent of the decisions are within the guidelines. About 9 percent are below the guidelines, and about 6 percent above.

The inmate gets a written decision within 15 working days of the hearing; if the decision is negative—a set-off or no parole—he is given the reasons in writing. If the chief hearing examiner or regional director does not agree with the recommendation of the examiners—and the recommendation is only tentative until they do—the regional director may modify the action or refer it to three members in Washington who constitute a National Appellate Board. The appeals board may vote either with the examiners or with the regional director, and a written decision is sent to the inmate.

If the decision received by the inmate is for a set-off, or no parole, or if he disagrees with the parole date, he may appeal that decision to the regional director. The regional director may advance a set-off up to six months, or change the salient factor score or offense severity rating, and adjust the set-off date accordingly. However, if he wishes to grant a parole where the examiners have denied one, or deny a parole where the examiners have recommended one, or if he wishes to advance a set-off date by more than 6 months, he must obtain the signature of another regional director. If he fails to obtain another signature, the examiner's recommendation stands.

If the inmate is then dissatisfied with the decision he gets as a result of his appeal to the regional director, he may appeal it to the National Appellate Board. This board may change the decision in some way, or affirm it. The parole decision is then final—short of going to the courts, which sometimes happens.

Again, our statistics show that currently appeals by inmates result in some form of relief—parole, advance set-off date, and/or change in salient factor score or offense severity rating—about 25 percent of the time.

In certain cases—heinous or particularly notorious offenses, terms of 45 years or more, or where there is a high public interest—the guidelines procedure is used, but the decision is determined by vote of the regional director and two of the three members of the National Appellate Board. Appeal in these cases is directly to the appeals board.

In parole revocation cases, the procedure is too technical to be reviewed satisfactorily here, but it follows all of the due process safeguards set forth in the *Morrissey* v. *Brewer* decision—written notice of the claimed violations, disclosure of the evidence against the parolee, the right to present witnesses and documentary evidence, the right to confront and cross-examine adverse witnesses, written decisions, and written reasons for decisions. Not infrequently, the procedure results in no finding of revocation and the prompt reinstatement of the offender on parole, or in revocation accompanied by a reparole date.

All of the new procedures of course take time. No longer are 50 or 60 cases heard in one day. Our examiners try to hear 15 parole or revocation cases a day, but are averaging between 12 and 14; often this cannot be obtained without running through lunch and into the evening. The National Advisory Commission on Criminal Justice Standards and Goals in its 1973 *Corrections* report recommended an average of 20.

Problem Areas

A great deal has been done, but we still have problems. As in any other field, as fast as we resolve problems, new ones crop up. Sometimes the solutions to old problems in themselves create new problems.

The regionalization of the Board in 1974 has brought it into much closer proximity to inmates, their families and their attorneys, and the courts. Regionalization was intended to bring about a more expeditious delivery of decisions and services. But the new accessibility of the Board has in itself generated a workload and a variety of problems associated with individual cases that the Board has not previously experienced. At the moment, this rapidly increasing workload threatens to outstrip our capacity for dealing with it. Some of our staff, I am sure, feel that it has already done so. Because of the slower pace of the budgetary process, it will be some time before we can match resources with the demands upon them.

Our new rules and guidelines represent a sincere attempt to make our decision-making as fair and equitable as humanly possible. But already, these rules and guidelines are under attack by those who fail to make parole, or make parole as expeditiously as they would like. Although I am not unduly paranoid, I suspect that as long as there are inmates who do not make parole, any system we devise will be attacked. One issue at present is whether or not the Board should be under the Administrative Procedures Act, and subject its rule-making procedures to the provision of that Act. We have already had one adverse decision (*Pickus* v. *U.S. Board of Parole*), but the issue continues on its way up the laborious appellate process.

Perhaps the issue giving us the most trouble at the moment involves section 4208 (a) (2) of our statute, under which the court imposes only a maximum term and leaves the matter of parole eligibility and release up to the Board. But there are those inmates, and those judges, who interpret the provision to mean that a sentence of this kind is supposed to result in early parole.

