

94487

S. HRG. 98-58

**FEDERAL ASSISTANCE TO STATE AND  
LOCAL LAW ENFORCEMENT—PRISONS**

**HEARING**  
BEFORE THE  
SUBCOMMITTEE ON JUVENILE JUSTICE  
OF THE  
COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE  
NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

THE STATUS OF OUR NATION'S PRISONS WITH A FOCUS ON THE AP-  
PROPRIATE ROLE OF THE FEDERAL GOVERNMENT IN BUILDING AND  
IN SUPPORTING THE PRISONS

JULY 27, 1983

Serial No. J-98-58

Printed for the use of the Committee on the Judiciary



94487

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**FEDERAL ASSISTANCE TO STATE AND LOCAL  
LAW ENFORCEMENT—PRISONS**

WEDNESDAY, JULY 27, 1983

U.S. SENATE,  
SUBCOMMITTEE ON JUVENILE JUSTICE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, D.C.*

The subcommittee met, pursuant to call, at 10:45 a.m. in room 226 of the Dirksen Senate Office Building, Hon. Arlen Specter (chairman of the subcommittee) presiding.

Present: Senator D'Amato.

Staff present: William J. Bowman, counsel, Subcommittee on Juvenile Justice, and Lynn Snyderman, staff assistant.

**OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR  
FROM THE STATE OF PENNSYLVANIA, CHAIRMAN, SUBCOMMITTEE ON JUVENILE JUSTICE**

Senator SPECTER. Good morning, ladies and gentlemen. I regret the delay in commencing this hearing. There was a session scheduled with the Secretary of State and the National Security Adviser, Judge Clark, this morning, which took precedence, so we had to delay the hearing to 10:15. The session ran over—and, in fact, I left before it was completed. So, I express my regrets for the delay, and especially my regrets to my distinguished colleague, the Senator from New York, Senator D'Amato.

Without objection, my full statement will be placed in the record and I shall not take the time to read it at this point. I will simply state that this is a hearing into the status of our Nation's prisons with a focus on the appropriate role of the Federal Government in building and in supporting the prisons.

We face a problem of very serious overcrowding in our Nation's prisons. We similarly face an enormous problem in law enforcement with the necessity for confinement of career criminals and violent criminals, and that fact has placed our prisons into a state of severe overcrowding. We are considering at the Federal level a number of alternatives and proposals which would provide Federal aid.

It is my own personal conviction that construction is absolutely necessary, and that the American people are prepared to pay for a criminal justice system which works, including a prison system which is adequate. That is illustrated by two referenda in the State of California authorizing funding for prisons, a State which is

known for its parsimonious and economic attitude, and is the originator of Proposition 13 to cut taxes.

So, if Californians are prepared to pay for prisons, I think it is a fair conclusion that Americans generally are prepared to pay for prisons.

We have expanded this hearing somewhat to include the status of the District of Columbia jail because of the problems which have been present there during the course of the past week. This is not a new inquiry; this is a continuing inquiry which has been conducted in large measure in the District of Columbia Subcommittee on Appropriations. We had looked at the problem before these incidents arose when Mayor Barry and I visited Lorton, and then the District of Columbia jail. My own conviction is that it is an intolerable situation to have, in the shadow of the U.S. Capitol, a prison situation like we have at the District of Columbia jail. We must provide the kinds of resources necessary to do the job.

And, as I have said before, I think the city officials are doing the maximum that can be done within their limited resources. These resources are a subject to which we can now turn our attention.

[The prepared statement of Senator Specter follows:]

PREPARED STATEMENT OF SENATOR ARLEN SPECTER

Good Morning. Today's hearing will focus on the need for Federal assistance to our Nation's prisons and jails. We have a number of distinguished witnesses with first-hand knowledge of the present situation.

I hope this will be the first of several hearings. There is perhaps no part of our criminal justice system as sorely neglected as the corrections system. To say that the situation has reached a crisis stage probably seriously underestimates the problem. We were in a crisis 2 year ago, in 1981, when the Attorney General's Violent Crime Task Force urgently recommended that \$500 million a year be provided to the States for prison construction. (At that time, 39 States were under court order to reduce overcrowding or were involved in litigation leading to such orders.)

In the last 2 years, the problem has worsened sharply. By the end of 1982, there were over 412,000 inmates in State and Federal prisons, according to the Bureau of Justice Statistics. The increase of almost 43,000 prisoners last year was the highest since this data was first collected in 1925. One thousand nine hundred eighty two represented an 11.6 percent increase over 1981, which was, in turn, a 12.2 percent increase over 1980. Since 1970, the total prison population has doubled. In addition, an estimated 210,000 persons were confined in the Nation's local jails in 1982, a 33-percent increase over the 1978 estimate, again according to the Bureau of Justice Statistics.

Unfortunately, despite extensive construction programs in many States, the growth in population has greatly exceeded the growth in capacity. Nearly half of all prisoners are housed in facilities built before 1925. Most States nonetheless, have struggled responsibly to relieve their overcrowding: By 1980, more than 60 institutions costing over \$700 million were under construction. Most States have employed alternatives to incarceration for nonviolent offenses wherever possible.

Yet the States are losing ground. (Seventeen States have left over 8,000 inmates in local jails because there is no room for them in the prisons. Some States—Iowa, Michigan, Connecticut, Georgia, Ohio and Oklahoma—have been forced to adopt emergency release mechanisms to comply with court orders, and several more are expected to follow suit.)

The prospects for the future look even dimmer. In the last few years, 37 States have passed mandatory sentencing laws, and many States have adopted determinate sentencing. The demographics also suggest that the present crisis will continue at least through 1990, as those born in the tail end of the "baby boom" pass through their twenties. The male population age 20 to 29 is, statistically, the most prison-prone population group.

I fear the overcrowding problem may now be approaching the flashpoint. Here in the District of Columbia, we have detention facility designed to hold 1,355 that was packed with 2,400 persons when I visited it on June 29. Since then, two disturbances

have rocked the jail: in one six guards and one inmate were injured; last Friday, inmates set several mattresses on fire and filled some cellblocks with smoke, prompting the transfer to Lorton of 430 inmates. A jail administrator described the situation as a "ticking bomb" in yesterday's Washington Post editorial. We hope to learn more about what happened today.

(A number of bills now pending in the Senate address the problem. The most important of these will provide what the Federal Government has thus far declined to provide in the last decade—funding.) I introduced S. 889 to provide \$10 billion desperately needed dollars a year to the entire criminal justice system including \$250 million for correctional facilities. I hope much of this money can go to house persons sentenced under state habitual offender statutes, as I have proposed in S. 58. In addition, the Dole-Specter amendment to the Justice Assistance Act, recently approved by the Judiciary Committee, would provide \$25 million for State prisons. The distinguished Senator from New York, Mr. D'Amato, who has agreed to join me today and make a statement to the subcommittee, has proposed in S. 1005 to authorize up to \$3 billion over 3 years for new construction and rehabilitation of facilities and to encourage the use of modern technology. Senator D'Amato's interest and leadership in this field is well-recognized.

Equally important to me is the assurance of some educational and vocational training to those who can be rehabilitated. We should not be surprised that when we release functional illiterates with no job skills from our prisons, they soon end up there again after committing another crime. Overcrowding has forced education and job training to take a back seat. I hope that my bill, S. 59, which encourages the States to establish minimum standards, can push literacy and vocational training back into the forefront.

We have a distinguished array of witnesses this morning. After Senator D'Amato, we will hear from Thomas A. Coughlin, III, Commissioner, New York State Department of Corrections; Robert Landon, Director of Corrections, Commonwealth of Virginia; the Honorable Joseph B. William, Administrative Judge of the Criminal Court in New York City; James F. Palmer, Director of the D.C. Department of Corrections; and Anthony P. Travisono, executive director, American Correctional Association.

Senator SPECTER. Our lead-off witness is a man who has established an outstanding record during the course of the past 2½ years as the newly elected Senator from the great State of New York. I have had the pleasure to work with Senator D'Amato very closely on a great many issues, and I know of his dedication on the subject of law enforcement, his leadership role on the subject of prisons, and it is a great pleasure to welcome him here this morning with my added apology for keeping him waiting.

Senator D'Amato?

STATEMENT OF HON. ALFONSE M. D'AMATO, A U.S. SENATOR  
FROM THE STATE OF NEW YORK

Senator D'AMATO. Mr. Chairman, I thank you for the opportunity to be here with you this morning and to have the opportunity to testify. In addition, I look forward to your thorough and comprehensive briefing on the Middle East that you received earlier this morning.

Senator SPECTER. We'll have time on the floor later today, Al, to exchange views on that and many other subjects, as we do daily.

Senator D'AMATO. Mr. Chairman, let me commend you for calling these hearings, and let me also say that although I don't want this to seem to be Alphonse and Gaston I would like to commend you for your leadership in the area of the reform of the criminal justice system and for your attempts to deal with the deficiencies that exist. They are numerous, and it is a most difficult problem.

For too long the American public has heard us speak about crime and on the problems involved. They are growing rather weary of the rhetoric.

No one says it will be easy coming up with the reforms necessary to make the criminal justice system of this Nation and of our States and cities work better. But it is an obligation that we have.

Let me suggest to you that there are some who might ask: what role does the Federal Government play in this? After all, isn't the building of State penitentiaries traditionally a State and local matter. I would suggest that they are being over-simplistic. Almost 50 percent of the crime that takes place is occasioned either directly or indirectly by the flow of drugs through the well-organized international drug systems; no State can withstand the kind of onslaught that New York, in particular has been exposed to, with 90 percent of the heroin coming into this country moving through New York which is a major distribution point for the international drug rings. And now we also have cocaine from the Columbian connection, and all the crime that falls out from that: Young ladies being shot on the street, and all the innocent victims of the violence that spills over. We have fully one half of the Nation's addicts in New York, mostly in New York City.

Those addicts really represent walking crime machines. If they must support a habit of \$125 to \$200 a day, they must be out robbing five to ten times as much, because the return for the jewelry, for the stolen merchandise that they receive, is much less, maybe 10 percent or 20 percent of the value. So it becomes paramount that we use our national resources in an intelligent manner, because this is a national problem, with causes that operate on a national level.

Let me suggest to you—and it's not simply rhetoric, because I vote for a strong defense, I vote for the military budgets that we need to keep this Nation strong—that we are losing another battle, and that the enemy is right here within our borders. We are losing the battle for domestic tranquillity in our streets, in our homes, in our neighborhoods.

To address this problem, I have introduced S. 1005. Let me first of all say that you are a cosponsor of this prison construction and rehabilitation bill. It is a most modest commitment to our war on crime to make \$1 billion available to the States, on a matching formula basis year for 3 years. The States would be required to put up \$2 billion for each of 3 years. It would make possible the construction of some 180,000 cells that we need so desperately. It would mean the end of the situation we have today, in which parole commissions throughout this Nation are making early release available to dangerous criminals, criminals who have not been rehabilitated.

Let me give you a statistic. The average person convicted of the crime of murder in New York State serves 7 years. I would suggest to you that many convicted murderers who are paroled have not been rehabilitated. They are paroled or discharged because we simply don't have room in the prisons.

Rapists serve an average of 4 years. They are paroled out on those streets not because they have been rehabilitated, but simply because there is lack of room in our prisons.

In my testimony and prepared remarks, which I would ask be received in the record—

Senator SPECTER. They will be, without objection.

Senator D'AMATO. Thank you, Mr. Chairman. There is example after example of States that face this problem, a critical problem. Within 2 weeks, the Illinois State prison system says they simply will not be able to accept any more prisoners.

What happens then? How long can the county systems and the city systems hold these prisoners who have been sentenced?

Mr. Chairman, it is about time that we in the Congress accepted our rightful responsibility. It's time that we stopped the rhetoric about the so-called war on crime. It's time that we put up the money necessary to wage it successfully. To those who say, where does it come from, I would suggest to you that if we had to reduce Federal spending across the board 1 percent, 2 percent, we could allocate those funds to undertake that war on crime, and that would be the best investment we could possibly make.

We are talking about the survival of people in their homes and their right to be able to live and conduct their lives free from the fear of crime, Mr. Chairman.

You and I recognize this, and if we continue to bring this message to our colleagues by way of amendments to bills, by making them vote up or down on these issues, then maybe the American public will bring the necessary pressure to bear to see that we get some action.

Let me suggest to you that all is not so bleak. For the first time, I think, we have made some very substantial headway in our war on crime. The provisions of the Comprehensive Crime Control Act, which the Judiciary Committee voted out last week, corrects several of the deficiencies in the legal system with regard to bail and parole, especially for those who come from organized crime and major narcotics dealers. These measures, however, Mr. Chairman, will bring even greater pressure on the prison systems of this Nation.

So, Mr. Chairman, for all those reasons, let me commend you for your leadership in this area. I mean it most sincerely. It is very gratifying to see that we have Members of the Senate who understand what is taking place back home in our neighborhoods, on our streets, and in the communities that we want to see be vibrant and wholesome.

In conclusion, I would suggest that it makes little difference how vast are the sums of money we vote for improvements of our highways, transit systems, parks, and recreation areas, if people are afraid to use those public resources, if people are afraid to travel on the subway systems of our Nation, go into the parks of our Nation, or walk down the thoroughfares that we have helped provide. I suggest our priorities need to be reexamined.

Mr. Chairman, this hearing is part of our effort to do that, and I thank you for the opportunity to be here and make these suggestions.

[The prepared statement of Senator D'Amato follows:]

## PREPARED STATEMENT OF SENATOR ALFONSE D'AMATO

Thank you, Mr. Chairman. I want to commend you for calling this most important hearing today. As you so well know, our entire criminal justice system is in a life and death struggle with overload court dockets, overcrowded prisons and an unending flood of illegal drugs. But as you also well know, Mr. Chairman, because you are one of the leaders, the U.S. Senate is committed to rescuing that system. Last week, the Judiciary Committee passed the all-important "core package", the Comprehensive Crime Control Act.

At a Judiciary Committee field hearing held in New York City earlier this month on July 11, I testified before Senators Thurmond and Biden and outlined an 8-point program that I think is essential if we are going to restore sanity to our criminal justice system. At that hearing we talked about the new crime bill and the need for better Federal, State and local cooperation and increased Federal assistance to local law enforcement agencies.

Four of the points I outlined are included in the crime control bill approved by the Judiciary Committee last week:

- (1) Pre-trial detention;
- (2) Elimination of bail while a case is appealed;
- (3) The elimination of parole;
- (4) Allowing the Government to appeal lenient sentences.

I am confident that both the Senate and the House of Representatives will pass this bill this year. So today I will turn my attention to that second phase of my 8-point program.

S. 1005, the Correctional Facility Development Act, which you have cosponsored, would provide \$1 billion per year for 3 years to the States on a matching basis to supplement their prison construction and rehabilitation efforts. It provides \$1 of Federal money for every \$2 of State money for prison construction and rehabilitation. There could be no better proof of the need for this legislation than a story that ran in yesterday's New York Times, with a Chicago dateline. The headline read, "Illinois Prisons Threatening To Turn Away Inmates."

Mr. Chairman, we are enacting stricter sentencing and bail laws, we are spending more on law enforcement and therefore, increasing our arrest and conviction rates. We are cutting down on time off for good behavior, and even doing away with parole. As a result, we are seeing the crime rate go down. But we are running out of prison space. And the Illinois story is one result that New York and Pennsylvania and the rest of the country must pay attention to. In about 2 weeks the Illinois prison system is going to say to the jails, "We simply cannot take anymore prisoners." Then the jails will fill to overflowing. And, then, as the Du Page county sheriff says, "Who's going to blink first, I don't know." There is a growing consensus that if we want to continue to bring the crime rate down, we will have to build and renovate more prisons.

Mr. Chairman, we are losing the streets and neighborhoods of this country to the criminal element. I believe the States are doing their share, but it is not enough. The flood of drugs and prison overcrowding are national problems, and they will only yield to the concerted cooperation among Federal, State, and local governments.

My second bill, S. 1248, is known as the Federal Alien Incarceration Responsibility (or FAIR) Act. I am very happy that the Senate passed the FAIR Act by a vote of 55 to 40 as an amendment to the immigration bill and I want to thank you, Mr. Chairman, for your early and most helpful support in getting that legislation through the Senate. If I may, I would like to make a few comments on behalf of S. 1005 and S. 1248, and in support of your efforts to pass meaningful justice assistance and prison construction legislation.

Both the Attorney General's Task Force on Violent Crime and the National Governors' Association have called prison construction our Nation's number one criminal justice priority. I am confident that Mr. Coughlin and Mr. Landon will agree.

The Illinois story I referred to leaves little doubt that we are in fact in a crisis situation. At the end of last year, there were 412,303 inmates in State and Federal Prisons. The increase in 1982 was 43,000 prisoners. That is the largest increase in history. In 10 years the national prisoner population more than doubled. Our prisons are literally bursting at the seams. It demands meaningful and effective Federal response, and it demands it today. There are 30,376 inmates in the prisons in my own State of New York. These State facilities are at 120 percent of capacity. That means that we have 4,000 prisoners in an emergency capacity situation.

There are repeated warnings that unless we act, we will face a number of disasters. One of these is the kind of prisoner revolt that has taken place at Attica and

Santa Fe. I know in New York one of our witnesses, Mr. Coughlin, has faced this threat personally at least twice this year already: Once at Ossining and again at the 900-inmate maximum security Clinton Prison in Dannemora, N.Y.

