

research to development—to the development and acquisitions of systems. And it will allow us to manage our work on ballistic missile defense in a way appropriate to its place in the overall defense program.

Q: Do you still intend to spend \$3.8 billion in the '94 program, or do you have some savings in—

Aspin: No, the '94 program is as it was sent to Congress because it is focused in this new direction of heavy priority on theater missile defenses, number one; the second priority is national defense of the United States, missile defense of the United States; and third is the advanced technologies. The \$3.8 billion program in '94 still stands.

Q: Mr. Secretary, how quickly do you figure to go into acquisition, from research into acquisition, and how quickly do you expect to have a defense?

Aspin: We have, as you saw in the Patriot, we have something that you can make into a defense right now. We have currently four different theater missile systems that are at various points along the development process. We need to probably pare that down, but I think we may not want to—well, I'm sure we do not want to pare that down until we've got a better idea of where the strengths are. But the theater missile program is going ahead, and that will be the first effort that will show results. In fact, we do have something that works right now.

Q: Mr. Secretary, but did the American people get their money's worth out of the program?

Aspin: I think that we learned a lot if we can pull something from the experience that we had and apply it. I think if it helped to bring about the kind of changes that we had in the Soviet Union, I think the answer is yes.

Clinton lauds SDI spinoffs

At Los Alamos National Laboratory on May 17, President Clinton cited technological spinoffs from the SDI program. Clinton cited the example of "plasma ion implantation," which he described as follows: "It involves a steel vacuum chamber containing high-energy ions which can be pumped into metal surfaces or plastic surfaces and used to harden them so that they will last longer and do better work. This could revolutionize America's ability to manufacture automobiles and other machines, to keep going and to have higher productivity longer and lower costs so we can once again begin to [create] high-wage manufacturing jobs. . . ."

"And this technology was a direct outgrowth of the research done on the Strategic Defense Initiative, the so-called Star Wars initiative, which means that no matter whatever happens there and whatever happens to the final shape of that project, something good came out of it because people were looking to break down frontiers in the human mind and to explore unexplored territory."

Mandatory sentencing laws under attack

by Edward Spannaus

The United States, which has the highest known rate of incarceration in the world, is continuing to outdistance its nearest competitors. Once again, newly released statistics show that the U.S. prison population has reached record levels; the total number of persons in prisons and jails in the United States is now over 1.3 million. Drug cases were a major source of the increased number of prisoners in 1992, according to the U.S. Justice Department. In 1990, the last year for which precise statistics are available, about one-third of those sent to jail were drug offenders. Most of these are low-level users and dealers, which has had no effect in stemming the overall drug plague.

The soaring rise in the prison population is one of the factors impelling calls for a review of the mandatory sentencing laws passed by Congress in the 1980s as part of efforts to "get tough on crime." Attorney General Janet Reno has criticized the mandatory sentencing laws, especially as they apply to drug cases, and she recently ordered a Justice Department review of federal prosecutive and sentencing policies to determine the impact that these policies are having on the prison system.

"I have a concern because there may be situations in which minimum mandatories are causing federal offenders to serve 10 or 15 years for being minor participants on a drug boat deal," Reno told the *Washington Post*. But at the same time, she said, "murderers, rapists, and robbers in state courts are serving drastically reduced sentences because there are not enough prison cells."

Record levels

During 1992, the number of persons being held in state and federal prisons in the United States reached the record level of 883,593, an increase of 7.2% over 1991. Since 1980, the number of prisoners has risen 168%, from about 330,000 to the current figure of 883,593. Of these, federal prisoners make up about 80,000, and state prisoners a little over 803,000.

However, the federal prison rates are increasing almost twice as fast as state rates. The rate of increase for federal prisoners was 12.1% from 1991 to 1992, and was 12.5% from 1990 to 1991.

Add to this between 400,000 and 500,000 inmates in jails

(that is, with sentences of less than one year), and the total number of persons incarcerated is over 1.3 million—a rate far in excess of any other country. The U.S. rate is considerably higher than South Africa, which has the second-highest rate. The U.S. rate is over four times greater than the next highest western industrialized country—the United Kingdom—and is about 10 times greater than those of Japan, Sweden, Ireland, and the Netherlands.