The judges who impose an (a) (2) sentence may have various things in mind. Some judges use it in all cases, regardless of the nature of the offense or the background of the offender. Other judges impose a long maximum (a) (2) sentence to satisfy public emotions, but anticipate that an early parole will soften the initial severity. Other judges use it to motivate the offender to work hard at his rehabilitation and earn an early release. Still other judges use it fully intending to turn the matter of eligibility and release entirely over to the Board.

But in most cases, we don't really know what the judges had in mind. Usually, they do not state for the record what they had in mind when they imposed sentence. When they do, their views weigh very heavily on the decisions of the Board. Much of the controversy surrounding the use of the (a) (2) sentence would be eliminated if the judges would let us know what they had in mind when they imposed it.

In the past, the courts have taken us to task for not giving reasons for our decisions. Now that we give reasons, we sometimes get court orders stating that the reasons are inadequate or insufficient, and ordering new hearings. I fully agree that the Board ought to give sufficient and pertinent reasons for its decisions. But I find it diffi-

cult to understand why the Board should be singled out in this respect, when at the time most crucial for the offender—at sentencing—the courts give no reasons at all for the penalties they impose.

Parole Compact Proposal

There is a feeling in some quarters, particularly among our critics in the academic community, that the solution to the problem of equitable parole decision-making lies in the so-called parole compact. Under this plan, the inmate, institution officials, and parole board representatives would sit down and work out a set of goals for the inmate to achieve—employment skills, education, therapy of various kinds—and when the inmate had achieved those goals, he would automatically be released.

This plan has a sensible sound to it. But it is far removed from the reality of offenders, institutions, and "treatment" programs. Anyone who has an extensive experience in working with offenders in prisons knows that there are inmates who could achieve almost any set of goals of this kind, but who would still be totally unready for release. I have known offenders who have picked up a half dozen trades during successive terms in prison, high school diplomas, and even college degrees, and who have participated in group therapy and counseling of various types, but still are dangerous people. When ultimately released, they lose no time in sticking up a bank or returning to their preferred variety of crime.

On the other hand, there are inmates who would not be able to meet such "treatment" goals, but who could be released with the expectation that they would never again get into trouble with the law. Many of them don't really need to meet such goals anyway. Some persons convicted of murder, for example, could be released as soon as they are convicted in court, and never get into trouble again. They remain in prison for a relatively long time because our society wants to demonstrate that it does not regard the taking of human life lightly.

A further flaw in the plan is that research so far has shown that prison "treatment" programs are singularly unsuccessful in bringing about the rehabilitation of anyone. Most prison administrators today would agree that the prison is well equipped to punish offenders, or to incapacitate them from the further commission of crimes while they are doing time—but they are not equipped to do much of anything else.

This is not to say that persons cannot come out of prison rehabilitated. Some of them do. Some of them mature naturally, just as the rest of us did in our earlier years. Some of them burn out; crime is a strenuous life, and it is no coincidence that statistics show that most crime is committed by relative youngsters. Others somehow see the light and make an abrupt change in their lifestyles; but this cannot be traced directly to formally established prison "treatment" programs.

The parole compact would formalize the "game" that some prisoners play—enrolling in various programs to make points toward parole. Prison educational departments are typically thronged with such offenders as professional con men, who are notoriously difficult to change. The "game" sometimes works—parole board personnel are human too, our critics notwithstanding, and given to sympathetic feelings. But to institutionalize the "game" in the form of the parole compact would be unfair to the public, which expects, if nothing else from the imprisonment of offenders, protection from further depredations. It would also be unfair to the inmates, and deeply increase their cynicism for law and order, for they know better than anyone else the mockery of so-called prison "treatment" programs.

Abolish Parole?

There is a vocal group who now say that the only solution is to do away with parole itself. There should be relatively short terms, graduated according to the seriousness of crimes. Offenders should know when they are sentenced exactly how long they will serve, and exactly when they will be released. The offender will not then have to do his time in uncertainty, dependent on the vagaries of the parole process.