Other horrors resulting from overcrowded prisons are early release on parole for those who should not be released and a slowdown in the rate at which we can incarcerate dangerous felons or a complete breakdown in our ability to incarcerate at all. In both cases, criminals who should be locked up go free to continue their preying on innocent, law-abiding Americans and we lose ground again in our efforts to combat crime.

Mr. Chairman, the already crippled prison systems of this land are in danger of total breakdown as a result of the influx of illegal aliens in recent years, especially since the Mariel Boatlift in 1980. But, again, the Senate is acting to correct the problems. As I stated the FAIR Act has been incorporated by the Senate as part of the immigration bill. This legislation will require the Federal Government to reimburse the States for the cost of incarcerating illegal aliens and refugees who commit and are convicted of felonies. This legislation has the support of the National Governors' Association. With 4,000 aliens in State prisons at an average cost of incarcerating an individual for a year exceeding \$14,000, this legislation could provide the States with more than \$57 million a year in Federal assistance.

During the Mariel Boatlift, Fidel Castro emptied his prisons of as many as 40,000 criminals. These people are now walking our streets. Many of them will soon be in our prisons. Hundreds of them already are. Between September 1981 and December 1982, 56 homicides were committed by Marielitos in New York City alone.

Miami police arrested another 48 Marielitos for homicide in 1982. There are 868 aliens in the New York Prison system. This number has increased five-fold in less than five years.

I know, Mr. Chairman, from a hearing I conducted on the subject in New York in April, that Pennsylvania also has a serious problem with alien felons. This is a problem of Washington's making; it is only fair, only just, that Washington should accept its responsibility and come to the aid of our hard-pressed States.

Senator SPECTER. Thank you very much, Senator D'Amato, for your very timely and cogent testimony.

At this juncture I will have a statement of Senator Dole placed in the record. Senator Dole has been a leader in this issue of prison construction for some time.

[The prepared statement of Senator Dole follows:]

## PREPARED STATEMENT OF HON. ROBERT DOLE, A U.S. SENATOR FROM THE STATE OF KANSAS

Senator Specter and the Juvenile Justice Subcommittee are to be commended for holding this timely hearing focusing on the Federal role in aiding the States in renovating a collapsing national prison infrastructure.

Our Nations prisons and jails are teeming with inmates sleeping in tents, boiler-rooms, gymnasiums, hallways and temporary trailers. Wardens and jailers as well as mayors and governors now face thousands of lawsuits challenging their very right to hold prisoners under conditions that the courts have ruled violate fundamental concepts of human decency. Thirty-nine states and hundreds of counties and cities are defending law suits or are under court orders because of substandard and overcrowded prison and jail conditions. The bottom line of the prison and jail problem is that our correctional facilities today represent the weak link in the criminal justice infrastructure.

During the 1970's while resources to detect, apprehend and prosecute criminals were expanding, expenditures for our prisons, in real dollars, were on the decline, leaving our last line of defense against violent and serious crime seriously weakened.

In 1982 the nations governors called for the Federal Government to make assistance for the construction of new prisons its number one criminal justice priority. This followed the recommendation of the Attorney General's Violent Crime Task Force report which urged the administration to seek an appropriation of \$2 billion over 4 years to help the States build and renovate their prisons.

The recent disturbances at the District of Columbia jail, overflowing with 1,000 more prisoners than its 1,350 bed capacity are a disquieting reminder that we cannot ignore the pervasive overcrowding that exists in many of our nations 650 prisons and over 3,500 jails and other correctional institutions. When the 1971 popu-

lation cap at the Attica prison was removed, one observer was prompted to comment that the move was taken with "ominous symbolism". That symbolism is that those who fund our nations penal institutions have for too long made our prisons and jails a dangerously neglected backwater of the criminal justice system.

Senator SPECTER is to be commended for having sponsored several pieces of legislation to strengthen our Nations prison system. During the past several congresses the Senator from Kansas has also proposed that the Federal Government make the rebuilding of our Nations prison infrastructure a top Federal justice assistance priority. Three days of hearings held before the Criminal Law Subcommittee in the last congress began to portray the staggering dimensions of the prison crisis facing the Nation, which has been described as a ticking bomb and a tinderbox by the media. Your hearings today bring critically needed attention to a problem that threatens the very ability of the Nation to ensure the safe and orderly administration of justice.

The Senator from Pennsylvania and this Senator have previously joined together in successfully offering prison assistance amendments during committee consideration of the Justice Assistance Act of 1983, and the Comprehensive Crime Control Act of 1983. The amendments so offered would create an Office of Criminal Justice Facilities, whose function it would be to direct bond interest subsidies, grants, and technical assistance to help move prison projects off of the drawing boards. The amendments offered recognize that direct assistance to the States for the purpose of aiding in the modernization of existing facilities and construction of new facilities must accompany any carefully considered anti-crime efforts.

This Senator and others have introduced legislation targeting several billions of dollars as a meaningful Federal share toward the building and rebuilding of our Nation's prisons. Unfortunately, what we have sent through the legislative pipeline thus far this Congress is now measured in the millions of dollars, and represents more of a hope chest—rather than a war chest—in the fight against deteriorating prison facilities.

If we do not provide even this small amount of aid soon, our failure to act could well be measured in new outbreaks of violence, thousands of lawsuits, and a criminal justice system which no longer retains any deterrent effect as arrests and prosecutions are rendered meaningless by judges' inability to find space in overcrowded prisons.

It is this Senator's hope that, as increased revenues become available, Congress—with the support of the administration—will move more decisively to aid the States in rectifying the deplorable state of America's dangerously overcrowded and dilapidated prisons.

Senator SPECTER. I look forward to working with you, Senator D'Amato, on your very excellent bill, with the leveraging of State participation with Federal participation, because I think that is the proper direction to go. And the tactic of putting these matters to a vote is one that I think is a good idea. This is a building process, and you and I are prepared to work together to build for that kind of support among our colleagues.

And I have a great many penetrating questions to ask you, Senator D'Amato, but I shall reserve them till our private conversation this afternoon between votes.

Senator D'AMATO. Thank you very much, Senator. It is a pleasure being with you.

Senator SPECTER. Senator D'Amato, we would welcome your participation on the panel, to the extent that you have time to do so.

Senator D'AMATO. I would be delighted.

Senator SPECTER. I would next like to call Commissioner Thomas Coughlin, New York State Department of Corrections.

Senator D'Amato has the floor for the purpose of introducing Mr. Coughlin.

Senator D'AMATO. Mr. Chairman, thank you very much. I am very pleased that Commissioner Coughlin, the commissioner of the New York State Department of Correctional Services, could be here today. He is one of the leading experts in this area. I believe his

testimony will reveal very vividly the kinds of problems that we are dealing with, particularly as it relates not only to the exploding prison population but also as it relates to the necessity, Mr. Chairman, for the amendment to the Immigration Reform and Control Act that you and I cosponsored in the Senate and which passed in the Senate and now languishes in the House of Representatives. I refer to our measure that would reimburse States for the cost of incarcerating the illegal aliens in our State prisons. He can give some very vivid examples of the incredible problems that our State is facing—and those problems are becoming more dangerous.

I am delighted that we have his expertise and that he lends himself to this hearing today.

Mr. COUGHLIN. Thank you, Senator.

Senator SPECTER. I would like to call forward the Director of Corrections of the Commonwealth of Virginia, Mr. Robert Landon, if you would join the panel. We are going to have to condense the hearing somewhat because of the crowded schedule. There are votes scheduled later this morning and to the extent that we can expedite this hearing, it would be desirable.

Commissioner Coughlin, your full statement has been received; we thank you for it, and it will be made a part of the record. And our practice is to ask you to summarize, where you can, leaving the maximum amount of time for questions and answers.

**STATEMENTS OF THOMAS A. COUGHLIN III, COMMISSIONER, NEW YORK STATE DEPARTMENT OF CORRECTIONS; ROBERT LANDON, DIRECTOR OF CORRECTIONS, COMMONWEALTH OF VIRGINIA; AND JAMES F. PALMER, DIRECTOR, DEPARTMENT OF CORRECTIONS, WASHINGTON, D.C.**

Mr. COUGHLIN. Thank you, Senator, and I will do that. I appreciate being here today to give a perspective to the Washington Congress on just what's going on in a State like mine.

Over the past 8 or 9 years, New York State has witnessed a major increase in its prison population, and when I am talking about a major increase, I am talking somewhere in the numbers of 10,000 or 11,000 people added to our system over that period of time.

There are a number of causes for this major growth. Senator D'Amato was quite right when he pointed out that the major influx of drugs into the city of New York and into New York State has caused part of the problem. But it has been generally an attempt on the part of the State legislature to make New York a better place to live, and to get individuals who are willing to rob, to rape, and to murder people, and to put them in jail; and to put them in jail for a long period of time.

At the same time that we have been willing to do this in terms of our efforts with the violent felony offenses and career criminal program, the legislature has also been willing to put its money where its mouth is. While I have been commissioner for the past 4 years, my budget has increased from \$250 million a year to almost \$700 million a year in 1983-84. That's a major investment on the part of the State legislature.

Just this last session alone the legislature in New York appropriated \$380 million for new prison construction for another roughly 8,000 cells. That is on top of the 10,000 or 11,000 we have put on in the past few years.)

I think there is a responsibility in Washington for some help. Prisons, whether we like it or not, are part of the social fabric of this country. The Federal Government has been involved in shoring up that social fabric in various ways over the years, and we were involved with them during the LEAA process.

That went away several years ago, and people have just forgotten about the corrections system in this country, and I think that was a mistake, because you can forget about them here in Washington, but we back in the States can't forget about them, because I am faced with Federal court orders that require me to take all inmates out of the city of New York within 48 hours of sentencing. That requires me to take in 300 to 400 people a week just from the city of New York. Every single week we must put on roughly 100 new beds around the system to take care of the net increase in inmates. We have been willing to do that. We have worked very hard, we have a very good system—New York is probably one of the few major systems in the country that is not under a Federal court order for conditions of confinement.

There comes a time, I think, Senator, that Washington must get itself involved in terms of financial assistance for some of the major things we do.

Now, Senator D'Amato has a bill in to provide some reimbursement for the alien population. This in New York is a particularly vexing problem. I have over 868 aliens in my system, many of them are illegal aliens. If I could give you a number, I would, but it's almost impossible to figure out who's legal and who's illegal, it's almost impossible to figure out who's a Marielista, who is not a Marielista.

And we have been going round and round with the INS on this, and we constantly get caught in a "Catch-22." INS says that they have to serve their minimum before we'll take them, and the parole board in New York says that we are not going to parole them unless INS has a deportation order. And I am finally, as an administrator of this large system, throwing my hands up in the air and saying, look, I'll keep them, 868 people, but, OK, you've got to help me in terms of some funding for them.

And, finally, the various bills, Senator D'Amato's bill, your bill—which provides reimbursement for construction of prisons—is absolutely needed. I think it's outrageous that the taxpayers in New York have to be saddled with \$380 million this year and another \$200-or-so million last year to build the prison space that we need.

And if we don't do it, the whole system will collapse. And, as the Senator said earlier, parole, while they won't admit to letting people go—I think parole commissioners do have an eye on that capacity figure, and when they see people sleeping in areas that used to be day rooms and areas that used to be gyms, and are now bed space, there is some concern about that on their part. And they do—while I am not admitting that they let them go earlier, they probably might keep them 6 months more if there was space for them.

And it's a constant game of catchup, sir, and I don't want to be too flip about it. The money is important, but New York State is running out of time. With the net increase of 100 or so inmates a week, all the money in the world doesn't help us, if we don't have the space.

I would like to make one more point, sir. There has been a proposal, a bill, Senator Grassley's bill, floating around Washington here for a couple of years to provide surplus Federal land to the States for use as prisons. New York State was fortunate; we came down here several years ago, had a big press conference with the Attorney General—when we were given the first piece of Federal property, the Watertown Air Force Station, when it was declared surplus—they gave it to New York State. That's been a prison for over a year now, it's a 250-bed medium-security prison; we just plan to put in another \$11 million into the place to double the size of it, and we still don't have title to that piece of property yet, because the Federal Government can't get its act together in terms of who does what to whom on it.

I would urge you that you look seriously at some of these issues that I have raised, and give us some help—we really need it.

Thank you.

[The prepared statement of Mr. Coughlin follows:]

## PREPARED STATEMENT OF THOMAS A. COUGHLIN III

## SENATORS:

I am pleased to appear today to testify on various legislative initiatives under the general heading of Federal financial assistance to state prison systems.

New York State has the third largest state correctional system in the nation. On July 13, 1983, the under custody inmate population was 30,376, resulting in a rate of occupancy of 116.6 percent of capacity. At the close of 1983, we expect the population level to be over 32,200, an increase of 11,000 since 1981.

However, when we accommodate those 32,000 plus inmates next year, 4,000 beds will be within the category of emergency capacity, resulting in a permanent capacity of only 28,700 beds. Permanent capacity consists of beds, with program support services, which are consistent with recognized standards. (Emergency capacity refers to substandard, non code conforming areas).

Recently, the full Judiciary Committee favorably reported Senator Specter's S. 53, the Justice Assistance Act, with the amendment by Senator Dole to fund state and local corrections construction/renovation at the level of \$25 million dollars over the next four years. This is a much needed effort within the criminal justice system to facilitate major program initiatives at the state and local level. Such efforts will be especially useful to state prison systems at this time of severe overcrowding, both from a programmatic perspective as well as the perspective of targetted assistance for much needed construction/renovation.

The New York State record on utilization of Federal financial assistance for corrections has been most exemplary and serves to buttress the rationale for enactment of S. 53. Both LEAA and NIC funds have been utilized to support various program

service and staff training initiatives. For example, LEAA funding supported the following:

1. Crisis Intervention. The skilled hostage negotiators trained under this program were instrumental in the peaceful resolution of the Ossining hostage-taking incident earlier this year.
2. OBSCIS (Offender Based State Correctional Information System). The information system developed under this grant has been essential in furthering the agency's ability to rapidly utilize various data bases in key management decision-making.
3. Network. This is a most successful model for prosocial programs for motivated individuals, involving officers and inmates, and based upon the TC (therapeutic community) concept which is utilized in mental health and correctional settings.

The National Institute of Corrections recently awarded the Department a technical assistance grant entitled "Design of Computerized Inmate Movement System." This project to be based on systems analysis, will greatly assist the Department in preparing for eventual implementation of a comprehensive computer-aided system in order to move inmates in a more efficient fashion within a growing system of 45 facilities and over 30,000 inmates.

I emphasize that the major LEAA program initiatives subsequently lead to state assumption of the funding of the respective operations. Likewise, the Department intends to use

the outcome of the NIC grant to seek later state funding of the actual system formulation.

In considering the Justice Assistance Act, I emphasize the need for enhancement of justice system research and data acquisition in order to advance planning at all stages of the system. In its November 22, 1982 Report to New York State's Governor entitled "Recommendations Regarding the Administration of the Criminal Justice System," the Executive Advisory Commission on the Administration of Justice emphasized this planning theme. The Commission called for "an integrated information management system" and criticized the existing situation in which a patchwork of components allows each agency partially to meet individual needs but in which the incompatibility of the various units causes duplication and prevents comprehensive interagency information utilization and management.

Other forms of Federal assistance to state correctional systems have also recently been advocated.

For example, my Department has supported Senator Grassley's S. 329, a bill to amend the Federal Property and Administrative Services Act and "authorize the donation of surplus property to any state for the construction and modernization of criminal justice facilities." In this regard, it is essential for Senator Stevens' Subcommittee on Civil Service, Post Office and General Services to report this bill to the full Committee on Government Affairs for "mark-up" and presentation to the Senate. As you know, New York State was one of the first states to benefit from Federal surplus property through conversion of the former Watertown Air Force Base into a medium security correctional facility with 235 inmates currently under custody.

In addition, New York's Senator D'Amato, working in conjunction with Senator Hawkins, successfully transferred his S. 1248 (Federal Alien Incarceration Responsibility Act) into an

amendment to the Immigration Reform and Control Act of 1983. This amendment passed the Senate on May 18 and, if enacted, will benefit a number of jurisdictions including New York State which reports as of June 1983 a total of 868 alien inmates under custody.

The aforementioned three bills recognize what I believe to be a Federal responsibility for assisting state and local criminal justice systems. The justification supporting this Federal responsibility is clear. As was indicated in the June 20 testimony by my Department before the House Select Committee on Narcotics Abuse and Control, chaired by New York Congressman Rangel, the national effects of the ever escalating interstate transport, distribution and sale of dangerous drugs via the international drug connection has continued to result in a high proportion of inmates committed for drug felonies including aliens.

During 1982, 1,239 or 11.9 percent of the 10,400 new commitments were for New York State drug felonies. From an overall system perspective, of the 30,300 inmates we currently confine, a total in excess of 2,500 were convicted of drug felonies. Regarding aliens, drug felonies account for a disproportionate number of commitment offenses among this group. As of June 1983, 120 or 13.8 percent of the 868 alien inmates were under custody for drug felonies.

Furthermore, in the Judiciary Committee's Report last September on Senator Specter's Career Criminal Life Sentence Act, which is now S. 52, it was stressed that Federal responsibility in the growing area of felony crime by armed career criminals derives from the facts that (a) firearms utilized in such crimes move in interstate commerce and (b) armed robbery and burglary affect interstate commerce.

