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CRIMINAL  
JUSTICE  
REFORM  
IN THE  
1980s

THE  
FLORIDA  
STORY

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U.S. Department of Justice  
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Florida in 1981 had a steadily worsening crime problem, a crisis in prison overcrowding, a 51 percent turnover in correctional officers and fewer law enforcement officers on the job than in 1975. Violent crime was up 28 percent, and we were under a federal court order limiting the population of state prisons.

"I'm happy to report significant improvement.

"We still have a crime problem, of course, but the rate is down 18 percent from its 1981 peak. We still have correctional officer vacancies, but turnover is down to 20 percent and starting salaries are up to within 300 dollars of the Highway Patrol. And we still have overcrowding...but there is now an emergency mechanism that can bring the system within 98 percent of lawful capacity through selective release."

Remarks by

*Attorney General Jim Smith  
to the American Correctional  
Association Winter Conference*

*January 18, 1985*

NCJRS

OCT 17 1985

ACQUISITIONS

## THE CRISIS AND CONTRAST

In 1982, Florida faced a criminal justice crisis of unprecedented magnitude. The entire state prison system had been under court order to end overcrowding since 1975 (*Costello vs. Wainwright*). Yet during fiscal year 1981-82, the prison population rose by more than 4500 inmates. At this rate of growth, Florida would have to build a new prison every two months to house the burgeoning population, or be subject to mandatory release orders by the federal judiciary.

State spending for prisons had already jumped 700 percent in 10 years. The exploding prison population threatened to swell the budget by \$100 million per year for the foreseeable future, a 40 percent annual growth rate in the department's budget. Louie L. Wainwright, secretary of the Department of Corrections, announced with alarm, "If we do not stop the increase in prison population, we will break the state."

In spite of that dire prediction and the seeming hopelessness of the situation, three years later, at the beginning of 1985, Florida presented an entirely different story. Its prison population had dropped from a high of 28,196 in May 1983 to 27,106. The departmental budget had increased by only \$60 million, rather than the predicted \$300 million. Capital outlay for new and replacement prisons, once projected at \$125 million per year, had remained steady at approximately \$30 million per year. And the crime rate had continued to fall—as in other states—with a 6.9 percent decrease.

## THE FACTORS

Several variables contributed to this significant change in Florida's direction. Certainly an expanding economy, decreasing unemployment, and the decline in the young male population were

factors—but these alone were not responsible. Other comparable states experienced similar economic upswings, and decreases in unemployment and the young male population. Yet many of these states today continue to watch their prison populations swell substantially. Examples include California, New York, Illinois, and Maryland.

The factor that makes Florida unique is the decisive action taken by the legislature in mid-1983. By passing two major bills, lawmakers established a new state policy that prisons should be reserved primarily for offenders who endanger public safety. By concentrating scarce prison resources on the most dangerous offenders, and community resources on those who could be safely punished locally, the legislature reasoned that substantial state funds could be redirected from incarceration to restitution and prevention.

## THE CORRECTIONS OVERCROWDING TASK FORCE

The new legislative direction resulted from recommendations of the Corrections Overcrowding Task Force created by 1982 legislation sponsored by Representatives James Ward and Jon Mills, and the Sentencing Guidelines Commission. Chaired by Governor Graham, with Attorney General Jim Smith as co-chairman, the task force was instructed to report its recommendations for reform in the criminal justice area.

As it was soon obvious that prison expansion alone did not offer a complete solution, the task force studied several other approaches to the overcrowding crisis. Among the most controversial were proposals for early release and sentencing guidelines designed to punish a large proportion of nonviolent offenders outside of prison.

Opponents to this approach were outspoken, insisting that "The prison is our only tool. That's the only thing in society anybody is afraid of."

As the task force neared completion of its work, some observers noted that its proposals would improve the prison problem, but ran contrary to conventional political wisdom. Senator Dempsey Barron, chairman of the Senate Rules Committee, predicted the measure would fail unless "we can fully get our message out."

## THE TOUR

At roughly the same time as the task force began meeting, businessman Jack Eckerd became increasingly concerned about Florida's prisons. Eckerd is the founder of Eckerd Drugs and chairman of PRIDE, a non-profit corporation formed by Governor Graham to manage the state's prison industries program.

After hearing Chuck Colson speak on the national overcrowding crisis and several states' efforts to reduce numbers of non-violent offenders in their prisons, Eckerd met with Colson to discuss Florida's situation. They agreed that prevalent "get tough on crime" public attitudes were a major problem.