Again, this proposal has a good sound to it. But like the parole compact, it ignores the realities.

The prisoners themselves would be unhappier with this plan than they have been with parole. No matter how short the term they may be sentenced to, they want to get out earlier (and I can't blame them). Even under the present system, and many of them do get short sentences, as soon as they are committed, they start exploring every possible avenue for bringing about an early release—appeals to the courts attacking their sentences or the conditions of their confinement,

applications for executive clemency, pressures pleading their own ill health or the ill health of dependents—you name it.

It also ignores the realities of prison administration. If we are going to have prisons, we must give administrators the means by which to operate these prisons on a reasonably orderly basis. If prisoners are committed with fixed terms—with no time off for good behavior, and no eligibility for early release—there will be no incentive for the prisoners to behave themselves in confinement. Even under present circumstances, prisons are difficult enough to run, and some of them are impossible to run. My argument of course has been anticipated and condemned by those who advocate doing away with parole and instituting short, fixed terms, but nevertheless, it has validity. Under the proposed no-parole system, prisons would be worse hellholes than they are now—for prisoners and personnel alike.

The proposal ignores the realities of the legislative process. Most legislatures today, if they were to recodify their criminal statutes, would undoubtedly prescribe even longer maximums for many crimes. This has been the experience throughout the country when penal code revision has been under consideration. Penal codes are typically a mish-mash of conflicting penalties, some of them savage in their severity, and are undoubtedly in need of revision. But given the legislative temper—particularly with our shocking annual increases in crime rates—I see no hope that the penalties prescribed for crime can be as substantially eased across the board as those who advocate the abolishment of parole wish to bring about.

The abolish-parole people, for some reason, do address the basic problem that is handicapping a fully equitable application of the parole process—sentencing. The parole process is inseparable from the sentencing process.

Sentencing and Parole Interrelated

There is a vast literature in this country on the disparities, inconsistencies, and inequities of sentencing. With so many judges, with so many different personalities and philosophies, and with so much discretion in the sentencing process, it is inevitable that the quality of justice should be so uneven.

Every day, a parole board sees sentences that are too long, and others that are too short—given the nature of the offenses and the backgrounds of the offenders. One judge may impose a year for bank robbery—another 25 years—and others somewhere in between, on offenders whose crimes and backgrounds are relatively similar. And so it goes with other crimes.

One judge may send an offender to prison for psychiatric treatment—although that is the last place where he will get it. Another may commit an offender to learn a trade, but there is no evidence that even learning a trade will turn him away from crime. Still another will commit an offender purely for the sake of punishment—and that the offender will get—but how much punishment is enough?

Some offenders should be paroled right away, but their sentences are so long that the parole board has no authority to do it. Other offenders should never be paroled, but their sentences are so short that they get out soon anyway. With so much variation in sentences, and the purpose of sentences, regardless of circumstances, it is difficult for prison administrators to determine exactly what should be done with a large proportion of their populations.

Somehow or another, a parole board is expected to bring some kind of order out of this chaos, and make fair and evenhanded decisions that will minimize the disparities and take into consideration what it guesses to be the intention of the sentencing judges, what it knows about the problems of prison administrators, and what in its judgment is in the best interests of public safety and protection.

Professor Norval Morris, in his recent book, *The Future of Imprisonment*, writes that "our sentencing practices are so arbitrary, discriminatory, and unprincipled that it is impossible to build a rational and humane prison system upon them," and that "there is at present such a pervading sense within prison of the injustice of sentencing that any rehabilitative efforts behind the walls are seriously inhibited." Even given the inconsistencies of the sentencing process, I do believe that the solution lies in abolishing it, or taking the authority away from the courts.

