

POINT OF VIEW

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More Balanced Corrections Philosophy**

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ACQUISITIONS

At a time when the Nation's crime rate is steadily rising and the American public is demanding more drastic measures to combat it, I find the theme of your conference, "The Criminal Justice System: New Sense of Reality," to be particularly appropriate. Angry Americans, many who feel unsafe in their homes and on the streets, are forcing us to take a new look at the criminal justice system.

Every segment of the system—on the Federal, State, and local levels—is undergoing critical reexamination. The courts are accused of being too lenient and inconsistent in sentencing. Law enforcement officers are



criticized for not apprehending more criminals. Some individuals and groups say prisons are pampering inmates at the same time others accuse us of excessive brutality. Parole and probation are under fire for ineffectiveness in rehabilitating offenders and for allowing too many dangerous people to walk the streets.

Clearly a "get-tough" mood exists. As a recent article in the Wall Street Journal mentioned, 35 States have passed new death penalty laws, 12 States have replaced discretionary sentencing with fixed-term, mandatory sentences for certain offenses, and 14 States have adopted measures to compensate victims of certain crimes, with the compensation to be paid by the criminal in several of those States.

In this new atmosphere, more and

*With the exception of minor editing and limited deletions, this is the full text of an address delivered July 7, 1975, by Mr. Carlson at the 47th Annual Criminal Justice Institute of the Florida Council on Crime and Delinquency held at South Orlando, Fla.

more people—criminal justice officials and the public alike—are questioning the validity of rehabilitation as the major goal of incarceration. We know that most crime is committed by repeat offenders. The majority of inmates in prisons have served sentences for previous offenses. People understandably want to know why we have been unsuccessful in changing the behavior of these offenders. The truth of the matter is, we don't know.

Over the past few years, the philosophy of corrections has become unbalanced. Many people inside and outside the system have been led to believe that we could best carry out our primary mission of protecting society by rehabilitating offenders through a system of organized work, study, and counseling that would somehow cure them of crime and turn them into law-abiding citizens. Rehabilitation has been seen as the basic reason for incarceration, as well as for probation and parole.

The medical model that evolved—a model that implied offenders were sick and could be cured of crime by a treatment program—was unrealistic. Rehabilitation was associated with

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humaneness and we forgot that most inmates are not sick, that we do not know the causes of crime, and that we have developed no sure cures.

As [one] former [State] director of corrections . . . [has] said . . . sending the defendant to prison to be rehabilitated . . . is as irrational as to send a person to prison to have his appendix removed or to learn the trade of his choice. . . . Rehabilitation must be regarded as a laudable ob-

jective of correctional programs, but not as the central purpose for imposing a sentence on an offender.”

Most of us in the field of criminal justice are now willing to admit that we don't know how to change offenders when they have no desire to change themselves. Far too many inmates simply go along with institution or community programs in hopes of winning early release through parole or discharge from supervision.

Change in any individual, if it occurs, must be voluntary. . . . Our role must be facilitative—to provide the opportunities for change for those who want to do so.

The new sense of realism has led to a more balanced philosophy of corrections, one that recognizes that retribution, deterrence, incapacitation, and rehabilitation are all legitimate objectives of incarceration. The aggressive and assaultive individual must be incapacitated to protect society. A person convicted of income tax evasion is sentenced primarily as a lesson and warning to others. Organized crime figures are locked up so that they cannot prey on the public for the period of time they are behind bars. To assume that the system can somehow rehabilitate all such individuals is simply unrealistic.

This growing skepticism about the rehabilitative ideal and the rising crime rate are having a profound impact on other aspects of the criminal justice system. There is an increasing demand, from both within and without the system, for mandatory sentencing and for an end to indeterminate sentencing.

Several bills now before the Congress would establish a system of definite sentencing. Such a system has been suggested by a variety of [in-

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formed] groups. . . . The prevailing sentiment is, “Even if we can't rehabilitate offenders, we can at least insure fairness in sentencing. If rehabilitation doesn't work, then hopefully certainty of punishment will deter people from further crime.”

Most of us who've worked in the criminal justice system know that for many offenders, crime is in reality a gamble. An individual about to break the law is playing the odds, and if faced with no certain prospect of punishment, his risk in committing the crime is minimal. Faced with certainty of punishment, the risk is greater and the individual may be deterred from committing the crime. Although deterrence is admittedly hard to measure, it is very real, and can best be achieved through a system of determinate sentencing.

Another reality of the rising crime rate is the growing population in the prisons and jails of our Nation. More crime is being committed, and more offenders are being apprehended and sentenced by the courts to serve a period of time in prison. Every prison

FEDERAL PRISON POPULATION

Total inmate capacity	22,483
Total inmates (10/3/76): 25,765 men; 1,448 women	27,213 ¹
Total inmates (10/3/75)	24,139

¹ Inmate occupancy is 21 percent over physical capacity.



