



Department of Justice

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ADDRESS

BY

THE HONORABLE GRIFFIN B. BELL
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BEFORE

THE MEXICAN-AMERICAN LEGAL DEFENSE AND EDUCATION FUND

6:30 P.M.
TUESDAY, FEBRUARY 15, 1977
HYATT REGENCY HOTEL
SAN FRANCISCO, CALIFORNIA

It was very kind of you to invite me to be with you here tonight. This is my first formal speech since becoming Attorney General three weeks ago. I appreciate the opportunity to discuss the quest for justice with those who share a common interest in the law and an abiding faith in its inherent fairness.

The delivery of justice is an urgent concern that ranges far beyond the legal profession. We may know professionally that something is wrong, but many citizens feel it even more acutely through painful experience and shattered security.

Crime has grown beyond reason and nearly beyond comprehension. Rights taken for granted by most Americans are still denied to many, either by design or habit. Recourse to the courts is beyond the reach of too many citizens by cost, delays, and outmoded practices.

My remarks tonight -- The Delivery of Justice, 1977 and 1978 -- are meant to convey more of an understanding of the problems than finished blueprints for action.

After three weeks on the job, I would be unreasonably optimistic to present to you any detailed plan for dealing with old and troublesome issues.

We do not yet know what we are going to do in many areas. But I do want to sketch some of our preliminary thinking.

My first act as Attorney General was to open a door that had long been closed in the Department. It was more than a symbolic gesture.

The Justice Department belongs to the people. They must be able to enter it to conduct their business and air their grievances. Any group with anything substantial to discuss should be able to come in and receive courteous attention to their concerns. And it is no accident that I chose this forum for my first address. You have expressed your disappointment in the Justice Department to me and your hopes for the future.

In organizing the Department we are striving for excellence. Men and women of unquestioned ability are being appointed to key policy posts. We want an atmosphere where the Department's 50,000 career employees can make maximum contributions.

Laws will be enforced vigorously, promptly, and evenhanded. Political considerations must be avoided.

The Department must be the catalyst for development of a national policy on the delivery of justice - criminal and civil. We must be the national leader. One of the first steps must be to assist the courts without encroaching on their independence. A major priority for the Law Enforcement Assistance Administration will be expanded financial and technical aid for state and local courts. When these courts malfunction, the larger portion of the justice system has failed.

Although the Department has major resources, we still need help to perform all of the work necessary to make the promise of equal justice under the law a reality. We must seek anew the assistance of groups in the private sector.

Nearly 71 years ago, Dean Roscoe Pound discussed "The Causes of Popular Dissatisfaction with the Administration of Justice" in a remarkable address to the American Bar Association. His reception was chilly, but his message was telling.

Last year, a meeting on the same topic was convened by the Judicial Conference of the United States, the Conference of Chief Justices, and the ABA. The foresight of Pound's theme by then had become even more compelling.

Participants took a searching look at the problems confronting the courts of our country and which impede the delivery of justice.

They tried to visualize the problems that the courts and the justice system will face over the next quarter-century as our population grows, as a wide range of related legal, social, technological, and economic problems become increasingly complex.

Their basic premise was that new mechanisms must be developed in both the civil and criminal fields, along with fresh emphasis on alternatives to resolution of conflicts in the traditional court setting.

Efforts stemming from the conference will be varied. They will be the labor of years, not months. But there is a single objective. I headed an ABA task force that compiled a followup report on implementation of the Pound Conference. We said of all the proposed work and recommendations: "The ultimate goal is to make it possible for our system to provide justice for all."

I

One practical way to help achieve this would be development of Neighborhood Justice Centers -- the first of the new mechanisms I proposed to the Task Force for the better delivery of justice. I feel that this suggestion should be given the highest priority.

The centers would be developed as pilot projects through the joint efforts of local government, the courts, and the bar. While details could vary from city to city, the common thread would be a mechanism that would provide an alternative to courts in settlement of disputes.

We know from experience that trials are often expensive and slow -- and even awaiting your turn for trial can be dismaying.

Neighborhood Justice Centers could provide inexpensive and convenient alternatives for settlement of a variety of civil and criminal matters. Imaginative tools could be used -- including arbitration, mediation, conciliation, fact-finding, and negotiation. The centers could be staffed by paralegals,

young attorneys, ombudsmen, referees, conciliators, and other experts. Courts would be avoided, but when needed they would be able to give more attention to serious cases.

It is no longer enough to suggest that the traditional avenues of justice are available to all of the people. They are not.