There are various ways in which the courts can retain their sentencing discretion and yet minimize the disparities that are now so prevalent. The literature deals fully with them—sentencing institutes, sentencing panels in multi-judge courts, the use of sentencing criteria, judicial visits to institutions, appellate review of sentences, and others. The National Advisory

Commission on Criminal Justice Standards and Goals has outlined a number of them. Some have been implemented here and there.

The fairness of the parole process depends almost directly on the fairness of the sentencing process. Much has been done to improve parole, and I would be the first to say that the courts have been extremely influential in this respect. And more can be done to improve parole, but again we need the help of the courts. If they can make their sentencing decisions more consistent and let us know the reasons for the decisions they do make, we can make parole much fairer to all concerned. I know that the courts really want to make sentencing much more equitable, and despite the emotionalism of some of our critics, we in parole also have a commitment to make a continuing effort to bring about further improvements in what we do.

To those who say "let's abolish parole," I say that as long as we use imprisonment in this country, we will have to have someone, somewhere, with the authority to release people from imprisonment. Call it parole—call it what you will. It's one of those jobs that has to be done.

Corrections: A Long Way To Go

BY TOM RAILSBACK
Member, Judiciary Committee, U.S. House of Representatives

IF IT IS TRUE, as Dostoevski wrote, that "the degree of civilization in a society can be judged by entering its prisons," then we are just emerging from the Dark Ages. Many of our institutions are correctional in name only. They are antiquated, overcrowded, and something in their very nature seems to produce tension, provocation, and violence.

If the basic purpose of these institutions is to protect society, then we have failed. Fully one-third of those sent to prison for a serious offense are recommitted within 2 years of their release. Our present system has simply been unable to rehabilitate offenders. To the contrary, prison life itself often serves to harden criminals. Because of this, society, as well as the offender, pays a very high price in economic loss and wasted lives.

Unfortunately, the fact remains today that correctional institutions are still fundamentally places of custody. This is so despite well-intentioned efforts by many prison administrators who are simply not equipped with sufficient tools to perform the rehabilitative service that they recognize would enhance their correctional system. Their personnel are usually undertrained, underqualified, and underpaid. There is difficulty recruiting minority persons to reflect the racial composition of the institution. The sums authorized for prison industries, as well as the available facilities, restrict progress in providing *relevant* training and work. The permissible wage scales do not permit an inmate to build a nest egg or to help his family on the outside. As a result, the long-term inmate is often divorced and his family is likely to be drawing welfare.

In the spring of 1971, the jurisdiction of the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice, on which I serve as the ranking minority member, was expanded to include oversight responsibilities for the Nation's correctional system and its penitentiaries. In the past few years, the Subcommittee has visited prisons and jails all around the country—in California: San Quentin, Soledad, and the Men's and Women's Detention Facilities in Alameda County; in Wisconsin: Waupun, Foxlake, and the Milwaukee County Jail; in Illinois: Cook County Jail in Chicago, Stateville Penitentiary in Joliet, the Saint Charles Training School for Boys, the Geneva Facility for Girls, and the State Prison in Vienna; in Massachusetts: Walpole and Norfolk; the Federal institutions at Lewisburg and Allenwood, Pennsylvania; Leavenworth, Kansas; Springfield, Missouri; and the District of Columbia institution at Lorton, Virginia.

After talking to many inmates, prison administrators, correctional officials, and probation officers, I have come to the conclusion that in order to rehabilitate prisoners, our penal system must

offer them hope—hope for self-respect, new opportunity, and a better life. And, if we are to protect society, we must be certain the man or woman we return to it has changed and is a productive and law-abiding individual.

Never was this clearer to me than when I visited the cell block that inmates refer to as the "tomb" at the old Joliet facility in my home State of Illinois. There I saw a 19-year-old boy sitting on the floor in a tee-shirt in a cell with no heat. The mattress was on the floor, and the boy was shivering. His criminal record consisted of curfew violations, disorderly conduct, and one burglary conviction for which he had been imprisoned for about 6 weeks. In talking to him, I learned that he had been placed in the "tomb" because he was an alleged homosexual. I subsequently learned that he had been "ripped off" by another inmate, and they both were being punished. I wondered then, as I still do, how this type of "treatment" could possibly help prepare him to return to society.

