Department of Justice

STATEMENT

BY

ATTORNEY GENERAL NICHOLAS deB. KATZENBACH

BEFORE

SUBCOMMITTE NO. 3, HOUSE COMMITTEE ON THE JUDICIARY

ON

H. R. 6964, A BILL FOR PRISONER REHABILITATION

THURSDAY, MAY 20, 1965

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I come before you today, as a present law enforcement official and as a former prisoner, to urge you to take prompt and favorable action on H. R. 6964, the Prisoner Rehabilitation bill, designed to benefit both law enforcement and prisoners.

My own experience as a prisoner of war, in what was truly a penal system, gave me some understanding of the importance of morale and hope to those in custody. I ask the committee to consider how much more important those factors are to those convicted of crime and who are sentenced to serve not in a penal system, but in what we take pains to describe as a correctional system.

For it is not medieval retribution we expect from our prisons; it is rehabilitation. And while that expectation is assuredly difficult and often impossible to achieve, it is the ultimate standard for success.

This measure is designed to help make that expectation easier to achieve. It is designed to help make first offenders last offenders. It is designed, thus, to help reduce the rising rate of crime. It is designed to help us break what President Johnson recently described as the intolerable, "endless, self-defeating cycle of imprisonment, release, and reimprisonment which fails to alter undesirable attitudes and behavior."

The typical ex-prisoner is confronted by a dismaying number of problems when he is released from the institution. He has little money. He must immediately obtain food, shelter and clothing. And he must keep on meeting these needs until he can get a job and start receiving his pay.

It is not long before his initial exhilaration runs up against hard reality. He finds potential employers reluctant. His own family may have turned hostile while he served his sentence. Almost always, he is acutely conscious of stigma, even reading the words "ex-con" on completely unsuspecting faces.

And, more often than not, sooner or later, he is back in prison.

For him to fail is sad because, typically, at the time of release, he is better educated and trained than when he went in. He has had the benefit of counselling, vocational, and religious programs. He is older and wiser.

For him to fail, in the light of this training, is especially sad because in a number of cases his failure might well have been prevented.

At present, there are really only two obvious alternative ways of treating an offender--imprisonment or probation, in or out. The gap between the two is enormous and I believe that if we are to make significant progress in the field of corrections, we must find ways to bridge it, to provide real continuity in the treatment process.

We can achieve this bridge by combining the best elements of both imprisonment and probation in a continuous treatment process.

Increasing corrections research indicates that the rehabilitation of offenders can be greatly facilitated by institutional programs. But the same research also demonstrates that an essential element of the corrections process must be undertaken within the free community. That is where the offender must eventually live. It is to that setting that he must adjust his attitudes, habits and occupation.

To hold an offender in close custody right up to the moment of his release and then drop him abruptly into the community is unfair to the man, unfair to the institutional people who have sought to help him, and unfair to the community.

We propose, therefore, in H.R. 6964, a method of merging--at an appropriate place in the rehabilitation of the individual offender--the institutional programs with community programs. To do so, we believe, is to provide continuity of treatment; and to provide continuity is to gain success.

The bill, as you have noted, provides some very simple amendments to Section 4082 of Title 18, containing the basic custodial authority of the Attorney General. Though simple, however, they would give us three important new methods for achieving continuity.

One provision would authorize us to commit selected adult offenders to community residential treatment centers, similar to the halfway houses we have established in several large cities for youthful offenders.

Another provision would authorize us to grant home leave to carefully selected prisoners when there are deaths or critical illnesses in their families or for purposes vitally related to ultimate reassimilation.

The third provision would authorize us to administer a work release program, under which qualified prisoners could work or take training in the community during the daytime and return to their institutions at night.

Let me now offer a little fuller description of each of the three provisions.

COMMUNITY CENTERS

The pre-release guidance center program for young offenders has been in operation for nearly four years, in Los Angeles, Chicago, Detroit and New York City. Another is under development here in the District of Columbia. The success of the programs has been striking.

So far, more than 800 young men have been sent to these centers, several months prior to the expiration of their sentences. While assigned to the centers, they have taken outside jobs, established bank accounts,

secured continual counseling to further ease the transition, and, to a high degree, successfully made the transition when ready.

And, although they are admittedly more likely to succeed than those young people not sent to the Halfway Houses, the return-to-prison rate for these young men is far lower--approximately 30 percent, compared with about a 50 percent rate for youths released directly from an institution.

Many state and local authorities have studied the Federal program and established similar programs of their own. Thus our efforts have had far beyond the rather limited number of young offenders who have received the Halfway House experience.

We now seek authority to adapt this program to the needs of adult offenders. It is not adaptable to all; there are some, like tax evaders and bank embezzlers, who do not need it. There are others whom we would keep under secure custody for as long as legally possible--these are the prisoners beyond rehabilitation. But there are a number of prisoners who have demonstrated that they have benefitted from institutional programs and have earned a trial in a carefully supervised community program.

If they succeed--if even <u>some</u> succeed who might otherwise have lapsed back into crime and into prison--the gain will be unanimous. And we have every reason to believe that a number of such prisoners, given such a chance, will succeed.

