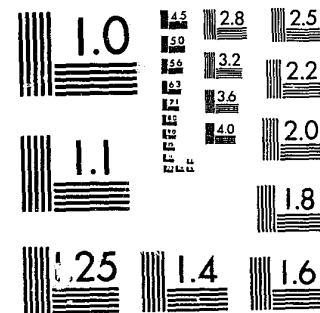


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# Department of Justice

STATEMENT  
OF  
ALLEN F. BREED  
DIRECTOR, NATIONAL INSTITUTE OF CORRECTIONS

92549  
BEFORE THE  
SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES AND THE  
ADMINISTRATION OF JUSTICE  
COMMITTEE ON THE JUDICIARY  
U.S. HOUSE OF REPRESENTATIVES

10:00 A.M.  
FEBRUARY 24, 1983  
RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, D.C.

Mr. Chairman and members of the Subcommittee:

I appreciate the opportunity to appear before you this morning to discuss the National Institute of Corrections and the relationship between Federal, State, and local correctional policies. The National Institute of Corrections is the primary Federal resource to provide direct assistance to State and local corrections programs. These number 3,500 local jails, 529 state institutions, 2,900 probation and parole agencies, 745 community residential facilities, and 419 juvenile facilities.

The Institute was started in 1974 in response to a recommendation made at the National Conference on Corrections, convened by the Attorney General in 1971 in the aftermath of the tragic Attica prison riot. That recommendation -- strongly supported at the conference by Chief Justice Warren Burger -- called for a national training center for corrections personnel similar to the F.B.I. Academy.

The National Institute of Corrections' founding legislation mandated that it provide training, technical assistance, clearinghouse services, research, and policy/program formulation and development to improve State and local corrections. The Institute was first funded in 1977, as a line item in the Federal Bureau of Prisons' budget, at \$5 million dollars. It continues to be administratively attached to the Bureau.

Since 1977, the Institute has provided management and specialty-skills training to roughly 12,000 administrators, managers, and staff trainers working in corrections. It is estimated that an additional 150,000 corrections line staff have benefited by training sponsored by the Institute through small grants to agencies to devise and conduct staff training.

In July 1981, the Attorney General authorized the Institute to establish a National Academy of Corrections at Boulder, Colorado. The Academy opened on October 1, 1981. In the first year of operation, funded entirely out of existing appropriations, over 2,000 state and local corrections staff received intensive training. As state budgets are being reduced across the nation, training for corrections personnel has been reduced by as much as 50%. The Federal Government has a critical role in shoring up these training deficiencies by continuing the Institute's training efforts.

Technical assistance to meet the most critical needs of state and local corrections continues to be in high demand, and the Institute last year provided on-site help to corrections agencies in nearly 1,000 instances. Assistance is provided only to agencies that officially request it; no effort is made to coercively approach the states and localities from the Federal level. Assistance provided covers a broad gamut -- from helping small, rural jails develop the most basic of policy and procedures -- to providing extended assistance in the aftermath of prison riots -- to mediating contested conditions of confinement -- to improving classification systems in institutions, probation, and parole.

Our information center in Boulder, Colorado, serves a longstanding need for current and accurate information to be made available to corrections practitioners and legislators. The information center is a national depository and clearinghouse for corrections information and provided assistance to over 5,000 requestors last year. The center also serves to link State, local, and Federal corrections efforts throughout the country, thereby reducing the isolation in which most corrections departments and programs had been operating.

Program development activities have produced transferable models in many critical areas. Models have been developed in prison and probation classification, an area that is critical to the effective placement and supervision of offenders. Models have also been developed in the areas of parole guidelines, bail guidelines, protective custody, inmate grievance mechanisms, and probation workload measures, to mention just a few; architectural design models for correctional facilities are currently being developed.

As one example, the Federal role in assisting the states in implementing effective offender classification systems has been most effective. Most offenders are overclassified, i.e., confined and/or supervised at unnecessarily high levels of security and deprivation. Currently, better than 50% of all inmates are classified and confined to maximum security facilities. However, based on the experience with the use of the latest classification technology, only 10 to 15% of the inmates in state institutions warrant this degree of security and custody. The converse is true with minimum security where only 11% of the offenders are classified to this level of security, although as many as 30 to 35% may be so safely confined. Classification is not only critical to expanding the use of the most appropriate level of confinement necessary for public safety, but also as an economic factor to be considered in public policy choices regarding sentencing sanctions. Construction of a 500-bed maximum security prison, for example, averages \$35 million, while construction of a 500-bed minimum security facility averages about \$11 million. Annual operating costs of a maximum security prison average \$12,000 per inmate -- annual operating costs of a minimum security facility average \$6,000 per inmate.

Annual operating costs for a probation supervision program average \$463 per probationer.

