



Department of Justice

ADDRESS

11 JUL 1986

OF

THE HONORABLE EDWIN MEESE III
ATTORNEY GENERAL OF THE UNITED STATES

BEFORE

THE NATIONAL CONFERENCE ON CORRECTIONAL POLICY

12:00 NOON
FRIDAY, JUNE 27, 1986
WASHINGTON, D.C.

There is no question that correctional policy is one of the most important issues on our nation's agenda. The impressive list of speakers who have preceded me at this conference points to the interest in this subject.

Of course the fact this conference is taking place owes much to the leadership of Chief Justice Warren Burger, who for so many years has been speaking out on corrections issues. If I may, I'd like to quote briefly something Chief Justice Burger has said. "Correctional policy", the Chief Justice suggested,

particularly during times of rapidly increasing prisoner populations and prison overcrowding, can no longer remain confined to one level of government or one segment of society. State, local and federal authorities must focus on these problems and in concert --within the framework of federalism -- develop a national correctional policy to deal with them.

Of course, as everyone now knows, Chief Justice Burger is moving on to new responsibilities. During his years on the Court he has been a leader on corrections issues. And I hope that he will continue to provide leadership in this important area from his post as an emeritus justice.

In a sense, this conference brings the Chief's ideas to fruition. We do need the involvement of every level of government. And we do need to address these problems within the

framework of federalism. This conference, by bringing together leaders from each branch and every level of government, provides an ideal opportunity to start looking for answers to the problems we face.

Of course, finding answers isn't always easy. Of all the areas of the criminal justice system, few provoke as much disagreement or controversy as corrections. This is as true today as it has been in the past.

In 1870 the founders of the American Correctional Association were aware of this when they published their "Declaration of Principles." The ACA's landmark statement caused a lot of people to start thinking seriously about prisons and penology issues for the first time. But they did not put a stop to debate. In the century-plus between the Declaration of Principles and today we have seen many schools of thought, many philosophies, come and go. Our prisons have at various times been seen as warehouses for criminals, as schools for reformation, as the best place, the worst place, or the only place, to put criminals.

Maybe because there was so much disagreement over what our jails and prisons should be, and what they should do, we have sometimes ended up quite confused in our correctional policies. Trying to do all things, we sometimes seemed to do nothing very well. The criminal justice system was attacked for putting away too many criminals and too few, for spending too much time on

rehabilitation and for not spending enough, for "coddling inmates" and for subjecting them to "cruel and unusual punishment."

Those of you who have stayed the course in the face of these charges and counter-charges deserve special thanks. You have had the patience of Job. And like Job, I believe your patience will be rewarded. Today we are finally beginning to reach some kind of consensus on the role of prisons. And we are seeing a new commitment to corrections issues on the part of government at every level.

Why this new commitment? Well, the thoughtful work of many of the participants at this conference has played a part. But like the man who never thought about insurance until his house caught fire, I think what captured government and public attention was the fact that we reached a crisis in corrections: too many prisoners for too few jails.

The numbers tell much of the story.

Between 1960 and 1980 the number of serious crimes committed in the United States increased a frightening 322 percent. The number of arrests also climbed, up 271 percent. Prison populations were going up as well, although not by nearly as much. During this same twenty year period state prison populations climbed by only 61 percent. However -- and this is particularly disturbing -- the capacity of state prisons increased a meager 27 percent.

You don't have to be an Einstein to draw some lessons from these numbers. During a period of explosion in the crime rate a progressively smaller percentage of violent or dangerous criminals was spending time in jail -- and a larger percentage was spending no time at all. Worse, many of those who were sent to prison went to overcrowded facilities where educational and work opportunities were minimal, at best.

I wish I could say these problems were a thing of the past. But, of course, they aren't. While there have been some encouraging signs in recent years that the crime rate is moderating or even going down, we continue to have a problem in our prisons.

The Bureau of Justice Statistics reports that the number of inmates in state and federal prisons at the end of 1985 had increased by 39,000 over the end of 1984, reaching a total of 503,601. Since 1980 the nation's prison population has grown by almost 174,000 inmates -- as amazing 53 percent increase. In fact, since May 21st of this year, when I addressed the Bureau's Wardens' Conference, the federal prison population has gone up by more than 1,500.

There are at least two obvious consequences from overcrowded prisons: shorter sentences for convicts who get prison time, and greater reliance upon alternative sentences and dispositions.

It's alarming to discover that last year alone 19 states reported 18,617 early releases due to prison crowding.

Some may be encouraged by these trends, believing that prisons aren't a real solution. I'm not. There are real reasons to worry.

According to some of the most recent data, half of all convicted murderers released from state prison serve fewer than seven years for their crime. Half of the rapists serve four years or less. Fifty percent of convicted arsonists do less than two years. Burglars less than a year and a half. Since 1929, the median time served by all prisoners has dropped from 19 to 16 months -- even though a higher proportion of inmates today are in for violent crimes.

And then there are those who don't go to jail. A recent study of felony sentencing in 18 metropolitan areas discovered that about 30 percent of convicted rapists, 35 percent of convicted robbers and between 50 and 60 percent of those convicted for burglary or aggravated assault are not sentenced to prison at all. Even though our prisons population has been increasing significantly, the number of convicts on probation has grown faster still. BJS Director Steven Schlesinger recently noted that "throughout the 1980s the probation population in this country grew faster than the prison population did" and that "every year during this decade more offenders were sentenced to probation than to prison terms."