With regard to S. 52, I am very pleased that the bill has been "marked-up" and forwarded by the full Judiciary Committee to the Senate. It was also most encouraging to learn of the support and interest in this bill expressed at this Subcommittee's May 26

hearing by the Department of Justice. The concept of Federal prosecution of persons already convicted of two felony robberies or burglaries under state or Federal law and who commit a third such offense while armed with a firearm will most certainly strongly assist the states in the various limited cases envisioned by Senator Specter and the other sponsors.

In summary, these arguments fully support the claim that the Federal Government has a responsibility to assist state and local criminal justice systems through various measures such as direct financial assistance including reimbursement for the incarceration of aliens and Federal prosecution of career felons and other assistance such as transfer of Federal surplus property for use by state and local correctional systems.

At this time, I would like to draw attention to two bills introduced earlier this year by Senator Specter.

The first bill is S. 58, referred to as "Incarceration Under Habitual Offender Statutes" and the second bill is S. 59, referred to as "Criminal Rehabilitation."

S. 58 would "authorize incarceration in Federal prisons of convicts sentenced to life imprisonment under the habitual criminal statute of a state." I understand that plans are underway to amend this bill to include eligible state inmates serving terms of at least 15 years under habitual criminal statutes.

This Department strongly endorses S. 58 as a bold attempt to assist state prison systems in a period of ever increasing facility overcrowding. The following data from my agency will illustrate the applicability of S. 58. A recent survey indicated that there are 2,843 New York State inmates under custody with minimum terms of 15 years or more. Of these, 176 were sentenced as predicate felons (77 as second felony offenders and 99 as persistent felony offenders). VFO's, or Violent Felony Offenders, accounted for an additional 2,381 inmates.

I would like to offer one observation on the development of S. 58. In New York State, felons convicted of A-1 class crimes are ineligible for sentence enhancement through career criminal statutes such as Second Felony Offender. A-1 felonies include Murder 1 and 2, Criminal Possession 1 and Criminal Sale 1 (both involving drugs), Conspiracy 1, Kidnapping 1 and Arson 1. Although certain of these felony offenders have major criminal histories (such as prior state prison terms) they would be ineligible for transfer to Federal custody under S. 58 since they were not convicted under state habitual offender statutes.

Finally, S. 59 would "require states to assure that prisoners have a marketable job skill and basic literacy before releasing them on parole." As Senator Specter noted in the Congressional Record, it "requires that states make a good faith effort to see to it that those released after a term of imprisonment of two years or more are able to read and write and have a basic skill; in this way they will be able to earn their way on the outside without resorting to a life of crime."

The justification for this bill is most worthwhile, with the goal of reducing criminal recidivism. In addition, as noted in my January 12, 1982 letter to Senator Mathias of this Committee, "the establishment of a state prison vocational skills advisory council is commendable."

Furthermore, in New York State Section 136 of the Correction Law mandates a comprehensive program of correctional education. In addition, as an outcome of a major Federally funded grant in the vocational education area, the Department has developed "employability profiles" which indicate, for each inmate, the options for future civilian employability based on completion of specific course modules. I cite these state-level developments since, with regard to Bill 59's reference to "marketable job skills," it is my Department's finding that with

basic literacy as the prerequisite to the marketable job skills component it is not possible to effectively deliver both services to the inmate population within a 24 month time frame which is the median length of stay for Department inmates. However, the Department continues to pursue enhancement of service delivery. For example, continued focus has been provided for literacy enhancement.

With specific reference to Bill 59, however, by mandating that (a) the prison authority shall provide such program services and (b) the paroling authority may not release inmates serving terms of two or more years unless such services have been provided, this bill could have the unintended effect of exacerbating prison overcrowding in those states unable to provide such services due to current overcrowding. Also, this bill would penalize inmates for the shortcomings of certain prison systems.

In conclusion, with an ever escalating rate of commitment to prison of career, violent offenders, the state prison systems are in increasing need of various forms of Federal financial assistance and related aid, such as transfer of Federal surplus property, to effectively cope with the overcrowding crisis. Supporting Federal statutory initiatives such as S. 58, "Incarceration Under Habitual Offender Statutes," will also be of vital assistance to the states.

Thank you.

Senator SPECTER. Thank you very much, Mr. Coughlin. Let's turn, before any questions, to Mr. Landon, Director of Corrections for the Commonwealth of Virginia.

#### STATEMENT OF ROBERT LANDON

Mr. LANDON. Thank you, Senator. I have been listening to the Commissioner's remarks, so in telling the Virginia story I will try not to be redundant. But our problems are so similar, that is going to be very difficult for me.

Our problems in this last decade, since the early seventies, has been that our adult population has increased by almost 100 percent. In a State of more than 5 million people, we have gone from 5,400 adult prisoners to just about 10,000 at the present time.

Based on that, we have spent \$160 million building adult prisons to keep up with our growing prison population since 1974. Now, we are about even with the board, but we predict as a result of get-tough legislation in the Commonwealth that we will be in arrears again in the late 1980's and the early 1990's by almost 3,000 beds, which means that we are looking down the barrel of at least \$125 million in additional expenditures perhaps more.

But another problem that hasn't been brought up here and is significant: In the zeal of many States to build new institutions to catch up and clean out the overburdened jails, they have allowed existing institutions to fall down around their ankles. What I mean by that is, many States—and we are one—have renovated mental institutions, unused mental institutions; we have built trailer-park configurations and other alternatives to modern hard-structure buildings.

Now these are starting to deteriorate, and we are probably looking at another \$100 million to catch up in those areas.

So any assistance that the Commonwealth could get, one, to help us with our capital outlay deficits, and, two, to help us renovate and catch up, as is the language of your bill, would certainly be appreciated. Although we are interested in assistance from the Federal Government, I would like to point out in a friendly way that we would wonder how much control would be placed on the Commonwealth were we to receive such funds.

We are of the opinion that were we to be assisted, much like the old Hill-Burton Act, where the Federal Government brought the American hospital system up to standard with very light control, that that would be most appreciated.

Also—we share your concern, Senator, as to the illiteracy and the lack of job skills in our prisons. We were very interested in any help and support that we could receive in that area. I will say this, in Virginia a very exciting program that we have underway—by the way, we have never been able to beat the illiteracy problem in our adult prisons, mainly because of peer pressure, inmates would make fun of those inmates that were cloistered in a school room learning to read and write, therefore—and it may be a phenomenon—they would skip school or they would show no interest or have no motivation.

What we have been doing recently is using people from the community—retired school teachers and people of an interest—to come

in and work with these people on literacy skills. Then, when some of the inmates succeed and get to the point where they can be a subinstructor themselves, that pulls more inmates into the program. We are having quite a bit of success with this program and we are very pleased about it. That's why I mentioned it today.

We also share your philosophy relative to providing more and more jobs so that when the inmate leaves the prison, he will have a place to go and he can be a useful citizen.

We would have some trouble with receiving funds and along with the funds receiving certain mandates on our parole board wherein the parole board would not be able to perform their duty at their own discretion. Hopefully, as you further discuss this bill in testimony you might consider our concern. For instance, as an alternative—I never want to criticize anything without having a constructive suggestion—we would see that if we could receive funds to give our literacy programs and our job-training programs a shot in the arm—and naturally it takes additional funding, if you are going to develop a lot of cottage industries and things of that nature, you have to employ supervisors and teaching foremen et cetera—but if we could receive funds in that area, I think we would be amenable to some sort of control or a proposal that would have us submit bi-annual reports or quarterly reports, or whatever is necessary to authorities in the Federal Government to get a report card on how well we are doing with the funding.

But we would respectfully hope that the hands of our parole boards would not be tied, for many reasons. As a prison administrator, I wonder about the constitutionality of forcing an adult inmate to do anything—I know we have to provide programs; but I wonder, not to grab a metaphor, if you can take a horse to water and force him to drink. But nevertheless we are very interested in any funding or any proposals that would help us with our training programs—just cautions about constrictions on the parole board.

I am very pleased to be here this morning and to have had this opportunity to tell a little bit of the Virginia story.

[The prepared statement of Mr. Landon follows:]

PREPARED STATEMENT OF ROBERT LANDON

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I APPRECIATE THE OPPORTUNITY TO APPEAR BEFORE YOU TODAY AND TO COMMENT ON THE THREE BILLS UNDER CONSIDERATION.

VIRGINIA IS QUITE INTERESTED IN THE CONCEPT OF THE PROPOSED NATIONAL VIOLENT CRIME PROGRAM AUTHORIZATION ACT, S. 889, PARTICULARLY THE PROVISION THAT WOULD APPROPRIATE FUNDS FOR FEDERAL ASSISTANCE TO STATES FOR CONSTRUCTION OR RENOVATION OF CORRECTIONAL FACILITIES. AS HELPFUL AS THIS WOULD BE TO US FOR REASONS I WILL OUTLINE DURING MY TESTIMONY, WE RECOGNIZE, HOWEVER, THAT HOW THIS PROPOSAL WOULD SQUARE WITH SUCH NOTIONS AS FEDERALISM NEEDS TO BE EXPLAINED FURTHER.

LIKE MOST OTHER STATES, VIRGINIA HAS FACED A DRAMATICALLY RISING PRISON POPULATION THIS PAST DECADE, A TREND WHICH WE EXPECT TO CONTINUE FOR THE REMAINDER OF THE 80'S, AT LEAST. SINCE 1973, THE NUMBER OF CONFINED ADULTS FOR WHOM WE ARE RESPONSIBLE HAS ALMOST DOUBLED FROM ABOUT 5,300 TO MORE THAN 10,000.

I'M PROUD TO SAY THAT VIRGINIA HAS MADE GREAT STRIDES IN KEEPING PACE WITH THIS GROWTH. THE COMMONWEALTH HAS INVESTED APPROXIMATELY \$160 MILLION IN CONSTRUCTION OF ADULT AND JUVENILE INSTITUTIONS INCLUDING FOUR NEW MAJOR INSTITUTIONS FOR 750 ADULT INMATES EACH--TWO OF WHICH ARE IN OPERATION AND TWO OF WHICH ARE UNDER CONSTRUCTION. IN ADDITION, THE COMMONWEALTH HAS SPENT MORE THAN \$646 MILLION TO OPERATE ADULT AND YOUTH

INSTITUTIONS SINCE 1974. THAT COMBINED TOTAL-OPERATIONS PLUS CAPITAL OUTLAY-FIGURES OUT TO \$40 ANNUALLY FOR EACH VIRGINIA TAXPAYER FOR THE 1974-82 PERIOD.

BY TAKING THESE STEPS, WE'VE GIVEN OURSELVES A BREATHER. FOR THE FIRST TIME IN YEARS, WE'RE NOT OVERCROWDED AND, FOR THE MOMENT, THE BACKLOG OF PRISONERS IN THE COUNTY AND CITY JAILS HAS BEEN REDUCED TO MANAGEABLE PROPORTIONS.

I HASTEN TO ADD, HOWEVER, THAT THIS RELIEF FROM OVERCROWDING WILL BE BRIEF INDEED, BECAUSE THE INMATE POPULATION KEEPS RISING. OUR PROJECTIONS TELL US THAT IN 1990, WE WILL BE RESPONSIBLE FOR CONFINING IN EXCESS OF 15,000 CONVICTED FELONS! BARRING FURTHER CONSTRUCTION OR SOME SIGNIFICANT BREAKTHROUGHS IN COMMUNITY-BASED DIVERSIONARY AND ALTERNATIVE SENTENCING PROGRAMS, WE WILL BE FACED WITH A DEFICIT OF 2,400 TO 3,000 PRISON BEDS BY 1990.

OUR CURRENT ESTIMATE IS THAT IT WILL TAKE AN ADDITIONAL CAPITAL OUTLAY OF \$121 MILLION TO MEET OUR NEEDS, MILLIONS WHICH OUR STATE TREASURY IS UNLIKELY TO HAVE IN THESE TIMES OF SHRINKING REVENUE.

THE INCREASE IN VIRGINIA'S CORRECTIONS BUDGET FOR THE 1982-84 BIENNIUM IS MORE THAN DOUBLE THE INCREASE IN THE OVER-ALL STATE BUDGET. WE CANNOT EXPECT SUCH RELATIVE PROSPERITY IN THE FUTURE.

FURTHERMORE, IN OUR ZEAL TO BUILD ADDITIONAL FACILITIES TO HOUSE THE BURGEONING INMATE POPULATION, WE HAVE ALLOWED SOME OF OUR OLD INSTITUTIONS TO GO WITHOUT NEEDED MAINTENANCE AND REPAIR, WORK THAT MUST BE DONE TO THE TUNE OF ANOTHER \$40 MILLION TO \$50 MILLION IF WE ARE TO CONTINUE TO OPERATE SOME OF THESE EXISTING FACILITIES.

IN VIRGINIA, WE ARE ENCOURAGING THE DIVERSION OF CERTAIN NON-VIOLENT OFFENDERS, WHOSE SECURE CONFINEMENT IS NOT REQUIRED FOR THE PROTECTION OF SOCIETY, TO COMMUNITY SENTENCING PROGRAMS. WE HAVE A WELL-DESIGNED AND GROWING PROGRAM TO ACCOMPLISH THIS.

BUT EVEN IF A SIGNIFICANT DENT COULD BE PUT IN THAT ADULT POPULATION PROJECTION OF 15,000, VIRGINIA WILL NEED TO SPEND MONEY ON BUILDING AND RENOVATING CORRECTIONAL FACILITIES. ONE OF THE STEPS WE TOOK IN THE 70'S TO COPE WITH THE SUDDEN INCREASE IN THE FELON POPULATION WAS TO PRESS INTO SERVICE SOME TEMPORARY FACILITIES, INCLUDING TWO "TRAILER PARK" PRISONS, WHICH ALREADY HAVE OUTLIVED THEIR USEFUL LIFE. ALSO, WE HAVE SOME VENERABLE OLD WOODEN ROAD CAMPS, AFFECTIONATELY KNOWN AS "STICK CAMPS," WHICH--TO PUT IT CHARITABLY, SENATORS, MUST BE PUT IN MOTHBALLS AND REPLACED WITH NEW STRUCTURES.

SOME OF OUR JUVENILE FACILITIES LIKEWISE ARE BADLY IN NEED OF CAPITAL IMPROVEMENTS.

SO, VIRGINIA WOULD WELCOME SOME FEDERAL AID IN BUILDING

STATE CORRECTIONAL FACILITIES. WE ARE CONCERNED, HOWEVER, ABOUT THE DEGREE OF CONTROL WHICH MIGHT BE PLACED ON THE MANNER IN WHICH THE FUNDS ARE ADMINISTERED. . . YEARS AGO, THE FEDERAL GOVERNMENT SET OUT TO HELP COMMUNITIES ACROSS THE LAND BUILD HOSPITALS UNDER THE HILL-BURTON ACT; THE CONTROLS WERE NOT EXCESSIVE, AND I THINK THE PROGRAM WORKED WELL. IN MORE RECENT TIMES, I REMEMBER THE GRANT FUNDS BESTOWED UPON THE STATES BY THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION, HAILED AS MANNA FROM HEAVEN IN THE BEGINNING, PRODUCED SUCH A STATE BUREACRACY NEEDED FOR WRITING GRANT APPLICATIONS, CONDUCTING SPECIAL AUDITS, AND SO FORTH THAT THE RESULT WAS AN ADMINISTRATIVE NIGHTMARE.

IT WOULD NOT BE APPROPRIATE FOR ME TO COMMENT ON S. 58, FOR VIRGINIA DOES NOT HAVE WHAT IS COMMONLY KNOWN AS A HABITUAL CRIMINAL LAW, PROVIDING LIFE SENTENCES WITHOUT PAROLE. THOSE CONVICTED OF THREE SEPARATE ARMED ROBBERIES, MURDERS, OR RAPES ARE NOT ELIGIBLE FOR PAROLE BUT ARE NOT NECESSARILY SENTENCED TO LIFE IMPRISONMENT BY THE COURTS.

NOW, TURNING MY ATTENTION TO S. 59 WHICH WOULD BAR THE PAROLE OF STATE PRISONERS SENTENCED TO MORE THAN TWO YEARS WHO HAD NOT BEEN PROVIDED WITH VOCATIONAL AND LITERACY TRAINING.

VIRGINIA TAKES SERIOUSLY THE EDUCATION OF ITS ADULT INMATES AND JUVENILE OFFENDERS--BOTH VOCATIONAL AND ACADEMIC TRAINING.

IN FACT, AN ENTIRE STATE AGENCY, SEPARATE FROM THE DEPARTMENT OF CORRECTIONS, IS DEVOTED TO THAT PURPOSE. FROM 1974 THROUGH 1982, THE REHABILITATIVE SCHOOL AUTHORITY SPENT \$27.4 MILLION PROVIDING JOB TRAINING AND CLASSROOM INSTRUCTION INCLUDING LITERACY SKILLS TO ADULT AND JUVENILE OFFENDERS.

BUT, MR. CHAIRMAN, I AM CAUTIOUS ABOUT PROPOSED FEDERAL RESTRICTIONS MANDATING SUCH TRAINING BEFORE PAROLE CAN BE GRANTED. FOR ONE THING, I SEE SOME POTENTIAL CONSTITUTIONAL PROBLEMS. I BELIEVE AN INMATE SHOULD BE EXPOSED TO TREATMENT OR REHABILITATIVE PROGRAMS WHILE INCARCERATED, BUT I AM NOT SURE THE STATE HAS A RIGHT TO FORCE SUCH TRAINING ON INMATES UNWILLING OR UNABLE TO ABSORB IT.