Modern classification systems can provide the most cost effective, rational, and safe method of assigning offenders to the most appropriate program and custodial level.

In all of its work, the Institute strives to move state and local corrections toward levels of efficiency, cost-effectiveness, managerial competence, humaneness, safety, and fairness. National policy is desperately needed to espouse programs and procedures that will give state and local corrections guidance on the elements of safe, constitutional, and equitable corrections systems.

Mr. Chairman, I will limit myself in regard to your request to discuss the relationship between Federal, State, and local correctional policies, to discussing the two most critical problems facing American corrections: severe overcrowding in our prisons and jails, and the disabling impacts of reduced state and local funding for corrections.

Overcrowding is by far the most critical problem facing corrections today as we squeeze more than 400,000 people into state and federal prisons. An additional 160,000 are in detention in local jails throughout the country. The number of confined offenders in state and federal prisons has increased by 60 percent over the decade, 1970 to 1980. By the end of the third quarter of 1982, prisoners in state and federal facilities numbered 405,371 an increase of 29% in less than 2 years. If the number of people entering prisons continues to escalate at the same rate, the U.S. prison population will exceed half a million people before the end of 1984.

Because of severe prison overcrowding, nearly 10,000 state prisoners are backed up into county jails making the safety of local correctional facilities even more precarious.

State and federal incarceration rates indicate imprisonment of 97 individuals per 100,000 population in 1970; 138, in 1980; 153, in 1981; and 169 per 100,000 population by the end of the third quarter of 1982. This increasing rate of incarceration is not only driving up the cost of state and local correctional services, but also consuming a greater proportion of annual state expenditures. In 1970, 1.2% of state expenditures (\$931.4 million) was earmarked for corrections. For the current fiscal year, 2.63% (\$6.1 billion) of state expenditures is budgeted for corrections.

This influx of prisoners is literally crippling the ability of already antiquated and physically deplorable facilities to accommodate offenders in any sense of safety, humaneness, or decency. To house the increasing numbers of persons sentenced to prisons, the states are using tents, hallways, prefabricated buildings, and recreation space. The states are double and triple bunking facilities and are reopening old facilities that had previously been closed due to antiquity and disrepair.

In fiscal year 1982, state systems added 11,516 beds through new construction. For the four-year period beginning with fiscal 1983, monies have been appropriated for construction of an additional 60,000 beds. Of these, 12,000 are to be completed during the current fiscal year at a projected cost of \$1.5 billion. These 12,000 beds represent space for less than half of the nearly 25,000 new prisoners that entered state facilities in the first half of 1982. The monthly net increase in prison populations in California, Texas and Florida justifies a new 500-bed institution in each state every month just to keep even!

In 1981, 37 states and the District of Columbia were involved in litigation regarding prison conditions. In 1982, 39 states were under court orders to reduce prison overcrowding; 23 were operating under court-ordered limits.

Mr. Chairman, I cannot overemphasize the critical point that prison and jail overcrowding has reached in this country.

We have in effect overcrowded ourselves into potential disaster. We find ourselves on the horns of a dilemma. If we do not reduce crowding quickly we face increased disturbances, escapes, riots, and injuries and death to both the keepers and the kept. If we attempt to relieve the current pressure through construction alone and if funds were made available today -- it would be a minimum of three years before the first cell could be occupied. How much tragedy can we tolerate in the next three years?

However, if we decide to build on the basis of straight line population projection requirements, we are going to bankrupt the responsible jurisdictions. We have all heard the astronomical costs of prison construction, but seldom is it presented with an economist's portrayal of actual expenditures over a 30-year period. When a legislature decides to spend, say, \$100 million in new prison construction, it is committing the taxpayers of that state to \$1.6 billion in correctional expenditures over the ensuing three decades. Construction is only 6% of the charge to taxpayers over 30 years. For every dollar of construction, there will be \$16 in operating costs. The construction is only the down payment. Corrections has become a \$5 billion a year business. The crisis nature of corrections is beginning -- in an era of diminishing fiscal resources -- to erode fiscal support needed for education, health, roads, and general welfare.

The build/not build controversy has become so emotional that both sides find it hard to deal objectively with present conditions. Certainly there is some justification for the contention that new construction seems to result in a self-fulfilling prophecy as prison populations expand to fill the available space. But this argument ignores the increasing number of prisoners held in intolerable, overcrowded conditions as we fail to replace outdated structures -- nor to mention building new space for increasing populations.

Jail and prison populations must be seen as less the result of such quantifiable indicators as the baby boom and the crime rate than the result of basic policy decisions reflecting beliefs about how we choose to deal with offenders. These policies represent the important and crucial explanatory element necessary to understand the current crisis of overcrowding.

