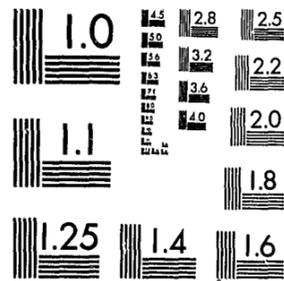


National Criminal Justice Reference Service



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National Institute of Justice
United States Department of Justice
Washington, D. C. 20531

12/9/82

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Department of Justice

STATEMENT

OF

JEFFREY HARRIS
DEPUTY ASSOCIATE ATTORNEY GENERAL

BEFORE

THE

SUBCOMMITTEE ON GOVERNMENT ACTIVITIES AND TRANSPORTATION
COMMITTEE ON GOVERNMENT OPERATIONS
HOUSE OF REPRESENTATIVES

CONCERNING

FEDERAL SURPLUS PROPERTY

ON

APRIL 21, 1982

NCJRS
MAY 23 1982
ACQUISITIONS

U.S. Department of Justice
National Institute of Justice

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Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to present the views of the Department of Justice on H.R. 4450 and H.R. 6028, both of which would facilitate the disposal of surplus federal property to states and localities for correctional use. The Department strongly endorses in principle the facilitation of such dispositions. In addition, we greatly prefer the framework for such dispositions contained in H.R. 4450 and support that bill with certain drafting changes. We cannot support H.R. 6028 in its present form.

Let me begin by supplying some essential background. The severe overcrowding of state and local correctional facilities is well-known and well-documented. The United States prison population expanded in the first six months of 1981 at more than double the rate of 1980. Since 1976 the population has increased by 50 percent. This overcrowding is perhaps the major problem confronting the nation's criminal justice system. To deal with this problem, the Attorney General's Task Force on Violent Crime, which I served as Executive Director, recommended the establishment of a program to facilitate the donation of suitable surplus federal properties to states and localities for correctional use. The Attorney General has endorsed this recommendation and the Department has begun to implement it.

The first step in the implementation process was the establishment of a surplus properties clearinghouse in the Bureau of

83810

Prisons. The clearinghouse was established in July of last year. Its function is to assist state and local correctional agencies in learning about and acquiring suitable surplus properties. In this effort, the clearinghouse works closely with the General Services Administration (GSA), the agency responsible for processing and determining applications for surplus federal property. To date, the clearinghouse has had over 100 inquiries from interested states and localities and is helping to expedite many requests for particular parcels of property. Thanks to the clearinghouse and outstanding cooperation from GSA at all levels, there have been a number of transfers of surplus properties for conversion to correctional use. Several others are pending.

Under present law, transfers for correctional use can be made only for fair market value in most cases. Because of the critical nature of the need for additional prison and jail space, the Task Force on Violent Crime recommended legislation which would permit donation or discounted sale of surplus property to states and localities for correctional use. The Attorney General has endorsed this recommendation. Both bills under consideration would accomplish this goal. The Department supports H.R. 4450, with the changes suggested below. For the reasons stated below, the Department cannot support H.R. 6028 in its present form.

H.R. 4450.

H.R. 4450 authorizes the Administrator of GSA, upon recommendation of the Attorney General, to donate surplus property to any

state for the construction and modification of criminal justice facilities, including courts, offices and training facilities as well as correctional facilities. The most pressing need at the state and local level is for correctional facilities. We, therefore, strongly recommend that the bill's coverage be limited accordingly to focus its benefits where they are most needed.

Second, the legislation as now written authorizes donation of surplus property to states and municipalities. In order to clarify the definition of eligible recipients and to make the proposed bill consistent with existing property donation laws, we suggest permitting transfers to states and any political subdivisions or instrumentalities thereof.

Third, there is a need to provide for monitoring by GSA to ensure continued appropriate use of the properties conveyed and to provide for reversion to GSA in the event of use inconsistent with the purpose for which the property was originally furnished.

The Senate Committee on Governmental Affairs adopted all these suggestions in reporting a bill, S. 1422, virtually identical to H.R. 4450. I have attached a copy of S. 1422 as reported by the Committee as well as the Committee's report on the bill. If similar changes are made to H.R. 4450, the Department would support its enactment. The Department of Justice recommends one different amendment, however. Specifically, we suggest that the bill be amended to authorize and not require the conveyance of property for use as correctional facilities at no cost. We also

recommend that the Administrator be authorized to convey property for use as correctional properties at less than fair market value. Although the Administration's policy with respect to transfer of property for use as correctional facilities has not changed, we believe the changes we are suggesting will give the government the flexibility it needs to operate the program efficiently and successfully.

H.R. 6028

Under H.R. 6028, GSA would assign to the Attorney General surplus real property recommended by the Attorney General as needed for correctional use. The Attorney General would then fix the sale or lease value of the property and sell or lease it to the requesting state or political subdivision. In fixing the property's value, the Attorney General is permitted to take into consideration any benefit which may accrue to the United States from use of the property by the transferee. This provision would presumably allow a sale or lease at a discounted value or at no cost. Other provisions of the proposed legislation would allow GSA and the Department to monitor the use of the property by the transferee.

Existing provisions of the law governing disposal of surplus federal property (the Federal Property and Administrative Services Act of 1949, as amended) authorize disposal of such property at no cost to the recipient for a number of specified purposes, such as educational and recreational use. H.R. 6028 parallels these

existing provisions. In spite of this consistency, the Department prefers H.R. 4450 with the suggested changes.

H.R. 6028 would require the Department to establish a real property unit to administer the correctional disposal program. Under the scheme envisioned by the bill, the Department would have to solicit and review formal applications for surplus sites submitted by correctional agencies, determine a discount value for the property, prepare and deliver the deed and monitor compliance with the conditions of transfer. Current Departmental budget constraints would not permit adequate performance of this function without additional resources. Moreover, the establishment of a real property disposal bureaucracy within the Department would be a wasteful duplication of a capability already existing in GSA. It is far preferable for GSA to act as the disposal agency for correctional transfers, with the Department playing an advisory role.

As I noted earlier, the proposed bill parallels existing provisions of the Federal Property and Administrative Services Act of 1949, as amended. Under these existing provisions, we understand that the Department of Education and the Department of Interior have established in-house real property disposal services to administer the statutory programs providing for disposal of surplus real property for educational and recreational purposes, respectively. While this may be appropriate for these large-scale disposal programs, the more modest rate of disposal

expected under the correctional disposal program would be much more effectively administered by GSA.

Accordingly, the Department cannot support H.R. 6028 in its present form. Instead, we strongly recommend an amendment in the nature of a substitute to conform with the provisions of S. 1422, as reported by the Senate Committee on Governmental Affairs.

I would be pleased to answer any questions you may have.

END