ONE OBSTACLE IS THAT A CONSIDERABLE NUMBER OF INMATES ARE MILDLY TO SEVERELY EMOTIONALLY DISTURBED OR MENTALLY RETARDED, AND ARE NOT GOOD CANDIDATES FOR TRADITIONAL RETRAINING. ANOTHER IS THAT WHILE THE AVERAGE TIME SERVED IS ABOUT 32 MONTHS, MANY INMATES GET OUT IN SIX MONTHS OR LESS -- NOT MUCH TIME TO OVERCOME A LIFETIME OF ILLITERACY.

ALSO, WE'VE BEEN FRUSTRATED IN TEACHING READING AND WRITING IN A CONVENTIONAL CLASSROOM SETTING BECAUSE MANY FUNCTIONALLY ILLITERATE INMATES ARE ASHAMED TO REVEAL THEIR LIMITATIONS TO THEIR PEERS AND REFUSE TO ATTEND SCHOOL. WE HAVE BEGUN IN VIRGINIA TO APPROACH THIS PROBLEM THROUGH VOLUNTEER LITERACY

TUTORS, WHO WILL WORK WITH THE INMATES ON A ONE-TO-ONE BASIS.

SO YOU CAN SEE THAT HOLDING AN INMATE'S PAROLE HOSTAGE TO HIS LEARNING A TRADE OR LEARNING TO READ MIGHT RESULT ONLY IN ADDING TO THE ALREADY OVERCROWDED CONDITIONS IN MANY OF THE NATION'S PRISONS, JAILS OR JUVENILE FACILITIES.

MR. CHAIRMAN, THANK YOU FOR INVITING ME. I'D BE HAPPY TO RESPOND TO YOUR QUESTIONS.

**Senator SPECTER.** Thank you very much, Director Landon. I would like to call now Director Palmer to join the panel. Director Palmer is the Director of the Department of Corrections in Washington, D.C., and we have had the benefit of his advice on the District of Columbia Appropriations Subcommittee, a committee which was so expertly chaired by my colleague, Senator D'Amato, the 2 preceding years. And in the District of Columbia jails, some of the problems have come home which have been described in the testimony of Mr. Coughlin and Mr. Landon.

Director Palmer, we welcome you here. We thank you for taking the time to come, and would very much look forward to your testimony.

#### STATEMENT OF JAMES F. PALMER

**Mr. PALMER.** Senator, I would like, if possible, simply so that I cannot delay you, to submit to the record my prepared statement.

**Senator SPECTER.** Yes, your statement will be accepted for the record in full, as has been done with Commissioner Coughlin and Director Landon, and then if you would summarize, with particular emphasis on bringing us up to date on the particular problems you face and your current needs, which I am sure are going to be similar to what we have already heard testified about. We would appreciate that approach.

**Mr. PALMER.** First, Senator, I would like to begin by paying you the highest respects that I know by standing and thanking you for all of your assistance.

Senator, a chain of events took place in the detention facility starting approximately on the 20th; I found myself at the institution—roughly about 3 o'clock—with smoke coming out of the building, the fire department and, the Metropolitan Police there, and the facility in a state of chaos. I immediately assessed the situation and made some command decisions, in consultation with a number of officials and the assistance of a number of other persons—I made a decision to remove approximately 456 persons to the Lorton complex in Virginia. When I took this position in January of 1983, one of the first things I discussed was the possibility of a comprehensive contingency plan on what to do in the event of an emer-

gency at the detention facility. Unfortunately, for me, on that day I had to execute that plan.

With the assistance and help of the Metropolitan Police Department, the Virginia State Police, the transport teams from the U.S. Marshalls Service, and, of course, the Fairfax County Police, we were able to move all of those persons under safe and secure conditions to the Commonwealth of Virginia, to Fairfax County.

This move started at roughly 7 o'clock in the evening, and in consultation with the Assistant Chief of the Metropolitan Police Department I decided at roughly 2 o'clock in the morning to not further transport any more persons into the State of Virginia.

I left the facility at about 3 o'clock in the morning, and returned at 9:30, and at 10 o'clock we resumed movement of prisoners, and we completed that at about 2 or 2:10.

I then went to the facilities in Lorton for further assessment, along with the Acting Assistant Director. And once I made sure that all of the facilities were operating well, that the inmates were housed and fed, and the C&P officers were taking care of their needs and their families had been notified, I met with the citizens of Fairfax County—there's a task force down there—and I informed them of all of the circumstances, the good, the bad, and the indifferent. And after that I returned to the facility, of course, to make certain that during the night that we did not cause the citizens of Fairfax County any further disturbance or to have any rumors circulate so that we would escalate any problems.

I am very happy to report that as of the present time we have not had any problems.

As you are well aware, there are approximately 3,000 acres of land in Virginia that the Department of Corrections operate. My concerns are somewhat different from my two colleagues: I wish to expand on the present facilities I have along with a building that I am going to receive on the 1st of August, so that I might further alleviate some of my problems.

However, Senator Spector and Senator D'Amato, I find myself in a very awkward position: not only am I constantly before the legislative branch, I am also in three suits pending before the judiciary. Prior to my coming this morning, I was before the Honorable Judge Bryant, and on Monday I found myself before the Honorable Judge Green, in suits because of my removal of residents from the District of Columbia. I felt, in my professional judgment, that it was necessary to move them to institutions in Virginia.

I am confident, through our planning and our sincere desire, that we will be able to alleviate all of the problems to the satisfaction of the courts. This coming Friday I must submit to Judge Green my intentions to relieve the problem that I have created for myself at the central facility in Virginia. I also must answer Judge Bryant on the 3d as to my plans to relieve the overcrowding at the District of Columbia jail. If not to add the absolute impossible to my task, the center's inmates, who are represented in an old 1975 lawsuit, saw fit today to bring me before Judge Bryant as to my intentions of double celling them at the present detention facility.

So you can see, while I am working on a skillful solution to all of these, but they have taxed all of the resources that are at the command of the Department of Corrections.

But the good news appeared to me when I learned especially from your committee, that there was light for us after all at the end of the tunnel. All of the matters that we have addressed before your committee, such as the illiteracy plan to educate the inmates—and I certainly am going to extend an invitation to you, as I have in the past—there is a big move afoot at the Lorton facility. The youths wish me to bring you down so they can publicly take an opportunity to express to you their gratitude that you have seen fit to visit the institution and you have further committed yourself to the point of view that you are concerned with their education.

With all of these hopes in mind, I have put forth a comprehensive plan to suggest to my staff that we will double our efforts, and use all of the known procedures of trying to turn prisons around. Both of these distinguished gentlemen beside me, who are outstanding in the field, are models and I have no qualms to admit that I am by far probably the least experienced; however, I am a seasoned 28-year law enforcement veteran, and I would rely on that as to my decisions on what I will do.

We will go back and try to do some of those things and prove that maybe with a little more persistence, a little more help from people such as yourselves, and more cooperation from the public at large, that we will be able to put in a comprehensive training plan that will return to society citizens that are worthwhile, that will not burden the taxpayers, that will go back to the community better educated. When a person is incarcerated at the District of Columbia Jail, we aim to set up a profile that will show that they came in maybe reading at a second-grade level, but our hopes and our intentions will be to put them out with remedial education, that they will not only if possible achieve a general education degree, but at the minimum that they will be able to read and write and understand at least on an eighth- or ninth-grade level, so that they might get some type of meaningful employment.

It is indeed most regrettable that I find that we have a high number of persons in our penal system who are not educated. This is not to reflect on our school system, this is merely a stated fact that our records will show.

But even with all of these things, we feel that most—and I would dare to say all—of the suggestions that have come out of your committee, we fully intend to try to implement as soon as possible. We have a tight budget, we are under more court orders than any other penal institution that I know of at the present time; the money, if given to us, we will be willing and able to justify every penny of that money, Senator Specter.

And I look forward in every way possible to utilizing that money. We had in the District of Columbia, right in the shadows of the Capitol, a near situation of a disturbance. I feel that we have trained personnel, that the Department of Corrections exercises every effort to bring about safe and secure facilities. I stand before you and the American public and say that my desires and dreams are to operate safe and secure facilities. However, in my professional judgment, I will not hesitate to take steps that are necessary to stop all disturbances in any institution. I stand before you and say that when these incidents came up, in my professional judgment,

the steps that we took that night were correct, and I would certainly feel that both of my colleagues would agree.

Senator Specter, again, and Senator D'Amato, and all the persons present, I am most happy that you would take your valuable time, and I want you to know this: while I was alone in many thoughts that night, while I left that institution at 3 o'clock in the morning, when I arrived home at approximately 3:30, the spiritual being of yourself that you have given to this great community and the time that you have taken were reflected in my thoughts as I took that long ride home, and the relief that I was given when I received myself at my residence, I can assure you that my prayers certainly contained persons such as yourself along with all of the other fine officials who had lent themselves so well to lending assistance to the District of Columbia.

I thank you very much, Senator.

Senator SPECTER. Thank you very much, Director Palmer. Let me begin the questioning with a two-part question, and I would like the comments of all three of you gentlemen—and it is this: What, in your judgment, is the potential for violence on the streets if violent criminals are not jailed, and what is the potential for violence in the jails if those facilities are not expanded? I believe this is two parts of the question of adequate law enforcement: What is going to happen if you don't take violent criminals off the streets, and what is going to happen in the jails in terms of violence if we do not have adequate space?

Let's start with you, Mr. Coughlin.

Mr. COUGHLIN. I think the most dramatic example of that corollary is contained in New York. In 1975 and 1976, we passed a series of statutes which we call the Violent Felony Offender Act, where people who committed a certain list of violent felonies were required to go to jail—given mandatory jail sentences.

We also have some statutes called the Second Felony Offender laws, where if you have been convicted of a second felony, there is no question about probation, there is no question about some alternative sentencing—you must go to jail.

We started that program off in 1974, 1975, and 1976. It took us several years to see the effect of it, but I think the effect has been most dramatic in the crime rate statistics in New York City, the major part of our population in State prison. There has been a reduction in violent crime in the city of New York for the past year now—I am talking about major reduction; it started off at a 1- or 2- or 3-percent reduction in early 1982. This year it's up as high as almost 8- or 9-percent reduction in violent crime.

The reason for that is that if you commit a violent felony in New York State, you are going to go to jail.

Senator SPECTER. How about the second part of the question—what's the potential for violence in your prisons? New York has the famous Attica incident, which was a national landmark.

Mr. COUGHLIN. Let's not talk about Attica; Attica was 1971. At the time of Attica there were 12,000 prisoners in the New York State system, and it was hundreds of years ago in my mind.

Let's look at what happened in January 1983, when we had a major uprising at Ossining Prison, Sing Sing Prison. It ended in a

much more professional way than the Attica uprising ended, but still it was an uprising.

Now, if you don't have the ability to house people in a reasonable manner—that means one person to a cell—and a full program, a full program means—you can't have inmates laying around in the yard or laying idle; if you don't have them housed properly and in a full program, you are going to have a problem in the prison. Witness what happened at Ossining. Ossining is a major transit facility. We have over 1,200 maximum-security inmates at Ossining waiting for permanent placement. Ossining was built in 1825. Three or four Governors now have said they were going to close Ossining. We have to use it. We are using it as a transit facility. There are no program spaces there for those individuals. So they lay up in the yards and they lay up in their cells. And in January the frustration just got to the boiling point, and they took over a cell block.

Now, that is what is going to happen if we don't have space and we don't have programs for these inmates.

Senator SPECTER. Director Landon, will you tackle those two related questions.

Mr. LANDON. The first question, Senator Specter—in recent years, the Commonwealth has established some get-tough laws relative to our violent offenders. You may be interested to know that we have one law now that if you are caught up in an armed robbery or a rape or a murder on three separate occasions, and you come to the Virginia State penitentiary, you receive no parole whatsoever. This is getting the violent person off the street.

Conversely, also, in addition, in the last 2 years, our State legislature has passed laws wherein recidivists are not eligible for parole in one-quarter time, as the law reads for the first offenders.

So I think we are making some progress.

Senator SPECTER. You think those laws are working as Commissioner Coughlin suggests they are in New York, that the toughening up is having or going to result in a reduction in the major crime rate?

Mr. LANDON. We think they are; it's going to take a little longer, a few more statistics to validate that, but we think the get-tough policy is working, yes, sir.

Senator SPECTER. What is the potential for violence in your jails if overcrowding exists?

Mr. LANDON. Well, we have had some experience in that area in recent years. Two years ago our jails were seriously overcrowded because it takes a long time to build a prison—30 months, and we hadn't caught up—and we were having riots, in some cases knifings and burnings, in many of the jails throughout the Commonwealth.

Just recently we have caught up with our bed backlogs, and we have no backlog in our jails. And all of that type of violence and disturbance has reduced itself to almost an insignificant proportion.

Senator SPECTER. Director Palmer, we have added some \$22 million, as you know, in the District of Columbia appropriations bill which has been passed not only by the subcommittee, but by the full Appropriations Committee, and is going to the Senate floor

perhaps later today, or perhaps tomorrow, depending on the scheduling. And those \$22 million are being directed for the District of Columbia jails to move on the overcrowding with a 200- to 500-bed addition, and also to improve conditions within the jail.

My question to you is, if you do not get that kind of funding, what is the prognosis for the District of Columbia jail where you had the problems last week? If the overcrowding continues, what is your expectation or prediction about the possibilities of further violence within the prison walls themselves?

Mr. PALMER. First, Senator, I don't want to even think about that not happening. But if it does happen, I can assure you I will be in a most difficult position; I will be in a position that was—and I think you can sense this position—I would be in a position that would be equal to what I was in Friday evening when I arrived on the scene. I have to take into consideration that I must through court mandate as well as a human need make some necessary changes. The changes that I made on Friday were as real as I am sitting before you today. I assessed the situation, I am committed to it, and I need that money, and I need to make those changes.

Senator SPECTER. Yesterday's headline on the editorial page said the District of Columbia jail was a ticking bomb. Is that accurate in your judgment?

Mr. PALMER. Right now I would say the District of Columbia jail is a safe and secure facility, and that is because of the fact of the move that we have made and the commitments that we have made and the movements that we are making, and we must continue to make those.

Senator SPECTER. Is it a potential ticking bomb if you don't get further help?

Mr. PALMER. I think any institution, Senator, has the capabilities of it. I would not want to—I am a person who just will not give up hope; I think if we can get excellent training—and we can't always depend on this, though, because people can't go maximum all the time—I feel that when I push them to their maximum capacity, things will run out, tempers will flare, and we can have an incident.

Now, with all of the situations that you have put before me, they spell an incident. So, therefore, I feel that I have to have that money or incidents would be right there to be triggered by anything, such as this one we had. You know, we had a situation where someone had some sour milk and they threw it on a correctional officer; the next thing we had a thing going with the cell blocks burning.

So you can see, Senator, under these conditions, it doesn't take a lot—you know, a glass of milk, sour or allegedly sour—and the milk was not sour—but nonetheless an incident triggered.

So with trivial incidents like that, we have property destroyed and fires set. So the potential is there; I could not deny that.

Senator SPECTER. Senator D'Amato?

Senator D'AMATO. Thank you very much, Mr. Chairman. Mr. Chairman, it's interesting to note that Commissioner Coughlin mentioned that we now have in our State penitentiaries 868 aliens. Three months ago we had only 825 in our State system.

Let me ask you, do you see a trend of this kind of growth, and, if you could, would you give us your estimate of growth in this part of the prison population, namely the aliens, that you expect in the future?

Mr. COUGHLIN. I think, Senator, that it clearly is the growth area in the system. I expect that the alien population will probably go over a thousand by this time next year.

The issue becomes complicated a little bit in that we really don't have a good handle on all of the aliens. There could be more than 868 aliens in the system because of the problems with identifying the individuals at arrest and through the court system.

So, yes, it's going to be a growing problem at least in New York State as the city of New York continues its very hard-nosed approach on narcotics traffic. Most of the aliens are involved in the illegal narcotics trafficking, and that moves on into the more violent types of crime.

Something must be done with that. The State just cannot continue to give—you know, 868 people is one very large prison that we could save for our own homegrown armed robbers and burglars.

Senator D'AMATO. There's almost a bit of irony or humor in what you say, that there, we need the space for our own homegrown criminal population. But the most recent statistics relating to the Marielistas, those who came from Cuba, the boat people, indicate that, interspersed with those who were legitimately seeking safe haven were 30,000 to 40,000 hardened criminals released by Castro from his prisons. At this point, we are beginning to see the kind of wreckage and havoc that they are making, these hardened criminals, in the streets of our cities, and in New York in particular.

One statistic that is incomplete indicates that during a 15-month period of time in New York City, over 50 murders were committed just by Marielistas. Those are murders that we were able to identify and charge people with. We don't know how many more have gone unattributed because of lack of evidence or because they just haven't been able to arrest the accused in those cases.

My question is: Do criminals from Cuba bring to the prison system, given their propensity toward violence and violent conduct, special problems that may even be unique to the prison systems and the penal systems of New York and this Nation?

Mr. COUGHLIN. Absolutely, Senator. We have always been proud in New York State of running a relatively safe prison system. If we have one or two inmate-on-inmate homicides in a year, I become very alarmed at that, and this goes back 10 years. You can see that we have a very safe system.