Under this premise, the number of people in prison -- rather than being a factor of demographics and the crime rate -- is largely a result of decisions made by actors in the criminal justice system: police, prosecutors, defense lawyers, judges, corrections officials, parole boards, legislators, and governors. Thus, solutions lie not with jailers and wardens, but with the key decisionmakers spread throughout the criminal justice system.

The involvement of all three branches of government (legislative, executive, and judicial) in the corrections process in numerous ways and to various degrees further exacerbates the task. An additional complexity arises from the need to identify and analyze correctional trends within the larger socio-economic, legal, and political environment. Trends in corrections must also be viewed among the same forces that propel movement in other parts of the social anatomy of our democratic government -- the belief systems and political attitudes of people.

Only as the key decisionmakers throughout the criminal justice system begin to accept responsibility for their actions in contributing to the problem and, in turn, are provided with the necessary information to make responsible reasoned decisions, will the crisis diminish. Just as we learned in the last century that there is no such thing as the free lunch, we now need to learn that locking people up is not a cost-free solution to an excessively high crime rate.

This somewhat gloomy appraisal does not imply hopelessness but, rather, is made to underscore that neither a stroke of the pen to enact new laws, a bountiful appropriation, nor a new commissioner of corrections by itself will make prison overcrowding go away. All of the studies -- all of the analyses and technical solutions -- will be of little value without a jurisdiction having a clear-cut public policy on corrections. This policy must reflect the courage to tackle the multiplicity of overcrowding problems -- and the tenacity to shepherd long-term solutions. Do we need more prisons? No, yes, maybe. The processes leading to and the conditions surrounding overcrowding are as varied as the 50 states -- as the many courts that sentence prisoners -- and as the officers who arrest. An appropriate solution for one state may be politically, economically, and legally infeasible in another.

For a solution to be developed, the key decisionmakers must see prison overcrowding as a societal problem, not as a corrections problem. The Federal Government can assist in analysis of the need and propose alternative solutions, but the public policy decision to build or not to build belongs at the city, county, and state levels of government.

Increasing the capacity to incarcerate must be accompanied by serious efforts to assist jurisdictions in developing mechanisms for population control. This responsibility has been one which the National Institute of Corrections has pioneered, and should continue to be a major focus of its program development and technical assistance activities. Regardless of new strategies for population control, State and local governments are going to have to construct some new jails and prisons. The immediate problem is too many prisoners in too little space.

I am not here to suggest that the Federal Government allocate funds for such construction, particularly in light of the need to reduce Government spending. There is no single panacea to the problems of overcrowding, but one can suggest areas in which Federal programs could play a key role in assisting the current situation.

First, the current overcrowding has been eased slightly by the transfer of Federal surplus properties to the states and localities for correctional use. From October 1980 to date, eight Federal properties valued at an estimated \$21,082,200 have been transferred, providing 4,051 beds. Only two of the properties were donated outright; leasing arrangements exist in most instances. An additional six property transfers are pending finalization of sale or leasing arrangements. It should be noted that the Government currently both sells and leases at fair market value.

While the Administration has been supportive and bills are pending before Congress to authorize outright donation of surplus Federal properties for state and local correctional use, legislation was not passed at the last session of Congress. The donation of surplus



Federal buildings and land on which the states and localities could construct or remodel facilities would be a significant contribution.

Second, there is currently a \$4.3 billion job bill before Congress. The proposal includes \$765 million for repair of federal buildings, military housing, prisons, and related facilities. It also includes \$1.2 billion in accelerated spending for community development and urban development grants to local government for maintenance and construction projects. I would suggest to you that any Federal funds made available for repair and construction at the state and local levels should provide authorization for the construction of state and local corrections facilities. I know of nowhere that the need is so great. Nor so urgent.

Third, the Federal Government might consider making low-interest loans available to the states for construction of new prisons and jails. Federal loans would enable the states to undertake necessary construction and renovation without further taxing the states' budgets or abilities to pass bond referendums.

Fourth, tax incentives could be created to encourage the assistance of the private sector in construction and renovation of correctional facilities. Efforts are underway in some states to have private investors build and operate prisons for lease to the state. Liberal tax benefits would make this more appealing to potential investors. Similarly, tax incentives could be implemented to expand the participation of private enterprise in prison work release programs. These programs would remove numbers of inmates from institutions during daytime hours when the effects of crowding and idleness are most severe.

Finally, additional funds could be made available specifically to those states that would develop strategies for reducing prison crowding. Such a program which the National Institute of Corrections and the Edna McConnell Clark Foundation are jointly sponsoring saw 22 states and Puerto Rico applying for participation. Funding permitted participation of only four of these states. For a modest investment of money, the States of Oregon, Colorado, Michigan, and South Carolina are making real progress in developing well thought out strategies to deal with their problems of overcrowding.

