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VII. Prisons

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VII. PRISONS

The Violent Crime Control and Law Enforcement Act of 1994 provides grants for the construction, modification, and operation of prisons, including boot camps and other alternative correctional facilities. The grant amount proposed for fiscal year 1995 is \$175 million. Fifty percent of the grants are to be used for "truth in sentencing incentive grants." To be eligible for these grants, states must pass laws which require that persons who are convicted of violent crimes serve at least eighty-five percent of their sentence. Alternatively, a state can demonstrate that since 1993, they have increased the percentage of convicted violent prisoners who are incarcerated and have increased the sentence of such prisoners. The other half of the grant funds are to be used in accordance with the "violent offender incarceration grant program." To receive such funds, a state must submit an application to the Attorney General. The application must include assurances that the state will implement the provisions of the "truth in sentencing incentive" program and that they will utilize the funds received to construct and develop prisons.

Part B of the prison section of the 1994 Crime Act pertains to punishment for young offenders. This section allows the government to make grants to states which will be used to fund alternative methods of punishment for young offenders, rather than continuing to utilize "traditional" forms of punishment. These alternative methods include job training, restitution programs, community service programs, substance abuse treatment, and family counseling.

Part C of this section of the Crime Act regulates alien incarceration. This section provides compensation to states who incarcerate an "undocumented criminal alien." That term is defined as an alien who meets one of the four following descriptions: was convicted of a felony and sentenced to prison; entered the United States without inspection; was the subject of an exclusion or deportation proceeding at the time he or she was taken into custody; or was admitted as a nonimmigrant and has failed to maintain nonimmigrant status. Part C provides for priority of funds to the Federal incarceration of undocumented criminal aliens who commit aggravated felonies. This portion of the prison section provides that the Attorney General take responsibility for assuring that undocumented criminal aliens are incarcerated in institutions which provide an appropriate level of security in relation to the crime which was committed.

Part D of this section contains miscellaneous provisions. It requires the Attorney General to prepare prison impact assessments to provide to Congress. These impact assessments are to include projections and an analysis of the fiscal impact of a potentially higher prison population on federal expenditures. This portion of the Crime Act also eliminates many remedies for prison overcrowding. It provides relief for overcrowding only to the minimum extent necessary to remove conditions that cause cruel and unusual punishment. Part D also provides

that no federal court shall place a population ceiling on the inmate population of any federal, state, or local prison unless the crowding is found to be inflicting cruel and unusual punishment upon the inmates.

Part D establishes guidelines for studies which will examine the feasibility of converting closed military institutions into Federal prison facilities, and for the establishment of a program which would provide post-incarceration drug testing for Federal inmates. Part D also encourages correctional job training and placement.

The final two articles in our Symposium address the merits of the 1994 Crime Act's prison policy. In his article entitled *A Balanced Approach to Fighting Crime*, Nolan E. Jones examines the Senate's attempt to create regional prisons. Jones criticizes this attempt because to qualify to use the proposed prisons, states would be required to meet numerous federal mandates, such as mandatory minimum sentences, and compliance with the federal mandates could cost states an estimated \$12 billion.

Elaine R. Jones criticizes the government's obsession with punishment as opposed to prevention in her article entitled *The Failure of the "Get Tough" Crime Policy*. She argues that the billions of dollars spent on incarceration does not represent a real solution, suggesting that the emphasis on punishment is ineffective and has disproportionately affected African Americans. Ms. Jones welcomes some of the alternatives to incarceration present in the 1994 Crime Act, but argues that more needs to be done to *prevent* crime—not merely to punish criminals.