I was also disturbed to learn that many authorities with whom we spoke admitted that perhaps as many as half of the people imprisoned did not have to be, if the only criterion was to protect society.

The saddest indictment of our criminal justice system, however, is the rate of recidivism we have in this country—particularly among juveniles. Therefore, whenever possible, new alternatives must be considered. It is particularly important to maximize community involvement in corrections as an alternative to the traditional isolationary techniques of penitentiaries.

One of the most promising approaches is that of pretrial diversion, whereby alleged criminals are diverted from the court system, and instead offered community-based rehabilitation and counseling programs. Pretrial diversion attempts to put offenders in contact with positive influences in the community.

I believe pretrial diversion can be a particularly useful tool in dealing with juvenile offenders. In fact, the Brooklyn Plan, the first deferred prosecution plan that was begun in our country in 1936, had such individuals in mind. And probation officers in Chicago have been extremely successful in implementing a similar program to keep young people out of traditional institutions.

We know that many of the juvenile correctional facilities are overcrowded, and, as a result, youthful offenders are often thrown in with the more hardened criminals. Every attempt should be made to divert juveniles from such institutions to community-based programs where they can be given vocational training and counseling. If they successfully complete the program, they can be released without a criminal record to stigmatize their future. In contrast to prison, which is often called a "life sentence" regardless of the term because the record follows one forever, pretrial diversion offers the hope of reform and a new life.

The pretrial diversion program should also focus on individuals charged with victimless crimes, such as prostitution, narcotics addiction, and drunkenness. By and large, these persons pose little threat to society and could be rehabilitated with other kinds of supervision.

Pretrial diversion also has the benefit of significantly reducing the caseload of our overburdened judicial system, and is substantially less expensive than keeping a man in prison. It is estimated that if one includes the welfare payments to his family, to incarcerate a person costs anywhere from $4,000 to $10,000; while the cost of a pretrial diversion program is usually less than $1,000 per person annually.

Unfortunately, there are still a great number of people who must be incarcerated, and I certainly do not mean to imply that we should abandon our penal system. However, these people should also be provided with positive contacts and experiences which will encourage them to pursue a responsible style of living when they are released into the community. Programs should be directed toward the social problems common to most offenders. They should include counseling, drug and alcohol treatment, and educational and vocational training; and they should continue through probation, work/study release programs, and halfway houses.

Recent studies have shown a significant correlation between unemployment and recidivism. The lack of a vocational skill is a major barrier to the reintegration of the prisoner into the community.

Other nations have been relatively successful in their attempts to provide gainful employment to prisoners. Sweden, Holland, and Denmark have allowed prisoners to work in the community during the day and return to prison each evening. This approach enables the offenders to remain members of the society-at-large, gain valuable work experience, and develop a positive work

ethic. New Zealand and Australia have similarly put a heavy emphasis on employment.

Although there are many deficiencies in our prison system today, I think none is more critical than the need to provide meaningful job training and employment opportunities for prisoners. While a few States, such as South Carolina, have tried some innovative work-release programs, most programs provide prisoners with job training which is irrelevant to today's job market. If they are paid at all, it is at a rate far below the minimum wage.

The Department of Justice has initiated the Federal Prison Industries program, but legislative restrictions have severely limited the training and work experience it is able to provide. F.P.I. may not compete with free labor and business. The goods produced can be used solely by government agencies and institutions. Inmates are generally employed in unskilled jobs for which there is little demand in the free market. And there is never enough money for anything but token wages for the inmates, and almost nothing for modernization.

In response to these inadequacies in the present system, the Offender Employment and Training Act has been introduced in Congress. This bill would rely upon the expertise found in the free market to revitalize the antiquated vocational training systems of our prisons.