However, with the influx of the alien population into the system, their different culture, the different culture that they come from, we have had in the past year two homicides that are attributed directly to the Marielistas, and as that population—and we have identified about 90 now in the State prison system as Marielistas—grows, I can assure you that the homicide rate in New York State prisons, in inmate-against-inmate homicide, is going to increase, because there is a different set of standards that those individuals operate by.

It might sound rather strange to people listening, but there are different types of violence. There is street violence and there is cultural violence, and these individuals have a propensity—a propensity for solving their problems with a knife or a pipe. And it is being carried over into the prison systems.

Senator D'AMATO. Thank you very much, Mr. Chairman.

Senator SPECTER. What is our likelihood of success on structuring programs within the prisons to stop releasing functional illiterates without a trade or a skill?

We have seen the recurrent cycle of men and women who go into jails, come out and repeat crimes, and it is a small wonder that repetition is present when we send out functional illiterates without a trade or a skill.

What do we have to do to stop that and try to take some realistic step to provide those opportunities?

Mr. COUGHLIN. I think, Senator, that functional illiteracy is a major, major problem within the prison system. In 1981 we developed a 5-year program plan for our system. The top program issue in that plan was functional illiteracy. Some 40 percent of those in the New York State prison system are functionally illiterate. You have to really examine what that number means. It means they don't read or write English.

We have a large Hispanic population, and we have tried—and rather successfully, with a lot of help from the State legislature—to take individuals who are functionally illiterate and get them for their average 25-month stay in our system up to reading at least at the fifth-grade level. I presented that to the legislature in 1981. They saw fit to fund it in a major way in terms of 65 new literacy teachers in our system, and the program is working quite well.

But you have to examine something, and, you know, I am not a person who says that the prison system can rehabilitate people—it can't. The only rehabilitation that we get in the system is from the rehabilitation that the individual himself does.

If you look at the number of people that left the New York State prison system in 1976, some 8,000 people, in the ensuing 5 years the recidivism rate was rather small—new crime recidivism rate for the cohort that left in 1976 was about 13 percent. If you add in the technical parole violators, individuals, parole violators, who did not commit a new crime, the number goes up to about 33 percent. That's 67-some-odd percent of the people who left the system in 1976 did not come back.

If you look at Auburn Prison, which is a major maximum-security prison of around 2,000 people, you will find that 90 percent of the individuals in Auburn Prison have been in State prison before.

I think we have to recognize that there are some losers in our system. And what we have to do is provide a place to keep those losers locked up for a long period of time.

The overwhelming majority of people that go through our system don't come back to the system.

Senator SPECTER. Well, you are talking about life sentences, in effect, on the losers. But if we are going to release people, and we release people without a trade or a skill, who cannot support themselves on the outside, how can we expect them to do anything but return to a life of crime? So how do we address that problem?

Mr. COUGHLIN. I think I answered that, Senator, when I said there are very straightforward requirements in our system, that if you don't read or write English at least at a fifth-grade level, we are going to get you there when you go out.

Senator SPECTER. Is that adequate?

Mr. COUGHLIN. That's all I can do, Senator, in 25 months; that's the average length of stay that a person is in our system.

If a person wants a job, if a person wants a skill, the prison system must be prepared to provide that for him. If he wants job training, if he wants to learn how to run a machine, we have to provide that.

But, Senator, there are some people who want to play basketball, and they are going to play basketball, and I am not going to take up the time of my professional staff trying to force them to go to school.

Senator SPECTER. So if you are faced with a group of inmates who will not take up a trade or a skill or even attain a fifth-grade educational level, and their time is up, they simply have to be released and they are back on society posing a risk.

Mr. COUGHLIN. And I will build more prison cells to take them when they come back.

Senator SPECTER. When they come back. Well, that's an unfortunate thing for those who are their victims in the interim.

Mr. COUGHLIN. Senator, I just want to make one point without being argumentative about this. No system, whether it be the school system, whether it be the hospital system, whether it be the family, is 100-percent successful. There has to be some failure rate.

Senator SPECTER. Gentlemen, thank you very much. I have just been informed that we have a vote starting now, and that Senator Baker wants to take up the District of Columbia appropriation bill immediately after the second vote.

So I would like to move at this time to Judge Joseph B. Williams, the administrative judge of the Criminal Court of New York, and Mr. Anthony Trivisono, executive director of the American Correctional Association.

Gentlemen, I very much regret our abbreviated schedule, but it is not possible to know precisely what is going to happen in the Senate. We are going to have to go to a vote in approximately—well, a few more than 2 minutes, but not much more.

So I would like to get the kernel of your testimony, and I would return except that Senator Baker wants to proceed with the District of Columbia appropriation bill, and I may not be able to till this afternoon.

So let us see if we can conclude the kernel in the course of the next several minutes.

I regret that, gentlemen, but that is what we are facing.

Judge Williams, we will turn to you.

STATEMENTS OF HON. JOSEPH B. WILLIAMS, ADMINISTRATIVE JUDGE, CRIMINAL COURT, NEW YORK, N.Y.; AND ANTHONY P. TRIVISONO, EXECUTIVE DIRECTOR, AMERICAN CORRECTIONAL ASSOCIATION

Judge WILLIAMS. Thank you, Senator Specter and Senator D'Amato, I welcome the opportunity to appear. I have submitted a statement and much of what I have to say is in that statement. And the other things that I would have to say would be indirect with respect to this subject matter.

We impact on this system indirectly; the problems that Mr. Coughlin mentioned, I generate, because we get the problem in the city. And as one example last year, I had to force upon him some people and make an order in order to relieve the New York City situation which was indeed under a court order from Judge Lasker of the second district court requiring one person, one cell, 60 square feet, and only 50 people in a dormitory. In a system that has a capacity for 10,000, they were over and threatening to go over—and the corrections department was threatening to release to the street some of these people who were incarcerated in order for the Commissioner not to be in contempt.

But the effect on the courts, if I might hurriedly just enumerate them, are as follows—that while there is no real direct effect on the court, that is to say, that judges are not taking into consideration not sending people to jail because of the population in the prison, it does have the effect of slowing down the entire system; it inconveniences and creates a lot of downtime and backlog in cases in the criminal justice system.

In short, it makes the system that much more inefficient, and it makes it necessary for the judiciary to bring tremendous pressure on the executive branch agencies, such as parole and on correction, in that we have to force them to do a lot of things that they would not necessarily do if we had the capacity to have the beds for many of these prisoners.

Finally, I would just like to reiterate, and I say I would support any legislation certainly that the executive could get to increase the construction, because New York is ironic, because under the order and right now the City of New York is rehabilitating the old Tombs of New York City detention facility, and indeed has planned to build a new White Street facility.

If that facility comes in on time, within the next 3 to 5 years, that facility will have 75 fewer beds than the capacity that existed at the time of the class action suit that started this.

Thank you very much.

[The prepared statement of Judge Williams follows:]

## PREPARED STATEMENT OF JOSEPH B. WILLIAMS

The Criminal Courts of our nation are struggling to deal with burgeoning caseloads - reflecting the pervasively high crime rate. New York City is no exception. As a matter of fact, Metropolitan New York is probably one of the most critical areas in the country.

I have been asked to give my opinion as to the effect that prison overcrowding resulting from these expanding caseloads has on Judges and the judicial system. In order to clearly examine and evaluate the impact on the Courts of this increased population, we must first examine the system.

The New York City Criminal Justice System is a high volume, tense and complex operation. During the first six months of 1981, 10,899 felony indictments were filed in the Criminal Term of the Supreme Court in New York City -- in 1982, 12,600; in 1983, 13,600 for the same period.

In our Criminal Courts where misdemeanors and offenses are handled, 84,600 arrest cases were filed in 1981; 96,000 in 1982 and 117,400 in 1983. These are awesome numbers. I hasten to remind you that the period being discussed is 24 weeks or about one-half of a year's work. Translated in economic terms, one would have to say that we in New York City, engaged in the administration of justice, are in one of the nation's real "growth industries."

The number of cases filed in the Supreme Court (our Court of unlimited jurisdiction) rose 8% in 1983 over the 1982 figures, and 25% over the 1981 figures. The ratios are equally dramatic for the cases filed in the Criminal Court - the 1983 filings were 22.4% over 1982 and a whopping 38.8% over 1981.

I cite these numbers for the purpose of providing a passing glimpse of the measure of the problem confronting the adminis-

trative and trial Judges assigned to work with the felony and misdemeanor cases in the City of New York.

Our resources, unfortunately, have not kept pace with the ballooning caseloads. This renders it almost impossible to address or alleviate the underlying social, economic and moral disruption in which crime is rooted. This lends to frustrations for many professionals because for years those in the Criminal Justice System believed that their mission was to bring about changes through the use of our superior judicial system. The promised result was to be an orderly society characterized by the degree of peace, safety and domestic tranquility envisioned by the Founding Fathers. Now, voices are being heard with increasing volume to abandon that goal as unattainable or at least impractical in present circumstances.

To address the central issue - the effect of prison overcrowding on Judges and the Courts.

The logical place to start is at the beginning of the proceeding - Arrest. Arrest is the initial step in the process which could ultimately end in incarceration. It is at this point that the sheer magnitude of the arrest cases and indictments filed in our New York City Criminal Courts takes on significance. The one pervasive element which follows the arrest and the arraignment of these cases is stress. This stress is intensified by the number of cases processed on a daily basis. Judges are called upon now to consider and make critical decisions concerning parole, bail or remand. How does one quantify the stress involved in determining these critical issues which bear upon the constitutional rights of the defendants and the protection of the general public? These decisions are often made under less than ideal circumstances of burgeoning caseloads, grossly inadequate physical facilities, and skilled advocates zealously contending for opposite results. This certainly presents fertile opportunities for errors and oversights. In reality, judges adjust and get accustomed to this and fewer mistakes are made than one would anticipate.

This may be the first and most direct result. A Judge may

make a decision at this juncture to use either bail or parole rather than remand as the tool for insuring the appearance of the defendant. However, if this happens at all, it will be in the marginal cases (non-violent and relatively minor offenses); in short, good security risks. I believe these are the cases where the least restrictive alternatives would be used in most instances irrespective of the overcrowding in jails. The reason this is considered at all is the media attention given to pretrial detention.

There are frequent headlines or articles in some tabloids criticizing judges for "turnstile justice" or "revolving door justice" on one hand while on the other there is a warning by some public official or commission of the dangerous conditions existing in our detention and correctional facilities due to overcrowding. The litany runs all the way from health and quality of life questions to riots and possible criminal acts. It is not difficult to understand the type of pressure this puts on the system and the stress it generates for individual judges. They seem to be a daily occurrence. Therefore, one could say with some degree of accuracy that prison overcrowding creates a tremendously stressful environment in which judges function. This factor could affect the accuracy, quality and quantity of his work.

Let me pause at this point to describe in a summary fashion, the correctional system under discussion.

The New York City Correction System has a capacity to provide custodial beds for approximately 9800 prisoners and detainees, both male and female. The average daily population of detainees is about 5000 persons. There are usually about 6800 others - including sentenced misdemeanants, D & E felons (those serving jail sentences of no more than one year), and sentenced prisoners. The last category are either awaiting transport to the state system, trials, hearings or sentences on other cases.

This system is presently operating under an order of the U.S. District Court, Southern District of New York, which puts a "cap" or limitation on the population. This order has effectively reduced by

678 beds, the space units utilized prior to the commencement of the class action litigation, and the decree provides that each detainee have at least 60 square feet; one person in a cell, and that each dormitory house no more than 50 men. In addition, the New York City Detention facility known as "The Tombs" was ordered upgraded.

I am led to believe that yet another action is pending or about to be filed which will have the effect of further reducing the capacity by 1,100 beds. Upon the completion of the renovation of the "Tombs", and the new "White Street" facility, the Department will have a capacity that is 75 beds fewer than were in use before the lawsuit. This construction program is scheduled for completion within five years. It seems ironic that unless crime abates or other facilities become available, and if we continue to detain and incarcerate at the present levels - (the mood of the moment seems to be incarcerate more offenders for longer periods) - the facilities now being constructed will be overcrowded upon completion.

Now, I would like to turn back to the effect that crowded prison conditions have on the judges in the Courts. We have seen that overcrowding could possibly have an effect on pre-trial detention. At pre-trial if there is any effect at all on judges it might impact decisions involved with bail, parole or remand, prior to disposition. Most of those involved decisions relating to first offenders or non-violent minor offenses.

With respect to felonies, the problem is much clearer and easier to address. Our Supreme Court Justices who handle the major crimes are fully aware that our jails and prison facilities are bulging at the seams.

The question put in this respect is whether Judges are influenced in their sentence practices by having knowledge of this fact. Stated more fundamentally, do Judges make decisions not to send a defendant to jail because of the prison conditions? Court administrators in New York have no control over, nor may they inquire into, the process by which Judges reach any judicial decision - including sentences. To probe into the process, in my view, would tend to impinge on the discretion of the trial Judge and diminish the concept of judicial independence.

But from my own experience over the last year and from information volunteered by judicial colleagues, I can state emphatically that the knowledge a Judge may possess concerning prison and jail overcrowding does not directly influence his sentencing decision. If it did, one would be hard put to explain the fact that the prisons in New York State are filled not to 100% capacity, nor even 110%, but my last information showed to a capacity of 116.5%.

It would appear that prison overcrowding does not directly affect the sentence decision of most felony trial Judges for the following reasons:

- 1) Approximately 85% of the felony dispositions are the result of plea negotiations - i.e., the sentencing is agreed upon as a part of the agreement of disposition.
- 2) The balance is the result of trials wherein most of the sentences upon conviction are fixed by law, i.e., violent offender or persistent felony offender.

However, the indirect impact is significant. When the prison system is overcrowded there is a tendency to slow up the entire Criminal Justice System and to create a general lag in the disposition of cases, which increases the Courts' backlog. This renders Courts less productive.

Example: If a prisoner is missed and not transported to Court, the case must be adjourned, usually for a week or ten days. The Court must then be assigned additional work to cover the period originally scheduled for the trial of that case.

Example: New York City Correction Department has the responsibility for moving prisoners from its detention area to the Supreme and Criminal Courts in the five boroughs. A breakdown in transportation can delay by hours the opening of a Court part with the attendant waste of time of judicial and non-judicial personnel, not to mention the inconvenience to jurors and witnesses.

Example: For years it has been the practice to keep all sentenced prisoners in City rather than State facilities until all their matters had been disposed of. Only then would they be transferred to the State System. During one period in the past year, I made an order transferring all State Ready "Sentenced Prisoners" to the State in accordance with the law. This created a real problem with three agencies: the New York City Correction Department, State Corrections and the New York City Office of Court Administration. It was unfortunate but hard decisions had to be made by all concerned. Otherwise, the results might have been disastrous.

As those cases moved through the Court as scheduled we had to request the State to produce them. This required at least 20 days lead time to be certain the prisoner would be available. If for any reason - as happened in many cases - the prisoner was not produced, the trial could not proceed; tempers flared, pressure built up and the Court ended up with unnecessary down time and an increased backlog.

Example: Some of the overcrowding has diminished in the last few months. The New York City Commissioner of Correction has opted to keep sentenced prisoners in the City.

Efforts have been made to complete these matters during the slow summer months before the population begins to build up again as it does each year.

In order to deal with the sentenced prisoner population with open cases during the vacation periods, D.A. Morgenthau has suggested that the Courts institute Saturday sessions. In view of the fact that most Judges felt this would not be productive, Judge Ellerin, Deputy Chief Administrative Judge, New York City Courts, adopted the alternate proposition of opening additional summer parts. This is possible because of the cooperation of Judges who agreed to delay their vacation to hear cases in added summer parts.

Judges, in addition, have modified their sentencing pro-

cedures to insist that the Probation Department provide reports within 21 days of the date of conviction in order to move sentenced defendants into the State System as early as possible.

Finally, Judges have not been quite as understanding or liberal in granting pre-trial adjournments, and motion practice has been monitored more closely. All of these efforts are important because a sentenced prisoner does not receive the same treatment as a detainee. They are not under the Court restraints imposed by Judge Lasker and can be housed under different conditions.

New York City and State are not alone in facing this crime crisis with inadequate or limited resources. The Courts, like other parts of the Criminal Justice System, have their shortcomings but, contrary to some critics, we are not the problem. The Courts are struggling to deal with many social issues for which it is ill equipped or prepared. It is my opinion the problems will not be solved by tinkering with the penal laws or judicial discretion in sentencing and certainly not by diminishing the constitutional protections to which both the public and accused are entitled.

The only way to effectively improve the system and to commence to deal with this crisis is to increase the resources. Once resources are provided, careful monitoring of the system must be put in place to see that it works effectively. The Courts cannot continue with less - the public demands no less than a safe, secure and just society. We need more police officers, more prosecutors, more Judges, more probation officers, more parole officers, more alternatives to prisons for non-violent offenders and more cells for the truly dangerous, violent felons who must be removed from society.

Fortunately, the Judges of the Criminal Courts in New York City under the leadership of Chief Judge Lawrence H. Cooke and his senior aides, have risen to the challenge.

Through a combination of special efforts by the Judges and innovative plans devised by the Chief Judge to make maximum use of limited resources, dispositions of indictments in the

Supreme Court in the City in the first 24 weeks of 1983 (16,633) were 38% higher than in the comparable period of 1982 (12,061) and 59.6% higher than in 1981 (10,422).

