

REMARKS OF THE ATTORNEY GENERAL
VANDERBILT UNIVERSITY SCHOOL OF LAW
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Although the recent growth in prison populations is a positive sign of our Nation's new seriousness in coming to grips with a horrendous crime problem, it also means that the problems of our prisons must receive new attention. An effective law enforcement program must take into account the growing number of criminals who will be incarcerated -- and the pressures that increase will place upon our too often outdated prison systems. Prison space and resources are as scarce as they are important -- and they must be effectively utilized.

In the past decade, the national prison population has doubled, growing at the fastest rate in the history of our country. The population soared by about 11,000 inmates in just the third quarter of 1982 alone. There are now more than 400,000 federal and state prisoners, more than 375,000 of whom are imprisoned in state facilities. This meteoric rise in the Nation's prison population has led to a serious overcrowding problem. Conventional solutions to prison overcrowding, such as doubling up prisoners and diverting others to vacant jail cells, are frequently no longer available -- sometimes because of over-reaching decisions by the federal courts.

The prison overcrowding problem is especially acute because roughly half of the maximum security institutions in this country were built in the 19th century -- and are typically outdated, fortress-like institutions. Many of these institutions have not been significantly improved since they were built, and they are becoming increasingly obsolete. In some cases, they have been held by courts to fall below the constitutional standard. More than half of our state correctional systems have had one or more institutions declared constitutionally unacceptable by the federal courts.

Prison overcrowding has had a number of dramatic and adverse effects. Prisoners' civil rights suits have multiplied, resulting in the assumption of prison managerial authority by judges. Jurisdictions have been forced, sometimes by federal court order, to release prisoners before their sentences have been

completed in order to make space for newly sentenced offenders. A substantial number of defendants who should be incarcerated may receive probation because judges know that prison space is not available.

The problem of prison overcrowding is serious, and it has no easy solution. Prisons are expensive facilities to build and operate. A new maximum security prison in the United States today generally costs up to eighty thousand dollars per inmate. The average annual cost of simply maintaining an inmate is well over ten thousand dollars in both the state and federal prison systems.

In addition, we can expect the demand for prison space to increase for at least the next decade. New sentencing legislation, resulting from the growing public concern over crime, has been enacted to curb judicial inconsistency and leniency. A 1981 survey found that thirty-two states have enacted mandatory sentencing laws and thirty have enacted determinate sentencing laws.

Another reason to expect the prison population to grow is the increase in the number of people arrested and convicted each year. The Department of Justice's crackdown on crime has increased the federal prison population by twenty-one percent in the last two years alone. Just last year, there was a twenty-three percent increase in the number of narcotics offenders sent to federal prison -- and an eleven percent increase in the length of their sentences.

Recognizing the importance of fighting crime, this Administration has taken decisive action that will add to prison populations. We are attempting to remove loopholes and redress imbalances in federal laws that have allowed criminals to go free and victims to suffer. We have crafted and implemented a number of enforcement initiatives to reduce crime, including an eight-point program aimed at organized crime and drug trafficking.

We recognize that these programs will require the construction of additional prison facilities. We also recognize, however, that this is a difficult time of budget constraint for both federal and state governments -- and that planning and constructing new prisons takes time as well as money.

The Administration is therefore undertaking several measures to improve our current, critical situation. The Department of Justice has responded to

the problem of prison overcrowding: by construction of new facilities; by earmarking appropriations for improvements and expansion of existing institutions; by coordinating federal and state exchange of facilities; and by devoting surplus federal properties to prison use. In January, President Reagan sent to the Congress a Fiscal Year 1984 budget that seeks a \$103 million capital investment in federal prison bedspace -- the largest increase in the history of the federal prison system. One new federal prison is under construction -- and three more have been proposed, one in Los Angeles and two in the Northeast. In addition, the operating budget of the Department of Justice's Bureau of Prisons has been increased by about 10 percent each year. And in January, we announced that \$18 million of the \$130 million committed to the President's eight-point initiative against organized crime and drug trafficking will be devoted in the program's first year to new prison facilities. In addition, other federal correctional facilities are being renovated and expanded. Similarly, many states now have substantial construction efforts underway.

The Department has also established a National Academy of Corrections to provide better training of federal and state prison administrators. Some facilities have instituted prison industries programs and educational and vocational programs for the inmates. Until long-term solutions are enacted and funded, we must look to innovative solutions such as these to ease our pressing prison problems.