They planned a public education campaign to develop support for change in the criminal justice system, inviting Attorney General Jim Smith and Circuit Court Judge Harry W. Fogle to join them in a three-day bipartisan speaking tour of the state in mid-February 1983. Legislators, civic and religious leaders, media executives, judges and other officials attended meetings to discuss the group's principal messages: first, that prisons are expensive, and should be used only for those who are dangerous. Nonviolent and other non-serious offenders should be punished

through restitution and community service. Second, the state should adopt early release mechanisms to control prison population levels and encourage good behavior among inmates.

## THE LEGISLATION

Shortly after the tour, the task force made recommendations to the legislature, resulting in the Correctional Reform Act of 1983. At the same time, the Guidelines Commission incorporated its findings in recommendations leading to the Sentencing Guidelines Bill.

The Sentencing Guidelines Bill established a point system for the courts to use in sentencing convicted offenders. Judges may deviate from the guideline if they show cause in writing, and the defendant and the state have the right to appeal.

The Correctional Reform Act contains four major points designed to reduce the prison population:

- Creation of the Community Control Program, a statewide program of community service, restitution and other alternatives to incarceration for nonviolent offenders.
- Revision of the gain-time formula, which provides time off for good behavior.
- Establishment of a prison population cap, with emergency release provisions if the population reaches 98 percent of the cap.
- Provisions allowing the governor and cabinet to override local zoning and planning restrictions that bar construction of new prisons.

The Community Control Program provides the courts with a "safe diversionary alternative" to imprisonment for use in appropriate cases. Punishment sanctions such as home confinement, restitution, community



service, fines, participation in self-improvement programs, and payment of supervision fees were designed to repay society and rehabilitate the offender. The legislation provided for an offender-officer supervision ratio of 20-1 to ensure the adequate monitoring of offenders.

Both bill passed almost unanimously. The Correctional Reform Act passed in the House by 116 to 0 and in the Senate 32 to 3. The Sentencing Guidelines Bill passed 113 to 1 in the House and 33 to 3 in the Senate.

## THE RESULTS

Fifteen months after the legislation was enacted, the Florida correctional system had experienced significant, positive changes. A report from the Florida Department of Corrections in 1984 stated, "The Community Control Program has been successfully implemented and well-received by the judiciary, legislature, law enforcement, department staff and the general public. It has surpassed the goals in helping to address prison overcrowding through the provision of a reasonably safe diversionary alternative and has maintained good credibility and reflected no adverse publicity at this point."

The reforms have impacted the state in three primary ways:

- Reducing the prison population. As of June 1984, the Community Control Program had managed over 1350 cases. Approximately 70 percent of the cases appeared to be true diversions from prisons and county jails. Further, the gain-time provisions have made it more likely that deserving inmates will be able to earn earlier release.
- Conserving Florida's limited state funds. The enactment of this legislation saved the state an estimated \$50 million to \$80 million per year. The diversion of selected

offenders from prison not only provided offender labor for various public services, but the state paid an average of only \$3.20 per day for an offender in a local Community Control Program, compared to \$26 per day for an offender in prison. In addition, the emergency release mechanism limited the use of state funds to construct major prisons.

- Maintaining public safety. The revocation rate for the Community Control Program through November, 1984 was 11.0 percent, with less than half of the revocations, the result of new offenses.

## COMPONENTS OF REFORM

Florida has accomplished critical and effective criminal justice reform. Several factors contributed to this success:

- The climate and time were right for change. The prison situation posed dangerous problems that could not be solved by building more prisons.
- Key state conservatives and moderates led this reform effort. With leaders like Jim Smith, Jack Eckerd, James Ward, Jon Mills and Dempsey Barron promoting this legislation, the public and legislators did not perceive these bills as being soft on crime or offenders, but as appropriate and necessary money-saving measures for the state.
- The message got out. The Eckerd tour contributed to this, as did the heavy media attention on all facets of the problem. Public acceptance of the reforms helped neutralize almost all opposition.

Many states today face problems similar to those Florida faced in 1982. Florida took constructive action—with significant results. There is no reason other states cannot do the same.

## 1986 UPDATE

A year after this report was first published, Florida still presents a remarkable example of what happens when policy makers address both overcrowding and crime:

- Although Florida's prison population has fluctuated substantially in the last two years, the net increase from mid-1983 to mid-1985 has been only 100 prisoners.
- The incarceration rate (the percentage of Florida's population which is in prison) has dropped from 261 per 100,000 from mid-1983 to 250 per 100,000 in mid-1985.
- More than 4,700 offenders have been placed in Community Control Centers.
- The crime rate dropped 5.8% in 1983 and 1984 (the most recent data available at the time of this printing).

January, 1986

*If you would like more information on how you and your state's leaders can respond to prison overcrowding in your area, please write us:*

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