The increase in dispositions in the first 24 weeks of this year brought about a 15% decrease in the number of indictments pending in the criminal term of the Supreme Court, from 13,988 indictments pending on January 1, 1983, to 11,870 on June 17. Even more gratifying was the decrease of 25.8% from 4,850 to 3,596 in the number of indictments pending more than 6 terms, or 24 weeks, the standard by which the judiciary measures its success in disposing of indictments promptly. During the period February 22, 1982, to October 27, 1982, 4,999 felony cases which had been pending over six months but less than one year were brought to disposition. Almost twenty-five hundred (2500) of these cases had been pending for over a year.

The trends in dispositions and number of cases pending in the Criminal Court were similar to those in the criminal term of the Supreme Court. Dispositions of arrest cases in the Criminal Court in the first 24 weeks of 1983 (114,744) were 25.2% higher than in the comparable period of 1982 (91,652) and 38% higher than in 1981 (83,130).

And between January 1, 1983, and June 17, 1983, the number of arrest cases pending in the Criminal Court was reduced by 6.9%, from 20,348 cases to 18,951 cases.

Numbers like the above tell only part of the story. The Courts have reduced the detention time of detainees from 49 days in January 1982 to approximately 41 days as of July 1, 1983. This represents 8 days savings with respect to bed space. When applied to the entire detention population we are talking in terms of 177 days being saved with each percentage point of reduction. When considered with the annual cost per bed of approximately \$84.00 it is easy to see that the Courts are in part responsible for the savings to the City of millions of dollars. Hopefully, this will move the decision makers to

utilize additional funds for improving and upgrading the physical facilities of Courts which the local authorities are obliged under the law to provide.

I make this statement as to cost for the purpose of showing that the Courts are alert and sensitive to the question of overcrowding and have made real efforts to cooperate to alleviate it, in spite of the absence of adequate resources. However, there is a limit to what innovative programs, new techniques and agency cooperation can produce. At some point the public must come face to face with the need for sufficient monies for the entire criminal justice system or otherwise face a major slow down and, indeed, a possible collapse. It has been said, "The people will get as good a criminal justice system as they are willing to pay for" - unless we act quickly and decisively in this area, it may cost us much more in terms of remedial measures. Why should we be mere spectators and wait for a predictable disaster? There should be and needs to be immediate action. The need has been amply identified and documented. We have to provide the capital and operating costs if we intend to incarcerate additional felons and are sincere about getting the conviction rate up and holding sentenced prisoners longer. This has to be a major commitment as the costs are enormous.

Thank you Senator for inviting me. I trust my remarks have been helpful. Hopefully, it will shed a bit of light on a very critical problem.

Senator SPECTER. Thank you very much, Judge Williams. I defer to Senator D'Amato for questioning here.

Senator D'AMATO. Judge, you just put it so well: Here we are under court orders to rehabilitate the prisons and we wind up with 75 fewer spaces, after spending tens of millions of dollars, than we had previously.

Senator SPECTER. Judge Williams, do I understand that you are endorsing the D'Amato bill for Federal help to State prison construction?

Judge WILLIAMS. Certainly, I think after the bond issue in the State, I would look for money any place, because it is going to loosen up, the court system, if there are more beds for the prisoners in the correctional system in the State of New York.

Senator D'AMATO. Judge, let me ask you this: How much—this may put you on the spot—pressure do you think the court comes under, maybe even subjectively, when a judge knows that the system is bulging—do you think that there are those who might ordinarily be sent to prison who aren't as a result of this?

Judge WILLIAMS. Not as many who are convicted as they are detainees. The crucial question as to where this stress is, is on the front end, on the question of whether or not you are going to use bail, parole, or you are going to remand in order to insure his presence.

On the question of after a trial, I think as it has been said here, for two reasons it will have no direct effect, because in 85 percent of the cases that are disposed of in the city of New York, whether they are felonies or misdemeanors, they are negotiated pleas. And included in the plea usually is the question with respect to the sentence that the defendant can look to within a certain range, and if it is going to be a jail sentence, it's enunciated. In the others that result, that come about from trial, the legislature in many, many instances, and some that Commissioner Coughlin has referred to, has given mandatory.

So there is very little discretion. Jail time is going to be done—but for that reason it is. I don't think, Senator, you will find any, any judge, who will openly admit that certainly he is not going to send a person or not going to make a decision based upon our prisons, but I am certain that most all judges are aware of the situation in the city prisons and in the State prison, and subjectively, if not objectively, it has to affect the decision.

Senator SPECTER. Judge, if the Federal Government were to take over the incarceration of defendants convicted under the habitual offender statutes, three-time and four-time losers in various States, do you think that would be an encouragement for more use of those habitual offender statutes, to give life sentences?

Judge WILLIAMS. I think they are being used quite a bit now. We are finding now that it is being moved—and the reason the prison is overcrowded is because the change in judicial behavior and the mandatory sentence imposed by legislature. These two reasons are primarily the reasons for forcing more and more people into the system, because I think the latest statistics indicate that 50 percent of those who are convicted are now going into the prison when some 8 or 9 years ago just 32 percent were going in.

Senator SPECTER. Mr. Trivisono, we are literally out of time. You live in the area, or have your offices in the area, as I understand it. Would it be agreeable to you if we rescheduled you at our next hearing? We shall be having one. We regret having brought you here, but it is not quite as bad as if you had come from a longer distance.

You are from the metropolitan area, are you not?

Mr. TRIVISONO. Yes, sir.

Senator SPECTER. Well, if that is agreeable to you, with our apologies, we would prefer to give you some time, and today we have just been closed in on both ends. I repeat, we did not know till yesterday afternoon that the 9:30 session was going to be scheduled with the Secretary of State this morning, and I just got the message about Senator Baker wanting to proceed with the D.C. appropriation bill.

So with that sandwiching, we would like to take you up on your courtesy to return at a later time.

Thank you very much, gentlemen. The subcommittee is adjourned.

[The subcommittee adjourned at 11:55 a.m.]

[The prepared statement of Mr. Trivisono follows:]

PREPARED STATEMENT OF ANTHONY P. TRIVISONO, EXECUTIVE  
DIRECTOR, AMERICAN CORRECTIONAL ASSOCIATION

Mr. Chairman, and distinguished members of the Committee. As Executive Director of the American Correctional Association (ACA), I am here today on behalf of the membership of the ACA. The ACA currently has over 12,000 professional members representing such diverse areas of corrections as: state, local and territorial correctional agencies, institutions, jails and pretrial programs, as well as federal and state probation, parole and institutional agencies. The purpose of the Association is to exert a positive influence on shaping national correctional policy and to promote the professional development of persons working in all aspects of corrections.

The members of our Association commend you for introducing such ambitious legislation as S.889. Your premise, reducing violent crime by 50 percent is a noble one and perhaps attainable. We have previously stated in testimony to Senator Biden that domestic defense is that part of the U. S. Constitution that does not often become equated in the same terms as national defense. As we have reflected on Congress' previous ten year plans the legacies left behind have never fulfilled the original mandate. The war on poverty and the war on crime are two examples of this unfulfilled mandate.

S.889 seems to be a sensible solution to a major problem that continues to plague American society. Punishment is as old as civilization and Americans have grasped the idea rather well. Can we really understand incarceration and its continued use without exploring the use of punishment in all of its styles? It is probably because the use of punishment defies all logic and the inconsistencies and contradictions do not apply to all. As Honore' de Balzac said a long time ago, "Laws are spider webs through which big flies can pass and in which the little ones are caught."

We have a crisis in corrections that has been building in this decade since 1974 (See Appendix I). Basically we know what needs to be done; the problem is accomplishing our objectives through wide-scale implementation of appropriate well thought-out policies. Incarceration is here to stay and the debate regarding for whom it exists will continue unabated. Prison overcrowding or prisons at capacity is at best difficult to administer and appropriate expertise is needed

to make the system work. The institutional response from the very beginning has been a marginal response because prison authorities control neither the front nor the back gate.

Overcrowding has been with us since we began the incarceration experiment in the United States and the institutional response, whether proactive or reactive, has not influenced the outcome (See Appendix 2). To hold correctional leaders and inmates hostage until we resolve the question of whether or not to continue building is in itself a crime. The system as it is today causes a great amount of physical, emotional and spiritual anxiety for both inmates and staff.

It is strongly agreed that correctional institutions must provide meaningful work situations for inmates to work as closely as possible in real-world job situations, to learn marketable skills, to develop good work habits necessary to such employment and give a sense of dignity and worth to inmates. Without the widespread implementation of this type of program and the reduction of barriers to interstate commerce of prison-made goods, idleness in our institutions will continue, most often resulting in increased tension and violence. However, as we build prisons we must provide more training and more jobs. Some suggest that this will pit inmates against job seekers in open market.

The idea that prison-made goods on an open market will somehow affect employment within the community is overly exaggerated. At best about 35 percent of prison inmates would be employed nationwide in such programs, or approximately 140,000 (35 percent of 400,000), which is less than one-tenth of one percent of the entire United States labor force. No one should feel threatened by this meager competition.

Interestingly enough, when Kansas and Minnesota began their prison industries simulating free-world business they encountered no opposition from organized labor (Corrections Magazine, April 1981). This may have had to do with their method of implementation; that is, Kansas brought in an out-of-state industry so as not to affect Kansas workers, and the Lino Lakes Facility (Minnesota) performed work that a company's regular employees could not keep up with. These particular examples show that some innovation may be necessary so that labor and the community will accept the program. In this way, such a concept can be introduced and accepted.

Prison officials are eager to attempt to provide full employment to as many inmates as possible and although there may be difficult problems associated with

providing jobs, the benefits can outweigh the problems. Some of these benefits include:

- Developing positive work habits that will carry-over to when an inmate is released and working in the community;
- Developing productive members of society who pay taxes and who are able to support themselves and their families; (inmates will pay room and board while confined thus reducing the costs to the public);
- Using income earned for restitution payments thus helping victims and literally repaying their debt to society; and
- Decreasing inmate idleness.

To a certain extent these programs can also be used in local jail facilities, particularly in conjunction with work release programs. Inmates in jails are usually closer to the community's industrial centers so the convenience is there, and more successful reintegration of the inmate into the community is possible (reference Hennepin County Jail, Minnesota).

Chief Justice Warren Burger in his "Year End Report on the Judiciary 1982" said, "There are several approaches for coping with these staggering numbers of prisoners. First, much can be done to improve the conditions of prisons and decrease the overcrowding by building new and renovating old facilities. Second, the prison confinement experience can be made more humane and effective by enhancing the caliber and training of prison officials. Third, prison programs which provide education and opportunities for work experience can be instituted."

When the Omnibus Crime Control and Safe Streets Act was signed into law by President Lyndon Johnson in 1968, the entire premise of that Act was to allow states and local communities, in partnership with the federal government, to plan a future that would reduce crime in the United States. The plan was thought to be an idea whose time had come and that the result would be to create an improved criminal justice system.

The original President's Commission of Law Enforcement and the Administration of Justice produced about 200 recommendations which were published in The Challenge of Crime in a Free Society. It was a call for "planned revolution" in criminal justice with the goal of producing fairness and equity and a safe, sane environment for all. In order to accomplish these goals, several major ideas were advocated.

1. Prevention of incidence of crime;
2. Development and use of a broader range of techniques and sanctions to use with offenders;
3. Evaluation of existing inequities in sentencing;
4. Attraction and upgrading of more qualified employees to correctional programs;
5. Better use of research;
6. Input of more money and resources;
7. Planning in conjunction with other elements of the criminal justice system; and
8. Efforts to minimize fragmentation, disunity and isolation of programs.

In the intervening 15 years the incidence of crime has not decreased significantly. Inequity in sentencing is still a major issue. Planning is still disjointed and fragmented.

Consider the following:

1. The number of prisoners held by long-term correctional institutions has reached a record high for the tenth consecutive year, now well in excess of 412,000 persons.
2. The number of state prisoners housed in jails because of overcrowded state systems is well over 7,200.
3. Only twice since the 1920s has the prison population decreased—during World War II and the Vietnam War. Disregarding these two exceptional periods, there has been a steady rise in prison populations since 1920 and as we look at appendix I, we can trace the prison population since 1840 along with the dramatic increase in the number of persons incarcerated per 100,000. It is interesting to note that our criminal population is the same population that we sent to war. We understand that young people, especially minorities and the economically disadvantaged, need a cause and a job to be productive members of society.

From a cynical point of view, it may appear that cooperative planning is a process that can be effective only if it doesn't get in the way of unilateral decision-making; if it doesn't compromise the political system; if it doesn't cost too much; if it doesn't call for a correctional facility in one's neighborhood; and if it reinforces emotional decision-making and cosmetic legislation.

Our federal government sometimes plans, our 50 states do plan, our 4,000 counties try to plan, and hundreds of our major cities plan to think about it. After 15 years of major effort, there has been little or no development of coordination among various planning agencies.

Planning, organizing, policymaking and decision-making are primary responsibilities of leadership and management. Unless key decision-makers feel a need for systematic and sustained planning and are committed to it, nothing much will happen. Congress must provide the leadership for effective planning and give states an incentive. This incentive should be in the form of technical assistance and fiscal resources.

Systematic planning requires an active, ongoing assessment of the system's needs. This assessment will determine the discrepancies between an ideal projection of the correctional organization and real-life situations. The differences between the ideal and the real-life situation constitute the needs.

With all of the planning documents and the millions of dollars that have been spent since 1968, we have only closed five bastille-type institutions in Idaho, Vermont, Montana, Pennsylvania and New York City. New York is reopening the Tombs after millions of dollars have been spent on renovation. We have added several hundred new types of institutions and programs, such as work release, community restitution centers, halfway houses and minimum security facilities. But our prisons are still overcrowded and our resources are being eaten away by inflation and the great debate on the purpose of corrections continues. Everybody is unhappy. At least there is consensus on that issue!

The debate regarding what corrections and criminal justice is supposed to do continues to be muddy. We seem to be someplace between we are "too soft on criminals" and we "lock up too many in our society." We are being challenged by thoughts that correctional institutions offer "cruel and unusual punishment" and we are running "country clubs." These ideas are not new; they have been around for many years. The correctional community must help our governing bodies at all levels to understand the correctional dilemma and to do something constructive and positive about it rather than allowing each new generation to attempt to solve the problem.

We seem to cling to the old ideas that have faced us forever—community-based institutions; to build or not to build; punishment or rehabilitation. We fail

to see the real world of criminal justice and corrections. How many times do we have to learn that correctional institutions are here to stay? And the most comprehensive plan is not worth anything unless there is a new resolve to sit down with all the actors, professional and political, to find the answers to how many.

Our good friend Leslie Wilkens from SUNY, Albany once said that if our citizens continue to be as criminal as they appear, by the year 2000 we will have half the population supervising the other half. Quite a tongue-in-cheek thought. In the new decades ahead it will be difficult for the professional to recommend necessary and balanced programs although economics of the marketplace may well do it for all of us.

The development of an American policy, not necessarily a federal policy, has not been accomplished. The immutability of the 50 sovereign states and the feeling that governors and legislators do not want national rules, whether or not the federal government provides the financing, has yet to be affected in any area of federal-state relationships. And this dilemma is further exacerbated when we study the relationship between state and local government. No one enjoys the proverbial "big brother" syndrome.

We may wish to amuse ourselves on what it would have been like without LEAA during the past 12 years. Would we have had more crime than we have today? Would we have had more adult prisoners? Would the phrase "status offender" have been invented and community programs serving them developed? Would a more serious concern for the older, violent and repeat offender been effected? Would the four to five billion dollars that have been spent by states for institutions now in process for the past eight years, and another four billion plus being spent right now without federal effort, be more or less?

It is essential that criminal justice system programs incorporate public concerns in planning as one of their major goals. Local criminal justice system personnel, under the able leadership of persons who work in the day-to-day programming, have this responsibility. Senate Bills such as 53, 889, 1005 and H.R. 2175 give us hope that we can exhume planning as a necessary function of a coordinated governmental response. However states and counties have not been sitting by waiting—they have expended billions on correctional expansion (See Appendix 3).

Looking into the mid-1980s, I expect that we will see the following developments:

1. Crime and Violence. Crime and violence will continue in the future and most likely will continue to increase. Within our complex society, can we continue to tolerate, perhaps even encourage, violence in our country and in our institutions? Of course not!

Illegal aliens continue to present a major problem in the mid-1980s.

The implications of illegal entries are a difficult problem to solve as we have seen with Cuban and Haitian refugees and the continued flow from Mexico and other Central and South American countries. They affect the prison populations in several parts of the United States and we applaud Senator D'Amato with his Amendment S.1248 to S.529 Immigration Reform and Control Act of 1983, which will help the states with payments for incarcerants.

Fraud and theft against governments will continue to be extremely significant and will increase in the mid-1980s on both the federal and local levels; greater sanctions against these crimes are demanded.

2. Prison Population. In terms of the prison population, we are likely to be forced to continue living with overcrowded institutions at least for the next five years. The percentage of minorities among the incarcerated is likely to increase beyond its already disproportionate level, and we are likely to have an increase in racial confrontations. Prisoners' litigation, of course, will continue. Inmates will continue to seek redress for real and perceived grievances. However, as we become more professional and as standards are put in place, there may be a decrease in successful litigation toward the end of the decade. This is not a firm prediction. Criminal justice system policy evolves rather slowly and, as stated earlier, is subject to many and varied influences.