Female corrections officer of the Federal Corrections Institution, Terminal Island, Calif.

system in the country, with the exception of California, had population increases during 1975. The Nation's overall increase was 11 percent, and the rise is accelerating. Our population in the Federal system rose 8 percent in 1975 and we matched that record in the first 5 months of this year. Population at this moment is over 27,000 inmates, 3,700 higher than it was a year ago.

From all indications this growth in population will continue for at least a decade. . . .

This overcrowding is coming at a

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time when both State and Federal courts are increasingly insistent on

more humane conditions in institutions and on the protection of inmates' civil rights. The courts have made it clear that jails and prisons cannot carry out their responsibility to protect society under conditions that prevailed in the past.

The days are gone forever—and rightly so—when a court would rule, as one did in Virginia 100 years ago, that an inmate was "a slave of the state."

For the past 15 years, the courts have issued a series of orders that have broadened inmate rights to the constitutional protections that other citizens enjoy. As the Supreme Court ruled in 1974, "There is no iron curtain drawn between the Constitution and the prisons of this country."

Among the many rights inmates have won are increased protection from cruel and unusual treatment and protection of their safety and lives. Federal courts have ruled that penal

systems in several States are unconstitutional because they are in violation of the eighth amendment. One recent Federal court decision called for a long list of amenities and services for prison inmates, including the right of privacy.

A variety of other organizations have added their voices to the demands by the courts for better housing conditions for inmates. I am referring particularly to the United Nations, the National Advisory Commission on Criminal Justice Standards and Goals, and the American Correctional Association, all of whom have advocated standards to eliminate undesirable conditions.

In the months and years to come, we will see more court decisions and more professional standards governing the conditions of incarceration. We will see more emphasis on privacy for inmates and a minimum standard of living

space for each person confined to an institution.

The system of accreditation being developed by the American Correctional Association will further raise standards. Every aspect of corrections ranging from qualifications for cor-

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rectional officers and other personnel, nutritional requirements, to living space for inmates will be included in the accreditation system.

These changes are not designed to pamper or coddle offenders but rather to eradicate the problems of the past. For 200 years, we have locked up society's offenders in cages that only serve to breed hostility, bitterness, and further crime. Depriving inmates of privacy and dignity has not solved the Nation's crime problem—it has only made it more acute.

I am optimistic that all of these developments will improve the Nation's criminal justice system. At the same time, however, we must recognize the reality that the demand for better conditions of incarceration is coming at a time when the rapid growth of prison populations makes it increasingly difficult to even maintain present standards.

In the short run, there are a number of remedies that may help ease the population crunch. More nondangerous offenders can be placed in such community-based programs as probation, parole, and halfway houses. Caution must be exercised, however, to ensure that offenders do not use and manipulate these programs as a lifeline to engage in further criminal behavior. Further development of victim restitution and pretrial diversion programs will also help ease the strain.

In the long run, however, new jails and prisons will have to be built. These new institutions are needed both to house the continuing increase in population and to replace the ancient bastilles that are so badly outdated.

Half the maximum security institutions in this country were built during the 19th century and there is no hope that they can be modernized to meet standards established by the courts and the other organizations I mentioned earlier. They must be torn down and replaced by smaller, more modern, institutions.

I have attempted to articulate what I consider to be some of the major problems facing the criminal justice system in this our Bicentennial year. Faced with growing citizen demands to know why crime continues unabated, it has become necessary—and healthy, I might add—to reexamine the objectives, policies, and programs we've pursued.

The problems we face, however, clearly cannot be solved by those of us in the criminal justice system alone. We cannot be expected to overcome the effects of broken homes, poor edu-

cation, and the decline in the influence of the church and family—certainly not alone and certainly not with the tools presently at hand. These problems are community problems and to solve them we need all the help and the understanding we can get—from the public, the Congress, and the State legislatures.

I firmly believe that the prevailing public attitude, which calls for a crackdown on criminals but at the same time dictates more humane incarceration, is a positive step toward solving some of the basic problems facing the criminal justice system. With public support and concern, Congress and State legislatures will adopt stiffer measures to deal with criminal, disparity in sentencing will be greatly reduced, and correctional institutions will embark on a more realistic mission. Despite the pessimism being expressed by some, I am convinced that what will emerge is a more humane correctional system, one that provides for better housing and treatment of offenders, and which is more responsive to the demands of the public for protection.

CRIMINALISTICS LABORATORY INFORMATION SYSTEM

In accordance with a request by the Attorney General of the United States, the FBI is currently involved in the development and implementation of a Criminalistics Laboratory Information System (CLIS). This computerized information system will collect and disseminate forensic science data for law enforcement throughout the United States. Through it, forensic science information will be identified, collected, and stored for on-line retrieval via NCIC telecommunications lines. The information will be centrally stored at FBI Headquarters and the FBI Laboratory will maintain the files and perform related quality-control tasks.

A CLIS committee composed of seven members: four from member laboratories of the American Society of Crime Laboratory Directors; and one each from the Bureau of Alcohol, Tobacco and Firearms; the Drug Enforcement Administration; and the FBI, will develop operational policy for this system.

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