Especially in an era in which government must recognize the limitations on its resources, however, more money cannot be the whole solution. Where possible, we must find better ways to use existing facilities, personnel, and knowledge. This goal can be achieved through the development of close coordination among federal, state, and local governments.

The American corrections systems are extremely interdependent. Their combined capacity, in terms of space and alternative programs, determines this country's ability to deal with criminal offenders. A weakness in any part of the system undermines the national effort. Problems in state systems disrupt federal facilities, which are frequently dependent on state and local governments to house some of their prisoners. In addition, the federal prison system is often forced to convert long-term housing space to jail units to hold

offenders for whom there is no room in local detention facilities.

Obviously, in these circumstances, cooperation is needed among state, local, and federal governments. The federal government can and must encourage and assist other levels of government in upgrading corrections facilities, and in coordinating efforts to improve our overall correctional system.

As an important first step, we must work together to develop more prison space. Building a new prison is an expensive project, which often takes up to five years to complete. To cut the cost of building new prisons and to relieve the overcrowding problem more quickly, the Administration has made surplus federal properties, such as unused military bases, available to state and local correction authorities. It is possible to convert these facilities in a very short time and at a fraction of the cost of building a new prison.

The Bureau of Prisons has therefore established a clearinghouse to identify surplus federal properties that are appropriate for corrections use and to assist in efforts to acquire them. There have been five transfers of federal surplus property since the clearinghouse was established, including the lease of an abandoned Air Force radar station to New York State for use as a medium security facility for 200 inmates. Several more transfers are pending.

The Department of Justice has also strongly supported legislation to amend the Federal Property and Administration Service Act of 1949 to permit the conveyance or lease, at no cost, of appropriate surplus federal properties to state and local governments for correctional use. At present, state and local governments must pay for surplus federal property they intend to use for correctional purposes. The proposed amendment would relieve state and local budgets of that burden.

We must also make more efficient use of existing prison facilities. Accordingly, the Department of Justice has developed programs to improve the training of prison personnel. Even the best new prison is inadequate if it is not staffed by highly trained personnel. Excellent training is especially important now that more violent offenders are given longer sentences.

To train prison personnel more effectively in one central facility, the Department of Justice opened the National Academy of Corrections in Boulder, Colorado on October 1, 1981. During its first year of operation, approximately 2,100 state and local correctional officials were trained in thirty-five subject areas. The Academy concentrates on training state and local managers who can, in turn, train line personnel.

Similarly, the Department's National Institute of Corrections provides a variety of services to state and local correctional agencies -- placing major emphasis on training, research, technical assistance, information seminars, and policy evaluation. The Institute provided technical assistance in response to 1,028 requests in fiscal year 1982.

The National Institute of Corrections is also working with several states to develop classification programs to identify those prisoners for whom maximum security treatment is appropriate. Maximum security facilities cost more money, which should not be spent where it is not needed. The required level of security is determined by several factors, including the nature of the prisoner's offense, past escape attempts and violence, the length of expected incarceration, and whether the individual will be detained in another jurisdiction when released. The National Institute of Corrections will continue to urge states to reexamine their classification procedures and to explore the use of less costly security facilities for less dangerous inmates.

In addition to improving classification procedures, we can make better use of existing facilities by improving our system of transferring criminals among federal, state, and local prison facilities. Federal prisons now house 1100 state and territorial prisoners--not counting the 1200 prisoners from the District of Columbia--and over 500 sentenced federal offenders are included in state and local systems. Roughly 5,000 unsentenced federal prisoners are held in local detention facilities while attending hearings and trials in federal courts which have no nearby federal detention facilities.

Local facilities, however, are sometimes reluctant to accept these federal prisoners because of overcrowded conditions, the threat of lawsuits by the federal prisoner claiming unconstitutional conditions, and the cumbersome contractual procedures of the Federal

Procurement Regulations. Recently, over one hundred local detention facilities have either placed ceilings on the number of federal prisoners they will accept or have refused to accept any federal prisoners, thus forcing the federal government to incur substantial transportation costs.