At one time in our history, when we were a rural nation, justices of the peace provided a forum for dispute resolution that was close to the people and readily available.

But our country has changed. There have been great shifts in population, and the law and the law's administrative machinery have not shifted accordingly. People moved and did not bring their courts with them.

Creation of Neighborhood Justice Centers would be a major first step in creating a new, proper balance.

II

Improved delivery of justice often depends on expensive, time-consuming new programs. There are occasions, however, when substantial benefits flow from relatively modest changes of existing procedures, when the biggest expenditure required is a little imagination.

At the urging of the Judicial Conference, the Congress last year approved a bill defining and expanding the role of magistrates in the Federal court system.

In the five and one-half years the magistrate system has been fully operational, magistrates have come to occupy a position of growing importance in the operation of the district courts.

The burdens of those courts are well known. Only last month, for instance, a Department of Justice committee reported that, "The Federal courts...now face a crisis of overload so serious that it threatens the capacity of the Federal system to function as it should."

The new magistrates' legislation will not solve those problems, but it is one important step.

The number of magistrates is relatively small -- but in the last fiscal year, magistrates handled more than one-quarter of a million matters that otherwise would have been placed on the shoulders of already overburdened district judges.

That workload was performed despite some uncertainty over the types of duties that magistrates could properly perform. Procedures were not uniform. Some courts allowed magistrates to perform duties that were not allowed in others.

The new legislation does define the magistrates' roles, expands their duties, and urges judges to use them on the widest range of work possible. The basic role of the judge is not altered by these procedures. It is enhanced and so, hopefully, is the delivery of justice.

And, I may add, the solution to the Federal trial court overload problem will be found in a wise use of a magistrate system somewhat like the English model -- something we will be assessing in the near future.

III

Some problems of the delivery of justice may be solved more easily than others. Not all are procedural. Some relate directly to social and economic issues.

One problem of this kind is presented by the so-called illegal alien problem. It has defied solution for years, and all indications are that it is becoming more severe. This is a matter of major priority in our government. There are no reliable figures on the number of illegal aliens. Some estimates place it as high as eight million, others as low as 2.4 million.

The Domestic Council Committee on Illegal Aliens recommended in December that there be no massive deportation of illegal aliens. I concur with the Committee's view that such a course of action would be both inhumane and impractical.

Many illegal aliens have built equities in our country by virtue of their long residence and their contributions here. They must be given particular consideration.

It goes without saying that in resolving this problem steps must be taken to reduce the influx of illegal aliens. One effective device is to curtail employment opportunities. I am inclined to support legislation containing civil penalties

that would prohibit employers from knowingly hiring illegal aliens. There is much interest in such legislation.

If the employment ban were a reality, the number of persons trying to enter the country illegally would diminish sharply. Many of those already here illegally would return to their native countries.

Greater emphasis on more traditional techniques also is needed to prevent illegal aliens from entering the country. Prevention is more humane and effective than trying to apprehend persons after they blend into the cities and countryside.

Apprehension activities, however, must be conducted strictly within legal limits -- with no denial of constitutional rights.

IV

Full protection of the law must be present in every aspect of our national life.

To mention one more specific, let me reiterate a pledge I made at my confirmation hearing:

I intend to have a vigorous Civil Rights Division.

The rights of all Americans, all groups, will be protected and enhanced, and all rights stem from the right to vote. I favor nationwide and uniform enforcement of the Voting Rights Act. Wherever applicable, it must be fairly and firmly enforced -- north, south, east, and west.

Several large minorities -- including the Mexican-American community -- have a particular interest in the 1975 amendments to the Voting Rights Act requiring that elections in certain areas be conducted in the minority language as well as in English.

Those provisions are vitally important. We will take every step possible to make certain the law is followed. In addition, we will be particularly alert to either possible violations or any efforts to subvert the intent of the Congress.

No human endeavor is perfect. But I pledge the most vigorous enforcement possible, and I promise that the enforcement resources of the Voting Section of the Civil Rights Division will be at the proper level.

V

Finally, on any substantive issue of law, there may be disagreement. While I am Attorney General, I would hope that there will never be basic doubts about good faith. We need a new spirit of trust in this country, a fresh recognition that cooperation can be productive and can enable us to reach worthy ends.

We must be candid and sincere with each other -- conciliatory one with the other -- seeking common ground wherever possible.

My door is open. I look forward to seeing you at your Department of Justice whenever you come to visit.

Thank you.