3. Correctional Staff. Personnel in the criminal justice system are likely to voice even more strongly in the mid-1980s as we have seen last week in the District of Columbia when correctional officers spoke of their serious frustrations with overcrowding; their concern over the fact that no one seems to care about the unusual risks law enforcement and correctional personnel meet on a daily basis. Unions and unionism have grown remarkably in the past few years, and they are

deeply involved in corrections and law enforcement policy issues. The stakes are high as is their investment in a safe working environment.

The debate over unionism for public sector employees will continue and unions will multiply during the debate. The more violence in institutions the more litigation by inmates; the more we continue with unsafe facilities, the more this development will take place. We at ACA sincerely request that all senators and congressmen support S. 132 and H.R. 295 declaring the week of August 7 as "National Correctional Officers' Week," in recognition of the generally thankless job these brave men and women perform.

4. Sentencing. Another major problem facing us in the mid-1980s is what appears to be an "irrational disparity" in sentences by our courts. Both from the criminals' point of view and from the public's, there appears to be a blatantly uneven flow of justice. Some people appear to get off easy, others to be heavily sanctioned, often for the same offense. Not only is "irrational, disparate sentencing" a major criminal justice problem, but the disparity of discretion on the part of law enforcement and court personnel during the pretrial stage is equally troubling. "Irrational, disparate sentencing" is easy to identify and should be corrected by more aggressive work on the part of judges.

There is growing public alarm over the continued rise in crime and the belief that the lack of sentencing undercuts the deterrent effects of the criminal law, thereby contributing to recidivism and high crime rates. Sentencing is seen as arbitrary and unfair by the general public and offenders, particularly where indeterminate sentences are used. However, discretion will always be a part of the criminal justice system, whether it is practiced by the police, the courts or correctional personnel.

5. Standards and Accreditation. The standards and accreditation movement, begun in the 1970s, has increased its momentum in the mid-1980s. Standards are continuing to be revised to meet the needs of the field as well as the requirements of the courts. More and more institutions and agencies will become fully accredited by following the voluntary standards of our Association and the accreditation process of the Commission on Accreditation for Corrections (CAC).

Ten manuals of standards have been published for the field of corrections. The standards were developed by the ACA and the CAC after an extensive program of field testing and review by professionals in all areas of corrections. With the publication of this uniform and complete set of national standards for adult and

juvenile correctional agencies and facilities, the Commission on Accreditation for Corrections began conducting accreditation proceedings in the field. Today more than 229 agencies are under contract with the Commission to undergo accreditation. 324 agencies have been accredited, including 128 adult correctional institutions.

Accreditation holds great promise for both adult and juvenile corrections, standards and accreditation provide minimal criteria against which to measure correctional performance and the conditions of correctional facilities. In many cases the standards go beyond constitutional minima to require conditions thought necessary by corrections professionals. While accreditation is voluntary, it is increasingly becoming a part of court decisions. We suggest that careful scrutiny be given by you and the Congress to create a Hill-Burton type legislation that will produce funding to states for correctional management if national standards are followed.

Planning must include the concept that violent and dangerous offenders must be segregated not only from society but from the ordinary inmate population so that institutional programs and the institutional environment are safe for inmates and staff. Our plans must include the belief that institutional programs can work and seek measures to make them work. They must also be voluntary, because the effects of coercive programs are at best transitory.

The primary goal of these programs must be the offender's integration into the labor market in free society, a tough but not impossible task in an area of economic crisis and high unemployment. Planning for skill training programs must be broadened and diversified and be flexible enough to meet the current demands of the labor market for various skills. Planning for a sound prison industry program to reduce idleness and give inmates a sense of purpose is mandatory.

Administrators must be allowed to institute better and more modern management techniques to help run their programs. We must be honest about our systems' capabilities and limitations and stop making promises that we can solve all problems.

To gain strength and support, we must increase community involvement in our efforts. Not only should we ask each community—including the smallest neighborhood—to participate rigorously in crime control programs, we must also keep the community informed about abuses and deficiencies and gain their support for corrective measures. For example, we must tell the public how the probation and parole case loads have been abused before funds are not made available. Many

sound programs have been abused through overuse and consequently come into disrepute. And, we must make the public realize that support for juvenile justice has been far from adequate.

It would be satisfying to have available a qualitative statement of the costs and consequences over the decades ahead of continuing the present faltering correctional system, and the gains that could be achieved through the implementation of recommended changes we all know are necessary. How much can crime and delinquency be reduced over 5, 10 or 20 years? What is the cost of a single riot philosophically and financially? When would the economics implicit in more effective handling of offenders equal or surpass the increased cost of continued neglect?

In conclusion, I would like to point out the following. In 1789, the first permanent jail was constructed in Philadelphia. The Walnut Street Jail was the model for our fledgling nation. Forty-six years later it was closed due to overcrowding, lack of resources and political haggling. It took 46 years for this model to be held in disgrace.

In 1935, Mayor LaGuardia of New York City cited the New Tombs Jail as the model for the nation. It was judged unconstitutional and was closed down in 1975. It took 40 years for this model to be held in disgrace. In 1975 Deputy Attorney General Tyler dedicated the new Federal Bureau of Prisons Metropolitan Correctional Center in New York. He held it out to be a model. It seems ironic that in the very same year as one New York institution closed in infamy another "model" was opened. In 1955 the New Mexico Penitentiary was held out to be a model institution and 25 years later we suffered a disgrace that has affected the entire nation. The models of one generation became a disgrace for the children of the next through disinterest, neglect and general lack of concern. This experience makes it clear that our challenge is great and at times appears insurmountable. The answers will not come easily, nor will they be simple. There are no panaceas — no easy solutions! Whatever we decide to do will never be agreeable to all, nor even understood by many. However, we must try to shorten the time span between the development of social control policies regarding crime and punishment and the achievement of "ordered liberty."

If the public tells us that they want additional facilities, let's build them. If they can agree that imprisoning Americans is not properly handled now, let's find the kinds of controls that are satisfactory to most of us. A rational plan is what all of us are striving for.

Our job is to coordinate the needs of the community, to use the resources we have, to seek those we do not have and to establish a coalition of concerned citizens. It is within our grasp.

All Indicators Are Up

TESTIMONY OF ANTHONY P. TRAVISONO

Imminent Crisis in Prison Populations

By John J. Flanagan, Ph. D.

*Editor's Note:* Dr. Flanagan wishes to express his deep appreciation to Marilyn Piety of the American Correctional Association for her competent editorial assistance in the preparation of his manuscript for acceptance in the Journal.

True or False: T F  
Prison populations are declining in most states. ( ) ( )

The increasing use of probation, pre-trial intervention and other diversionary programs is causing prison populations in most states to drop. ( ) ( )

In the near future we will be able to close many prison facilities. ( ) ( )

In 1973, most professionals would have agreed that the correct answers to the above questions were true. However, in 1975, the correct answers are false, false and false. Despite popular thinking and despite the contrary predictions of the National Advisory Commission on Criminal Justice Standards and Goals, prison populations are rising. They will continue to rise and most states will find it necessary to build new facilities or renovate old buildings they had hoped to close, or both.

There are a number of reasons for this. The major two are that the population at risk is increasing and there is an empirical limit to the proportion of convicted people who can be diverted. In addition, "get tough" policies (mandatory sentences, tough narcotics laws, three times loser laws, etc.) and high unemployment will further contribute to this inevitable increase in prison populations.

Where states are not prepared to accommodate these increases, where no building or renovation has been done for several years, overcrowding will occur. Overcrowding may spark riots and other inmate demonstrations such as were frequent in the early seventies.

Higher prison populations, of course, mean increased costs. As costs skyrocket, correctional administrators may experience a backlash of public criticism. Those who are convinced that prisons should be abolished may see a conspiracy behind the increasing prison population. In fact, in one state the parole board has already been accused of conspiring to keep people incarcerated in order to protect the jobs of the correctional officers!

It is important, therefore, that we recognize now that prison populations are increasing all over the country; that we understand why this is happening; that we make the public aware of the impact of "get tough" policies in

About the Author

John J. Flanagan is a professor in the School of Social Work at the University of Wisconsin, Madison. He has directed a research/demonstration project at Cook County (Men in Jail), and has participated in the conceptualization of a social-learning organization of a juvenile institution. Dr. Flanagan has served as a consultant for 10 years to Illinois corrections. He has directed many other studies of corrections and has written several articles.

Appendix



John Flanagan, Ph.D.

terms of both social and fiscal costs; and that we take immediate steps to alleviate the bad effects of overcrowded prisons.

Why Prison Population Will Rise

The population at risk is increasing. The peak of the post World War II "baby boom" is now (1975) in the ages of 15-19 and is about to enter the prison age bracket (about 20-30).

The census indicates the distribution of the young population by age in the total U.S. in 1970 was: 0-4 years, 17.2 million; 5-9 years, 20.0 million; 10-14 years, 20.8 million; 15-19 years, 19.1 million; 20-24 years, 16.4 million; and 25-29 years, 13.5 million. The general population at risk (20-30) will reach its peak about 1985, when it will be about 50 percent higher than it was in 1970. It will return to the 1975 level about 1995. However, the birth rates in the urban lower class neighborhoods which produce a disproportionately high share of prison populations have not been conforming to the "zero population growth" policy. Because they are just now beginning to experience a reduction in birth rate the population at risk in these neighborhoods will remain high through the rest of the century.

There is an empirical limit to the percentage of convicted people who can be diverted from prison. In the late Sixties, increased use of probation and other new diversionary programs led to a decrease in prison populations. Obviously there were a number of people being incarcerated who were not a threat to society and could be handled as well, or better, by other methods. In California, 51 percent of felony convictions resulted in probation in 1965. When the state agreed to subsidize the cost of good probation services, the percentage of probations began to rise while the prison population dropped. By 1971, 70 percent of felony convictions resulted in probation. Many other states began to emphasize probation.

The success of many states in reducing their prison populations in this way lulled everyone into feeling that many prisons could be closed. However, common sense tells us that the courts will draw the line somewhere. Every conviction cannot result in probation. The California experience indicated that courts draw the line in the area of 70 percent probations. In California, the probation rate has remained at about 70 percent since 1971. After a probation ceiling is reached, increases in convictions result in increases in both probation and prison populations. In other words, an increasing probation population no longer means a decreasing prison population.

For those states that began emphasizing probation much later than California, there may be a time lag before the prison population rises. Increased use of pro-

bation may temporarily decrease the prison population, or at least slow its increase, but this decrease will be temporary. An increase in the near future is inevitable.

That prison populations will rise is not only a theoretical model projected from statistics. It is a fact which is already being experienced by many states. A survey of 10 prison systems from all parts of the country, including seven of the largest, shows that after a decade of decreasing prison populations, intake rates reached their lowest points about 1972. By 1974 prison populations were all on the rise (see Table 1). Clearly, increasing prison populations is a national phenomenon.

There is theoretical reason to expect prison population to climb at this time. Durkheim theory predicts that prison rates per 100,000 population will remain relatively constant. Blumstein and Cohen offer some empirical support to the position. Since prison rates in the late Sixties were as low as they were during World War II, this would lead one to expect the prison rate per 100,000 population to increase ("get tough" policy). Although the prison population in absolute numbers has started to increase, it is not yet clear whether the rate is increasing.

However, there are indications that public attitudes are moving toward a "get tough" policy. President Ford is only one of the many people calling for mandatory and longer sentences. Whether or not one agrees with this philosophy, the implications, in terms of its effects on prison population, are clear. Not only will more people enter prison, but they will also spend more time there. There will be more inmates and even more inmate-days. Total inmate-days, of course, are as important in budget and building space considerations as total inmates.

Add the facts that high unemployment tends to increase crime, that the "baby boom" is also going to keep unemployment high for some time, that inflation escalates petty thefts into grand larcenies, and that inflation puts further stresses on the unemployed.

In summary, every indicator — economy, policy, public attitudes, crime rates, prison rates, exhaustion of alternatives and population at risk — points to higher prison populations, greater budget and building needs. If some indicators pointed up, while others pointed down, the prediction might be somewhat cloudy. The various influences might cancel one another out, but where all indicators simultaneously point up, it seems clear that prison populations will go up drastically.

Prison Space Not Available

That institutional space is not available to meet this increase is also clear. Many states followed the advice of the National Advisory Commission on Criminal Justice Standards and Goals which, in 1973, said: "... we already have more prison space than we need ... there is no need to build additional major institutions ... for at least 10 years". The states that followed this advice exactly are going to have serious trouble in meeting the increase. Others did some building with the idea of phasing out some of the older facilities. For example, the federal system has added about 3,000 beds in recent years. Ohio has done some replacement building and plans a \$75 million building project. Michigan has added about 1,700 beds. As the increasing population materializes, they will be less overcrowded than they might have been. But clearly this won't be enough, everyone is going to have problems.

Most prison systems are at capacity and any increase will mean overcrowding. Large increases will be mean excessive overcrowding, which is likely to lead to repeats of the prison riots of the early Seventies. Correctional administrators may be blamed for the population increase, for the lack of adequate facilities, for the increased costs, for the prisoner disturbances and for the court actions

(Please turn to page 36)

TABLE I

YEAR	PRISON POPULATION TRENDS								
	CALIF. (2) YEPICY (1)	FEDERAL (3) YEPICY (1)	ILL. (4) ADPCY (1)	MICH. (5) YEPICY (1)	MINN. (6) YEPICY (1)	NEW YORK (7) YEPICY (1)	OHIO (8) YEPICY (1)	PENNA. (9) YEPICY (1)	TEXAS (10) YEPICY (1)
1962		24,600	10,641		1,602				
1963		24,200	10,095		1,448				
1964	24,524	23,000	9,824	8,028	1,391				
1965	24,498	22,400	9,397	7,345	1,411	19,439			
1966	25,283	21,000	8,660	6,734	1,268	19,073	11,829		
1967	25,388	19,800	8,203	7,027	1,244	16,417	11,550	6,210	
1968	25,604	20,200	8,030		1,181	14,670	10,393	5,843	
1969	24,403	20,200	8,352	8,649	1,181	13,300	10,403	4,830	
1970	22,399	20,700	7,268	9,079	1,243	12,998	10,056	5,049	
1971	18,291	21,200	6,473	9,547	1,294	12,597	9,610	5,458	
1972	17,758	21,200	6,196	8,671	1,230	12,525	9,369	5,492	
1973	20,589	22,800	6,005	7,874	1,208	12,444	8,920	4,968	
1974	22,711	22,200	6,137	8,639	1,284	13,437	7,944	5,378	
	June 75 22,686	Oct. 75 24,376	Oct. 75 over 7,400	Oct. 75 10,655	Oct. 75 1,686	Oct. 75 15,800	May 75 10,316	May 75 over 6,000	
	TEXAS (10) YEPICY (1)	WIS. (11) ADPCY (1)							
1962	12,203	2,978							
1963	12,084	2,865							
1964	12,270	2,892							
1965	12,845	2,855							
1966	12,392	2,842							
1967	12,313	2,706							
1968	12,215	2,632							
1969	12,622	2,782							
1970	14,231	2,670							
1971	15,909	2,755							
1972	15,719	2,218							
1973	17,073	2,108							
1974	16,831	2,380							
	May 75 17,652	Oct. 75 over 2,959							

NOTES: (1) ADP = Average Daily Population; YEP = Year End Population; FY = Fiscal Year; CY = Calendar Year. (2) CALIFORNIA data by courtesy of Veda Ryan. Excludes Civil Narcotics cases. New parole board has recently been granting relatively many paroles following a couple of years when relatively few paroles were granted. (3) FEDERAL (Bureau of Prisons) data by courtesy of Jerry Collins. Figures are taken from graph and are approximate. Has been at about 23,000 plus or minus a few hundred since May 1973. Expect to increase about 400 or 500 a year in near future. (4) ILLINOIS data by courtesy of Dennis Levandowski. (5) MICHIGAN data by courtesy of Don Matthews and Bill Kins. The decrease of about 1,000 from 1971 to 1972 was in large part a function of changes in drug laws. (6) MINNESOTA data by courtesy of Jan Schwarz. Minnesota has been encouraging community programs and probation and some sentenced felons are held in county facilities. (7) NEW YORK data by courtesy of Henry Donnelly. The decrease of about 2,500 from 1965 to 1966 was in large part a function of removing the criminally insane from corrections. (8) OHIO data by courtesy of Bob Baker. All institutions above capacity in May 1975. (9) PENNSYLVANIA data by courtesy of John Mease. Persons serving sentences of less than five years can be held in local facilities. (10) TEXAS data by courtesy of Bob Waldron. (11) WISCONSIN data by courtesy of Perry Baker.

cess rate, but it has risen steadily over the years.<sup>4</sup>

With respect to Illinois, the Uniform Parole Reports indicate that the success rate at the end of one year for parolees released in 1973 was 85 percent. For parolees released in 1972, the two-year success rate was 79 percent.

Recent critics of the parole system cite various research findings indicating that parolees are no more successful than those released at the expiration of their prison term. Unfortunately, most studies completed in this area contain major methodological problems that lead to findings that are, at best, inconclusive.

There is also some data which indicates that success on parole supervision is much greater when compared to those released at the expiration of their term. For instance, in a study of Canadian prison releasees Irvin Waller found parolees had a 24 percent lower re-arrest rate after two years follow-up than individuals released at the expiration of their sentences.<sup>5</sup>

#### Conclusion

The limitation of space precludes full discussion of all aspects of Governor Walker's proposed "Illinois Justice Model." However, the major weaknesses and defects noted clearly indicate the need for further analysis and planning before any serious attempts at implementation are made. Also, the "good" contained in the Governor's proposal should not be abandoned in an attempt to correct the "bad."