About one-third of those incarcerated in the United States are black. Taking just the jail population, almost two-thirds are classified either as black or Hispanic, according to the most recent figures available.

The Reagan-Bush administrations sponsored numerous bills in Congress which set mandatory minimum sentences for various offenses. There are over 60 federal statutes setting mandatory minimum sentences, but only four of these, pertaining to drugs and weapons violations, account for virtually all of the sentences issued. Almost two-thirds of those sentenced under the mandatory minimum laws are black or Hispanic. (The mandatory minimums are often confused with the sentencing guidelines which cover all federal offenses committed since 1987, but they are distinct and indeed often in conflict.)

Shift away from philosophy of rehabilitation

Both systems—the overall sentencing guidelines, and mandatory minimum sentences—represent a shift away from the philosophy of rehabilitation which was prevalent in much of this century. Both systems eliminate parole, and both take away the discretion of the sentencing judge to tailor a sentence to the offender and to his likelihood of rehabilitation. The current, official policy of the federal system and most of the states is pure and simple “warehousing” of prisoners for longer and longer periods of time.

Recently, two highly regarded federal judges in New York disclosed that they are refusing to take drug cases because of what they regard as the unfairness of the mandatory minimums and the sentencing guidelines. Both judges, Whitman Knapp of Manhattan, and Jack Weinstein of Brooklyn, are “senior status” judges who are thus able to pick and choose which cases they will hear.

Dozens, if not hundreds, of other federal judges around the country have also rebelled against the sentencing system in less public ways.

“I need a rest from the oppressive sense of futility that these drug cases leave,” said Judge Weinstein when he disclosed his refusal to take any more drug cases. “I simply cannot sentence another impoverished person whose destruction has no discernible effect on the drug trade.”

Judge Vincent Broderick of New York, who heads the criminal law committee of the Judicial Conference of the United States, commented that “what Judges Weinstein and Knapp did was to give voice to a real frustration that judges feel in imposing sentences they do not feel are just.”

The U.S. Supreme Court, dominated by Chief Justice William Rehnquist, has nevertheless upheld the constitutionality of the new sentencing laws, after a number of lower courts had invalidated them. But just recently, U.S. District Judge Harold Green in the District of Columbia held the sentencing laws unconstitutional, this time on grounds differing from those previously upheld by the U.S. Supreme Court.

Virginia prison head protests

A stinging attack on the “lock ‘em up,” warehousing philosophy of justice came from an unlikely quarter on May 13. The chairman of the Virginia State Board of Corrections, Peter Decker, told the board that the philosophy of “lock ‘em up and throw away the key” has contributed to a modern conflagration of rapes, assaults, and other violent crime in Virginia.

With nine new prisons and \$300 million in construction planned for an inmate population expected to rise by 10,000 by 1997, Decker said politicians advancing the “lock ‘em up” approach were guilty of official misconduct. “Through the years, our legislators have said . . . that to educate [inmates] and to spend money on that instead of brick and mortar is coddling criminals,” said Decker. But, “I consider keeping people in prison without treating them, without training them, and turning 98% of them back into the public so that they can do the same things again, is tantamount to a social holocaust. . . ; it’s like shooting a gun into a crowd. It’s malfesance on the part of our legislators, not to try to treat, educate, and reform prisoners while they’re incarcerated.”

Decker continued, “I have almost never heard politicians talk about the fact that every [repeat offender] carries with them two and a half new victims. One thousand women and children a year are raped or abused [in Virginia], because therapeutic treatment was not afforded to sex offenders while they were in captivity.” Such treatment would cost only \$10,000 a year, said Decker.

Frederick L. Russell, executive director of the State Crime Commission, said at the same meeting of the Board of Corrections, “It sounds great to lock people up and throw away the key . . . but the public doesn’t know what is cost-effective in the long run.”

Addressing a drug policy conference on May 7, Attorney General Reno argued a similar point, that in many instances community-based programs of job training and counseling would be far more effective in preventing further crime, than simply locking offenders up in prison for lengthy periods of time. Reno suggested that when dealing with someone who is a non-violent, first-time offender who we know will be returning to the community, the chances of preventing future criminal behavior is much better if that person can be reintegrated back into the community under supervision, rather than simply locked up for a long period of time.