The second problem that is having a severe impact on corrections is diminishing resources at the state and local levels to operate government programs. Although corrections workloads have markedly increased, the dollars available to provide necessary staffing and programming have dramatically decreased.

Corrections finds itself facing a double dilemma. As offenders are entering the prisons at unprecedented rates, prison staffs and inmate programs are being reduced. Increasing numbers of offenders are also being placed on probation and parole, yet resources to provide adequate supervision and support services are being reduced.

An example of the impact on state prison systems is the State of Michigan, where 85 corrections officers, 8 teachers and vocational instructors, and 36 support personnel in the prisons were laid off last fall due to a budget reduction for the corrections system of \$3.6 million. Michigan, like other states, has some very old and dangerous institutions; three riots occurred there in 1981 that resulted in \$5 million worth of damage.

Budget cuts also reduced the probation and parole agent workforce by 50, which caused a marked increase in the size of caseloads.

Likewise, California's diminished resources reduced the operational budgets of 52 county probation departments by 32%. Caseloads in Los Angeles County soared to over 300 offenders per officer which provides little in the way of supervision and nothing in terms of public safety.

In Wisconsin, prisons are overcrowded by 900 inmates and population increases of nearly 15% last year is projected at similar levels until 1988. In January of this year, one Wisconsin prison experienced the taking of 15 hostages and damage to one building in excess of \$55,000 -- all of which is attributed to overcrowding.

When Americans are concerned about safety in the streets, when state prison systems are being operated under conditions of confinement that have been found to be unconstitutional, when prisons have extremely poor physical conditions and serious safety and sanitation problems, reductions in probation, prison and parole workforces are simply intolerable.

Again, Mr. Chairman, I can only make general suggestions on how federal programs could help address these problems which exist at the state and local levels without incurring significant additional expense to the Federal government.

Perhaps our greatest help could be to assure that we at the Federal level do not make matters worse.

Recent "Driving while Intoxicated" legislation passed by Congress requires states receiving Federal highway funds to jail DWI offenders for two days or sentence them to ten days of community service. Although one cannot object to the sincerity of the legislation, the appropriateness of increased mandatory use of jails under current overcrowded conditions, could perhaps be reviewed. While the impact of this legislation has not been evaluated, there are 1.5 million arrests annually on driving while intoxicated counts. The potential impact on local jails is great.

At a minimum, it would seem appropriate to have a cost impact study prepared on any proposed Federal legislation that would affect state and local corrections.

In January of this year, an amendment to the Service Transportation Act prohibited state prisoners from manufacturing highway signs, metal and wooden highway barriers, and iridescent vests worn by highway workers. Prohibitive legislation has a negative enough effect when it impacts the corrections system's ability to generate new programs. However, in this instance, the amendment has effectively shut down a 30-year-old prison industry that until recently operated in 37 prisons across the country. The State of Colorado alone has reported a projected loss of \$400,000 in capital investment that will be idle; \$146,000 inventory loss; \$250,000 loss in sales; and loss of 45 inmate jobs and 3 civilian jobs. The State of Connecticut reported that \$1.4 million in capital investment will be idle because of this one piece of legislation.

Prison industry is a self-sustaining operation and this legislation will also negatively impact the manufacture of other prison industry goods. It is estimated that the states will have to



spend hundreds of thousands of dollars in start up funds to replace the industry lost to this amendment.

Prison industries has long been a source of revenue to the state corrections systems. These programs are also essential to reducing inmate idleness; providing training, skills, and improved chances of employment upon release; and providing monies with which the offender can assist his family in the community. The Chief Justice of the Supreme Court has often spoken out on the need to make our prisons into factories where constructive skills can be learned and useful goods manufactured.

Unfortunately, present legislation prohibits the Federal Government from purchasing goods and services produced by state prisoners. By opening the Federal market to state prison industries, the Federal Government could assist the maintenance and growth of state prison industries at no additional -- and likely lower -- expense to itself, while feeding tax dollars back into the states. A potential 100% increase in state prison industry would take less than 1% of the total Federal market.

In summary, it would seem to me that we at the Federal Government level should do everything possible to keep from compounding the critical problems that state and local corrections are facing. This would include a review, and elimination where possible, of all prohibitive legislation affecting state and local corrections systems; the development of cost/impact studies on all pending Federal legislation affecting state and local corrections; and the increased sharing of surplus Federal resources.

In addition, the Federal Government's role of leadership should be exerted through continued support of training, technical assistance, information sharing, and program/policy development.

Webster has defined leadership as "showing the way."

We at the National Institute of Corrections feel we can "show the way" through non-coercive, but very responsive programs -- responsive to the real needs of state and local corrections. With continued Congressional support, we promise such responsiveness.

**END**