The question, of course, is what difference this makes. Many see shorter sentences and alternatives to incarceration as positive signs. To a point they are right. For certain persons and certain crimes we do need creative solutions that don't

necessarily involve time behind bars. But let's not kid ourselves. There is a core of hardened criminals that cannot be allowed freedom, that we simply have to protect the public against.

Of all those sent to prison each year about 84 percent have a prior conviction on their record. 61 percent have already done prison time. 42 percent were on probation or parole at the time they did the crime that landed them in prison. 95 percent of prison inmates are recidivists or violent offenders.

If we accept the estimate -- which some believe conservative -- that the average prisoner now behind bars would be responsible for an average of ten crimes per year if free, we see what a difference prison time makes to crime. An additional ten thousand typical criminals behind bars means 100,000 fewer crimes each year. Put simply, you can't do the crime while you do the time. The bottom line is this: Prisons protect the public.

Of course, this is all just part of the story. Just as it would be foolish to think we can put all the felons who belong behind bars in the number of cells we have currently, so would it be irresponsible to think all we have to do is "lock 'em up and throw away the key." That is not a corrections policy.

We have to build enough prison spaces. We have to do it so we can imprison those who belong behind bars. But we should do it as part of an effort to improve and ensure educational and work opportunities for offenders while in prison.

Fortunately, we are making progress. We are building more prisons and jails, but we are also doing things to make the time spent in jail more meaningful. This is particularly true at the federal level. The Bureau of Prisons is currently in the midst of the most ambitious expansion program in its history. Five institutions currently under construction or design will add 3200 beds to the system. Just as important, these new facilities will incorporate innovative architectural and design features to make them functional, safe, and humane.

There is also action at the state level. Since 1978 five and one quarter billion dollars have been spent on prison construction, and the number of prison beds has increased by 165,000. Obviously, the federal government cannot solve all the states' remaining prison problems, but there is room for cooperation. The Department of Justice, through the National Institute of Justice, is developing new guidelines for the construction of jails and prisons. More significantly, we continue to provide government land to the states at no cost for the construction of new facilities, and to provide technical assistance and staff training, as well as funding, through the National Institute of Corrections.

There is progress inside our jails and prisons, too. Prisoners shouldn't just sit out their sentences. That's why we are committed to supporting and improving prison industries programs. Chief Justice Burger has been a real leader on this

subject with his call for making our prisons "factories with fences." He has the support of the Department -- and my personal support -- in this effort.

Federal Prison Industries, which many of you know as "UNICOR", is one part of the solution. Last year approximately 28 percent of the federal inmate population was employed in prison industries. Gross sales increased by 50 million dollars to reach the quarter billion dollar mark.

Just a few weeks ago I got to see one example of our prisons industries program, at the facility in Lexington, Kentucky. The industrial operations there are an example of how prisoners can learn job skills. That visit impressed upon me the importance and value of these efforts, which we hope to expand in the years ahead.

Now, I am aware that at both the state and the federal level there are legislative barriers to making prison industries effective and competitive. And that is one of the issues I hope this conference can look at seriously. We should be working towards the day when all prisoners work -- work to develop skills and responsibilities, and work so that the wages they earn can go toward victim restitution and to support their families.

Before closing I'd like to touch briefly on two other subjects. The first has to do with a problem that is familiar both to wardens and judges around the country, and that is the problem of prisoner lawsuits.

Every defendant has the right to a full and fair consideration of his case, both at trial and, if convicted, on appeal. But I am concerned that in recent years the Writ of Habeas Corpus has frequently been ill-used. Over the past twenty years there has been an almost 700 percent increase in state prisoner filings of habeas corpus petitions in federal courts. In too many of these cases the petitions were just ways for prisoners to seek endless review of convictions already thoroughly reviewed and upheld in the state courts. Often such suits are brought merely to harass the authorities, or as a form of recreational activity to help prisoners pass the time. A 1979 study documented the frivolous nature of most habeas petitions when it found that of almost 2000 petitions studied only 3.2 percent were granted in whole or in part, and only 1.8 percent resulted in any form of release.

The administration has supported legislation to bring some reason to this chaos. Our proposal would impose a time limit for filing most suits, generally bar the assertion of claims in federal court that were not raised in state proceedings, and afford proper deference to "full and fair" adjudications of claims in state courts.

We continue to support this reform.

Finally, we await the report of the Sentencing Commission. In recent years there has been a trend at the state level towards determinate sentencing. At the federal level we've already seen such reforms as the abolition of parole. Whatever the Sentencing Commission finally recommends in its report, I encourage all of

you to continue to examine this area. Widely disparate results in sentencing, parole, and probation do not contribute to either the fact or appearance of justice. We need a measure of predictability and uniformity in our sentencing practices, both to communicate a real threat of the penalty attached to particular crimes, and to restore public confidence in the criminal justice system.

I commend all the participants in this Conference for your interest and efforts in the issue of corrections. We will need the very best work of everyone concerned to find real answers to our problems. I know that the work of Chief Justice Burger has been one of the inspirations for the gathering. As he prepares to leave the Court after many years of service, I can think of no higher tribute we can pay him than dedicated and serious efforts to make our corrections system a model for the world.

Thank you.