EMERGENCY OR REHABILITATION LEAVE

Prisoners, like anyone else, have such emergencies as deaths and critical illnesses in their families. For most of them, the time also comes when they must find jobs in anticipation of their releases. We already have authority to permit qualified young offenders to visit their home communities for such purposes. We feel that our authority in this respect as it applies to adults should be clarified by statute.

At present, when adult prisoners have deaths in their families and are considered good risks, we may permit them to visit their home communities under escort of one of our officers. The prisoners or their families pay all transportation expenses and the salaries and per diem of the employees involved. This is an expensive privilege for these families, who are often poor.

Also, on occasion, when a prisoner is nearing his release date and his home community is fairly close to the institution, one of our employees may accompany him as a custodial escort to his home community while he looks for a job. The employee, in such instances, donates his own time; it is a tangible gesture of his faith in the accomplished rehabilitation of the prisoner.

But if a prisoner or his family cannot afford the cost of a guard, or no employee is available to volunteer his time, the prisoner cannot see a dying relative, or attend the funeral, or accept a job interview. Not only is the consequent resentment understandable, but the consequent

setback to rehabilitation is avoidable.

Our request is simply to permit qualified and trusted prisoners to undertake such travel alone. Beyond avoiding resentment and setback, such authority has clear positive advantage. The trust reposed in such prisoners would, assuredly, encourage and assist in rehabilitation.

The authority we seek is not unusual. Many foreign nations--including Sweden, France and England--have furlough systems for qualified adult prisoners. At least ten states extend such emergency leave to prisoners for such purposes as funerals or visits to critically ill relatives. Thirteen states have authority to extend leave to enable a prisoner to obtain otherwise unavailable medical treatment, job interviews, to participate in educational programs, or to carry out a variety of rehabilitation purposes.

The Army, Navy and Air Force have long had authority to grant leave to court-martialed prisoners to attend funerals of members of their families or for other compassionate reasons.

Again, we would use this authority judiciously and apply it only to prisoners who do not present a threat to the community. Nor would it involve any costs to the government. The prisoner, though spared the expenses of an escort would remain responsible for his own costs.

WORK RELEASE

The work release system has a history in this country going back more than a half-century. It has an equally long record of success. It

was first undertaken in Wisconsin in 1913, as the now widely known Huber Law.

Because of the emphasis on school programs for younger offenders, we have used the work release procedure for only limited numbers. But at the present moment, for example, two boys trained at the National Training School for Boys are now working in barber shops in downtown Washington during the daytime and returning to the school at night.

Under this procedure, we would be authorized to extend the limits of confinement of a prisoner so that he could work or undertake training in the community during the daytime. He would, of course, spend the rest of his time in his institution. The procedure, like the others, would be used only for prisoners who can be trusted in the community.

Adaptations of the work release plan are now authorized in twenty-four states. Eighteen have adopted the procedure within the last eight years, and I am confident that others will do so shortly.

In most states the work release authority applies chiefly to those convicted of minor crimes, and is administered on a local and county level. In North Carolina, Maryland and South Carolina, the state administers the program, and in the first two, the work release authority, also applies to persons convicted of felonies.

North Carolina's work release law was first enacted in 1957, and was amended in 1959, 1961 and 1963 to make it more workable. From 1957 through November 1964, the state has had nearly 5,000 prisoners engaged in the program for varying periods. They earned enough to pay

nearly $1 million toward the support of their families.

The state authorities are notably pleased with the program. In addition to the many obvious benefits of the program, they believe it has been a major factor in significantly reducing the number of repeaters among the prison population. The plan is credited with reducing the total prisoner population of the state by two thousand.

If we are granted this new authority, we would implement it with every possible safeguard. Our institutional classification committees have had considerable success in determining which prisoners may be trusted on minimum custody assignments and in open camps. They would use the same expertise and diagnostic methods to determine which prisoners could be trusted in a work release program.

The procedure would have a number of advantages which would be expected to result in the rehabilitation of greater numbers of offenders:

1. For the inmates we have trained in our institutions, it would supply valuable experience in actual work situations.

2. The prisoner would become a contributing member of society even before he completed his sentence.

3. It would give the prisoner a practical way of demonstrating his ability and trustworthiness and enable him to gain employer and community acceptance before being released to the community.

4. It would enable prisoners to contribute to the support of their families.

5. It would give prisoners the self-respect which flows from self-support.

6. It would give the Parole Board a means of testing a prisoner in the community before granting him a parole.

For each of these reasons, the legislation we are considering today would be of great direct benefit to society. Similarly, it would be of great direct benefit to the prisoner. The extent to which we can smooth his transition back to society is the same extent to which we can reduce crime and increase self-respect.

A study published only last year--after four years of research financed by the Ford Foundation and carried out by the University of Illinois--indicates that 90 percent of the prisoners released from Federal institutions make an honest attempt to find legitimate employment during the first weeks after their release. Those who find it almost always stay out of trouble.

H. R. 6964 is a needed way to build on those good intentions.