I believe that private industry will cooperate in setting up prison job training programs leading to postrelease employment for participating offenders. Under this bill, private organizations would receive loans and grants to establish or expand projects both in and outside Federal and State correctional institutions to train or employ criminal offenders. The bill also provides that goods produced and services performed would be available for sale to the public and could be sold in interstate commerce. Hopefully the programs would provide inmates with work experience that would enhance the likelihood they could secure gainful employment upon their release. In addition, the programs should assist the inmates in acquiring self-respect, more relevant job skills, and monetary rewards.

Another problem is the fact that traditionally correctional institutions are located far from the cities from which the majority of convicted offenders came, and to which they are very likely to return. This isolation limits their opportunities to learn or relearn conventional societal living patterns through controlled education and social contacts, or even through regular visits from relatives, friends, or sympathetic volunteers. Prisoner furloughs should be used when possible to help the offender stay in touch with the family environment. The family can often be an effective motivating and rehabilitative force and can help reestablish community ties.

The distance from big cities also greatly reduces the likelihood of recruiting a staff whose racial, ethnic, and social backgrounds are similar to those of the inmates. As Attica all too well dramatized, racial conflicts are often heightened in prisons.

Prisons should not be isolated fortresses.

Nor should prison life rob inmates of their dignity. Unlimited use of discretionary power should be curbed. Minimal standards of treatment should be adopted, and due process should be assured in internal disciplinary matters. Prisoners should also be protected from personal abuse, and allowed freedom from censorship and freedom of personal expression. In addition, as I have proposed in Federal legislation, an ombudsman should serve as an outlet for complaints and to ensure nondiscriminatory application of prison policies. This would help to reduce the frustration and feeling of powerlessness which too often erupts into violent protests.

Additionally, since many institutions are overcrowded and depersonalized, they should be divided into smaller, more manageable units to reduce regimentation and facilitate personal counseling.

Finally, a word about parole. It was not by happenstance that our Subcommittee chose parole as our first area for a major legislative effort. Parole was undoubtedly the most talked about area needing reform in the opinion of the inmates we visited. Their anguish over existing parole procedures was well stated by Jimmy Hoffa:

> Parole is the predominant thought in every person's mind who goes to prison . . . you cannot diminish the desire of individuals for a parole or the anxiety brought prior to a parole hearing and the despair when he comes out of the Parole Board (and) is turned down the way people are turned down . . . . The people in that prison hate the words "Parole Board."

In my own visits to various prisons, I came to understand how parole becomes the preoccupation of many inmates. Unfortunately, the parole system is often viewed as capricious and oppressive. It has been unresponsive to the needs of inmates, and thus generates enormous animosity and resentment. The prisoners with whom I spoke at San Quentin and Soledad felt they should see a counselor before going in front of the Board, and, if they were turned down for parole, the reasons for that denial should be explained to them.

In the last Congress, our Subcommittee compiled more than 1,500 printed pages of public hearings documenting the need for parole reform. This year, I am again sponsoring the Parole Reorganization Act to deal with some of the problems. This bill would establish an independent Board of Parole consisting of a national board and five regional boards. It provides for more equitable parole procedures and assures due process for inmates in the initial parole hearings and in parole revocation or appeal hearings. Fortunately, this legislation is making substantial progress in the House of Representatives.

Prisoner uncertainty has been a prime cause of physical and mental unrest in prisons. A rational approach would be to reduce prisoner uncertainty about the length of one's imprisonment, as well as make the law equal for the rich and poor alike.

In conclusion, I would like to say that there are many fine and dedicated men and women working in our correctional system. The hearings we held and the visits our Subcommittee made could not have been possible without their cooperation.

By pointing out some of the problems I have witnessed as a member of the Judiciary Subcommittee, I do not mean to be unduly critical or harsh. However, our correctional system does need reform, and, by focusing on the past deficiencies and problems, it may be possible to find ways to correct them.

If our policy is to protect society, then our goal must be to restore the offender to a free and productive life. The ultimate beneficiary will, of course, be society as a whole!

END