With the number of arrests for serious federal offenses increasing, it is important to maintain cooperation between local jails and the federal system. To that end, I will seek a waiver of the cumbersome requirements of the Federal Procurement Regulations for contracts entered to house federal prisoners temporarily in local detention facilities. I will also seek legislation to amend the Grant and Cooperative Agreement Act of 1977 to authorize the use of intergovernmental agreements for detention space and services for federal prisoners. Under these agreements, quid pro quo arrangements can be made for the federal government to house local prisoners and for the local prisons to house a similar number of federal inmates without requiring an exchange of funds. The federal government might also agree to provide some form of special assistance to jails that house federal inmates.

Another suggestion to achieve more effective coordination of federal, state, and local prisons is the development of regional corrections centers, with services available to state and local inmates. The costs of these services would be borne by the respective state and local authorities. Under this regional concept, one facility could be built to house the violent, severely mentally ill, retarded, or otherwise difficult serious offenders of several states -- and thus reduce the cost of their incarceration. The regional prison concept presents some problems, including the limits distance can place upon a prisoner's access to legal counsel as well as to family and friends. It is an option, however, that is worthy of further examination, and we are exploring it through the federal criminal justice research system.

In addition to increasing prison space and making better use of existing space, we must also work together to increase the likelihood that fewer prisoners will return to prison after their release. As we all know, the recidivism rate for prisoners is extremely high. Nearly thirty percent of all state prisoners released on parole return to prison within the first three years after their release. As Chief Justice Burger has stated: "More often than not, inmates go back into society worse for their confinement" The Chief

Justice has concluded, "We have developed systems of corrections which do not correct."

Everyone in law enforcement would like to believe that we can develop a rehabilitation system for prisoners that will sharply reduce recidivism. Unfortunately, after many decades of trying, we have scant evidence to support that hope. We just don't know how to rehabilitate criminals. Nevertheless, for those prisoners who truly are chastened by imprisonment and do desire to fashion a new crime-free life after prison, we must do a better job of providing training opportunities.

For those individuals, the development of prison industries can provide the necessary training in skills and work habits that will enable them to become responsible citizens on their return to society. Prison industries provide inmates with training, job experience, and responsibility -- as well as eliminating the pervasive idleness that has resulted in unstable prison environments.

Much can be done to improve correctional facilities. But while we move forward in our efforts to improve our Nation's prisons, we must recognize that we cannot continue to rely exclusively on incarceration and dismiss other forms of punishment. Prisons serve important functions -- they deter criminal behavior, they incapacitate and punish known offenders, and they avert private vengeance. In many cases, an expenditure of well over \$10,000 a year to keep a criminal in jail and off the streets is worth it. In other cases, it is too high a price. It is important that we examine alternatives to imprisonment that exact a punishment from the less serious offender without the exorbitant costs of incarceration. Indeed, in 1982, seven out of ten offenders under federal supervision were not in prison -- they were in pre-trial diversion programs, probation or parole supervision, or community "half-way" houses.

Murderers, rapists, other violent criminals, drug traffickers, and habitual offenders belong in prisons, and they must stay in prisons. Prisons are necessary for those who pose serious threats to society or for whom anything less than a prison sentence would unduly minimize the seriousness of their offense.

We are, however, studying alternative forms of punishment for nonviolent offenders that will deter criminal behavior and reduce the chance that an inmate will return to criminal activity, without placing an

unnecessary burden on the taxpayer. Alternative forms of punishment include ordering an offender to repay the victim for property and personal damage suffered through a supervised program of restitution. Another approach would be to compel the offender to perform community service. Again, I emphasize, such punishment options should be available only in limited cases for nonviolent criminals where the sanction is sufficient to punish the offender.

The Administration has supported legislation to provide funding for projects that will help states devise alternatives to incarceration as part of their criminal justice programs. We simply cannot afford to ignore alternative forms of punishment.

We are committed to improving this country's prison system. Some will undoubtedly object to these efforts. They will claim that working to improve prison conditions and spending money on prison programs makes life too easy for or "coddles" the criminal. To spend money to improve our correctional efforts is not "coddling" prisoners, but a wise investment in the safety and welfare of every citizen.

We have already taken important steps to create better prisons. Federal, state, and local law enforcement and corrections officials have been working together to expand prison capacity, train personnel, and share resources and knowledge. The combined dedication of federal, state, and local officials will enable us to find creative solutions to the problems presently facing our prison systems.

Improving the effectiveness and efficiency of our Nation's prisons is an important challenge. It is a challenge this Administration intends to meet by working toward a model system, by continuing federal, state, and local cooperation, by encouraging innovative state and local ideas, and by fostering public concern and government action.