#### References

1. Milton G. Rector, President, National Council on Crime and Delinquency, Statement on Juvenile and Criminal Justice, House Judiciary Committee, Illinois General Assembly, September 11, 1975.
2. *Flat Time — Serving Time in Prison: A New Way in Illinois*, Unpublished draft, pp. 7-8.
3. *Synopsis — Illinois Justice Model*, p. 26, unpublished draft.
4. There has, in some quarters, been questions raised as to the reliability of the UPR data. However, the 1973 Intra-Agency Reliability Study of the UPR data issued by the NCCD Research Center showed the following:
  1. Ninety-seven point eight percent (97.8%) correlation co-efficient with respect to date of sentence.
  2. Ninety-five point nine percent (95.9%) correlation co-efficient with respect to date of admission.
  3. Ninety-three point three percent (93.3%) correlation co-efficient with respect to date of discharge.
  4. Seventy-nine point nine percent (79.9%) co-efficient of agreement with respect to parole performance.
5. *The Criminal Justice Newsletter*, National Council on Crime and Delinquency, Volume 6, Number 19, September 29, 1975, p. 5.
6. Irvin Waller, "Conditional and Unconditional Discharge from Prison: Effects and Effectiveness," *Federal Probation*, 38: 9-14, 1974.

#### TESTIMONY OF ANTHONY P. TRAVISONO

Appendix 1a

## Population Forecasting Model —

By Sitansu S. Mitra, Ph.D.

In a recent Journal article Dr. John Flanagan mentioned the upward trend in the prison population all over the country.

According to Dr. Flanagan "Every indicator — economy, policy, public attitudes, crime rates, prison rates, exhaustion of alternatives and population at risk — points to higher prison populations, greater budget and building needs."

The Pennsylvania state prison system has been no exception.

The population began to soar since late 1974, thereby leading to the problem of running out of physical spaces (cells) to accommodate any new commitments.

Accordingly, the Planning and Research Division of the Pennsylvania Bureau of Correction began to design a sophisticated model for population projection under the supervision of the author.

The main objectives were two-fold:

(a) To come up with estimates of projected population figures.

(b) To compare these figures with the number of usable cells in each state correctional institution in order to determine if the institution would be able to hold all the future commitments.

Here we look at the methods of the model and how it was made sensitive to "what if" questions. In view of the nationwide problem of high inmate population the author believes that this model will prove useful to other states. The contingency plans can be made to tackle the overcrowding situation by using the projected population figures determined by the model.

#### Methodology Used

After examining various forecasting models like Inventory Model, Exponential Smoothing, Autoregression etc., it was decided to use the Difference Equation for Steady State Model. We received guidelines from the model used by the Georgia Department of Offender Rehabilitation (see [3]).

The basic principle of the model is:

Population during month M of year Y  
 = Population during month M of previous year (Y-1)  
 + (Total number of admissions during the past 12 months)  
 - (Total number of releases during the past 12 months).

Any population growth is affected by two separate factors: a long-term trend and a short-term seasonal variation. In order to capture the long-term trend a large amount of historical data has been collected giving the total population figures by month dating back to January 1960.

The method of "five-month moving average" (see [2], pp. 423) was used to get rid of much of the "noisy" part of the collected data.

Plotting on graph paper showed that the curve indicated a very slow decrease during the eight years ranging from January 1960 through December 1967.

However, over the next seven years, January 1968 through December 1974, some definite repetitive trends were visible. This coupled with the fact that the Omnibus Crime Control and Safe Streets Act passed in 1968 had a significant impact on the entire criminal justice system prompted us to use the data starting in January 1968 to design the model.

The monthly population figures from January 1968 to March 1975 indicated a definite parabolic trend over a 20-month cycle.

Each parabola had an absolute minimum point, although the general over-all trend in going from one cycle to the next was along a linear path with non-negative slope (see Figure 1).

The parabolic trends equations ([2], pp. 412-415) was used to determine each cycle. This made it necessary to do some "smoothing" at each junction point of two consecutive cycles.

#### Factors

The inmate population in any system is affected by the prevalent legal and socio-economic conditions. Accord-

ingly, the forecast must be sensitive to these factors. In fact, the last 20-month cycle of the inmate population as mentioned in section #2 started in August 1973 and should have ended by March 1975.

Under normal situations the population should have leveled off and then started a slow decrease by April or May, 1975. However, because of the economic downturns and high unemployment rate this did not happen. Instead the population figures kept rising.

It is generally agreed that faced with the choice between incarcerating an individual or placing him on probation or parole, the judge would decide in favor of the former if no employment is available. (see [4]).

A similar condition applies towards granting paroles to incarcerated offenders when no gainful employment awaits them outside the institution.

Analyzing the number of monthly court admissions and of monthly parole releases during October 1973 through March 1975, it was found that an average five to seven percent increase showed in the former and an average eight to 10 percent decrease in the latter.

The combined effect of both was to push up the inmate population. Accordingly it was decided to make the model somewhat amenable to these external conditions.

#### "What If" Questions

The formula of the model (see section 2) depends on admissions and releases. Pennsylvania has four types of admissions: Court, Revocation, Return after escape and Transfer. Following are six types of releases: Maxout, Parole, Escape, Court Discharge, Transfer and Miscellaneous.

The total monthly admission figure is the sum of four numbers corresponding to the four admission types. And the total monthly release figure is the sum of six numbers corresponding to the six release types.

Accordingly if, for example, we want to know what happens in cases where there is a 10 percent increase in court admissions, we must take the court admission figures, project them by using the parabolic trend along with the 10 percent increase, and finally come up with a new set of projections. A similar method can be used to answer which "What If" questions in relation to other types of admissions and releases.

The following table gives projected population figures of a Pennsylvania state correctional institutions showing a ten percent increase in court admissions and a ten percent decrease in parole releases over a 15-month period (April 1975 through June 1976).

Column (1) includes a 10% increase in court admissions and column (2) includes an additional 10 percent decrease in parole release.

Month/Year	Projected Population (1)	Projected Population (2)	Actual Population
April 1975	7,080	7,120	7,142
May 1975	7,144	7,176	7,157
June 1975	7,168	7,232	7,211
July 1975	7,195	7,291	7,265
Aug. 1975	7,219	7,347	7,202
Sept. 1975	7,243	7,403	7,174
Oct. 1975	7,267	7,459	7,263
Nov. 1975	7,291	7,515	7,334
Dec. 1975	7,316	7,571	7,237
Jan. 1976	7,340	7,627	7,264
Feb. 1976	7,364	7,680	
Mar. 1976	7,388	7,736	
April 1976	7,396	7,732	
May 1976	7,420	7,724	
June 1976	7,445	7,701	

Looking at the table we find that until July 1975 the actual population was close enough to the projected population (2) while in August 1975 it became close enough to projected population (1). This indicates that the Pennsylvania inmate population did not rise as high as was expected. Consequently, column (1) of the table is currently used to predict the future population through June, 1976.

#### REFERENCES

1. John J. Flanagan — *Imminent Crisis in Prison Populations*, American Journal of Correction, Nov.-Dec. 1975, pp. 20-21, 36.
2. John E. Freund and Frank J. Williams — *Modern Business Statistics*, Prentice-Hall, N.J., 1958.
3. *Georgia Prison Population: Outlook Until 1980*, Georgia Dept. of Offender Rehabilitation, 1974.
4. *On The Potential for Explosive Increases in Populations of Correctional Institutions During Economic Downturns*, informal communication with Dr. Peter B. Meyer, Division of Community Development, Pennsylvania State University, 1975.

Editor's Note: Dr. Mitra is chief of the Systems and Operations Research Department for the Pennsylvania Bureau of Correction at Camp Hill. He received his B.A. and M.A. degrees from the University of Calcutta, India and earned his Ph.D. at Lehigh University.

Highlights of State and Local Corrections Costs

- 419 juvenile facilities.
- 529 state institutions.
- 745 community residential facilities.
- 2,900 probation and parole agencies.
- 3,500 local jails.
- 50 percent of all inmates are classified and confined to maximum security facilities.
- a 500-bed maximum security prison averages \$35 million to construct.
- 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.
- by the end of the third quarter of 1982, prisoners in state and federal facilities numbered 405,371, an increase of 29 percent in less than two years.
- overcrowding is by far the most critical problem facing corrections today as we squeeze more than 415,000 inmates into state and federal prisons.
- an additional 160,000 are in detention in local jails.
- confined offenders in state and federal prisons has increased by 60 percent over the decade 1970 to 1980.
- 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.
- 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!
- 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.
- counties are expending \$2.0 billion for jail construction during this same time period.
- annual operating expenses for state and federal facilities currently are over \$7 billion.

## Prison Population and Rate of Incarceration from 1840 - 1982

Year	Number of Prisoners	U.S. Population	Prisoners per 100,000 Population
1982	412,000	233 million	177
1980	324,000	227 million	142
1970	198,000	203 million	97
1960	243,000	179 million	119
1950	168,000	151 million	110
1940	174,000	132 million	132
1930	148,000	123 million	121
1925	93,000	106 million	88
1918	75,000	92 million	82
1900	57,000	76 million	75
1890	45,000	63 million	71
1870	33,000	40 million	83
1860	19,000	31 million	60
1850	7,000	23 million	30
1840	4,000	17 million	24

TESTIMONY OF ANTHONY P. TRAVISONO

Appendix 4

CURRENT PRISON AND JAIL CONSTRUCTION

1983 - 1985

<u>STATE</u>	<u>STATE CAPITAL EXPENDITURE BUDGET</u>	<u>COUNTY CAPITAL EXPENDITURE BUDGET</u>	<u>TOTAL COUNTY AND STATE COMBINED</u>	<u>NUMBER OF ADDITIONAL BEDS</u>		<u>TOTAL</u>
Alabama	\$ 60,000,000	\$ 42,431,000	\$ 102,431,000	S - 1,976	C - 920	2,896
Alaska	12,942,400	N/A	12,942,400	S - 230	C - N/A	230
Arkansas	14,843,226	22,851,000	37,694,226	S - 208	C - NR	208
Arizona	3,370,989 (A,J)	26,000,000	29,370,989	S - 438	C - 2,280	2,718
California	161,846,000 (A,J)	75,005,244	236,851,244	S - 19,790	C - 1,658	21,448
Colorado	1,956,000	44,550,000	46,506,000	S - 0	C - 494	494
Connecticut	1,219,000 (J)	N/A	1,219,000	S - 500	C - N/A	500
Delaware	580,000	N/A	580,000	S - 100	C - N/A	100
Florida	43,028,263 (A,J)	196,012,532	239,040,795	S - 2,270	C - 7,013	9,283
Georgia	1,360,000	21,514,289	22,874,289	S - 100	C - 459	559
Hawaii	16,831,000 (A,J)	NR	16,831,000	S - 500	C - NR	500
Idaho	1,701,000 (A,J)	120,000	1,821,000	S - 200	C - 0	200
Illinois	92,861,500 (A,J)	47,626,726	140,488,226	S - 3,450	C - 867	4,317
Indiana	14,805,768 (A,J)	34,180,000	48,985,768	S - 0	C - NR	NR
Iowa	11,125,000	26,000,000	37,125,000	S - 600	C - 142	742
Kansas	9,908,301	5,319,000	15,227,301	S - NR	C - NR	NR
Kentucky	11,702,000	964,617	12,666,617	S - 696	C - NR	696
Louisiana	20,252,708 (A,J)	54,024,688	74,277,396	S - 924	C - 367	1,291
Maine	172,000	1,400,000	1,572,000	S - 0	C - NR	NR
Maryland	37,795,000	70,050,000	107,845,000	S - 1,570	C - 796	2,366
Massachusetts	17,054,414 (A,J)	56,509,000	173,563,414	S - 1,357	C - 565	1,922
Michigan	16,320,000	93,977,000	110,297,000	S - 1,274	C - 1,062	2,336

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<u>STATE</u>	<u>STATE CAPITAL EXPENDITURE BUDGET</u>	<u>COUNTY CAPITAL EXPENDITURE BUDGET</u>	<u>TOTAL COUNTY AND STATE COMBINED</u>	<u>NUMBER OF ADDITIONAL BEDS</u>		<u>TOTAL</u>
Minnesota	\$ 300,000 (A,J)	\$ 24,500,000	\$ 24,800,000	S - 0	C - NR	NR
Mississippi	570,000 (A,J)	2,570,000	3,140,000	S - 25	C - 40	65
Missouri	10,938,378 (A,J)	41,717,000	52,655,378	S - 90	C - 555	645
Montana	1,588,167 (A,J)	5,294,000	6,882,167	S - NR	C - NR	NR
Nebraska	6,017,943 (A,J)	85,000	6,102,943	S - 240	C - 80	320
Nevada	5,088,811	56,650,000	61,738,811	S - 250	C - 800	1,050
New Hampshire	7,165,000 (A,J)	3,500,000	10,665,000	S - 340	C - 69	409
New Jersey	13,325,000 (A,J)	77,950,000	91,275,000	S - 720	C - 852	1,572
New Mexico	96,210,100 (A,J)	19,938,911	116,149,011	S - 310	C - NR	310
New York	325,914,170 (A,J)	71,433,195	397,347,365	S - NR	C - 1,682	1,682
North Carolina	8,700,000	955,400	9,655,400	S - 192	C - 66	258
North Dakota	16,500,000 (A,J)	9,563,000	26,063,000	S - 0	C - NR	NR
Ohio	22,745,000 (A,J)	21,920,000	44,665,000	S - 1,250	C - 60	1,310
Oklahoma	5,000,000	2,984,630	7,984,630	S - 941	C - 167	1,108
Oregon	29,992,709 (A,J)	62,400,000	92,392,709	S - 16	C - 682	698
Pennsylvania	146,205,645	91,738,234	237,943,879	S - 2,380	C - 140	2,520
Rhode Island	3,512,673 (A,J)	N/A	3,512,673	S - 136	C - N/A	136
South Carolina	4,593,141 (A,J)	335,000	4,928,141	S - 1,296	C - 14	1,310
South Dakota	513,610 (A,J)	250,000	763,610	S - 0	C - NR	NR
Tennessee	3,117,300	7,800	3,125,100	S - 360	C - NR	360
Texas	94,991,000	174,010,000	269,001,000	S - 8,956	C - 8,389	17,345
Utah	48,800,000	3,510,000	52,310,000	S - 408	C - 20	428
Vermont	395,000	N/A	395,000	S - 0	C - N/A	0
Virginia	42,334,300	39,426,000	81,760,300	S - 1,500	C - 318	1,818
Washington	158,012,628 (A,J)	230,864,184	368,876,812	S - 1,715	C - 4,611	6,326

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STATE	STATE CAPITAL EXPENDITURE BUDGET	COUNTY CAPITAL EXPENDITURE BUDGET	TOTAL COUNTY AND STATE COMBINED	NUMBER OF ADDITIONAL BEDS		TOTAL
West Virginia	\$ 1,400,000 (A,J)	\$ 3,947,243	\$ 5,347,243	S - 0	C - NR	0
Wisconsin	78,589,000 (A,J)	22,202,725	100,791,725	S - 950	C - NR	950
Wyoming	11,355,535 (A,J)	23,713,000	35,068,535	S - 130	C - NR	130
<b>TOTALS</b>	<b>\$1,775,549,679</b>	<b>\$1,810,000,418</b>	<b>\$ 3,585,550,097</b>	<b>S - 58,388</b>	<b>C - 35,168</b>	<b>93,556</b>

Key: A - Adult  
 J - Juvenile  
 S - State  
 C - County  
 NR - No response  
 N/A - Not applicable

Note: Since not every state and county reported all correctional building projects, the figures shown are actual but not complete.

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STATE	STATE CAPITAL EXPENDITURE BUDGET	COUNTY CAPITAL EXPENDITURE BUDGET	TOTAL COUNTY AND STATE COMBINED	NUMBER OF ADDITIONAL BEDS	TOTAL
West Virginia	\$ 1,400,000 (A,J)	\$ 3,947,243	\$ 5,347,243	S - 0 C - NR	0
Wisconsin	78,589,000 (A,J)	22,202,725	100,791,725	S - 950 C - NR	950
Wyoming	11,355,535 (A,J)	23,713,000	35,068,535	S - 130 C - NR	130
<b>TOTALS</b>	<b>\$1,775,549,679</b>	<b>\$1,810,000,418</b>	<b>\$ 3,585,550,097</b>	<b>S - 58,388 C - 35,168</b>	<b>93,556</b>

Key: A - Adult  
 J - Juvenile  
 S - State  
 C - County  
 NR - No response  
 N/A - Not applicable

Note: Since not every state and county reported all correctional building projects, the figures shown are actual but not complete.

TESTIMONY OF ANTHONY P. TRAVISONO

Appendix 5

Suggested Alternative Methods  
 by Which Institutional Populations  
 of Inmates Can be Successfully Managed

These are not in priority order.

1. Develop sentencing guidelines.
2. Encourage more parole releases.
3. Extensive use of intensive probation.
4. Community programs strengthened and increased.
5. Community service programs strengthened and increased.
6. Repeal of mandatory sentencing laws.
7. New rational standards for parole revocations.
8. Shorter sentences for lesser offenses.
9. Good time and merit time laws increased.
10. Governors develop high level summit groups to constantly address these problems.
11. Restitution programs in lieu of prison.
12. Emergency powers act (a capping system).
13. Build more correctional institutions.

**END**