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ADDRESS
of
THE HONORABLE
BENJAMIN R. CIVILETTI
ATTORNEY GENERAL OF THE U.S.
before the
DEPARTMENT OF JUSTICE EMPLOYEES

Wednesday, March 5, 1980
Washington, D. C.

P R O C E E D I N G S

(Applause.)

ATTORNEY GENERAL CIVILETTI: Thank you, and good morning.

Today I speak to you on a serious subject to the Department of Justice, and to each of you: The subject of leaks, the disclosure of confidential information material to the business of the Department of Justice.

It is a distasteful subject to me, and to all of you, but it's important to address it and discuss it.

Like my recent predecessors I have high regard for the professionalism of employees of our Department. I share the pride that you feel, as members of this great Department, in the very special work that we perform.

All of you, clerks and messengers, lawyers, investigators, paralegals, secretaries, and others, play a vital role in the essential and delicate work of the administration of justice.

This work, this special work--the administration of justice--is special not only to us but to the American people. And it is different. Our duties and responsibilities are different from other forms of government service, and from the other departments and agencies in the government.

I commend you, each of you, on the performance

1 over the last three years, and in prior years, in the
2 history and traditions of the Department of Justice and
3 the administration of justice.

4 These duties have been performed well, and in
5 our highest tradition.

6 From time to time in the past, there have been
7 breaches of duty by individuals within the Department
8 from the ranks and from the highest levels of positions
9 and management in the Department.

10 Those have been, and will be, low points in the
11 performance of the Department, and in the pride which we
12 share.

13 The recent disclosure with regard to the ABSCAM
14 investigation, and two other sensitive criminal investi-
15 gations, is one of those low points. And I condemn
16 severely those few who have caused these leaks, and have
17 violated the trust that has been placed in them.

18 I would like to spend a few moments with you to
19 reemphasize the importance of the close confidentiality
20 of information developed in criminal investigations
21 particularly.

22 First, and obviously, the disclosure of material
23 facts jeopardize the very investigations we are charged
24 with conducting. With knowledge of the government's
25 activity, subjects of investigation may be able to maneuver

1 and manipulate so as to destroy the purposes of the
2 investigation. Evidence can be reconstructed, defenses
3 artfully prepared, alibis established, and witnesses
4 intimidated.

5 Leaks jeopardize cooperating parties, informants,
6 subjects, and our own agents, and workers, and expose
7 all of them to a greater risk than the risks ordinarily
8 faced in the course of difficult investigations.

9 Leaks jeopardize the process which is established
10 by our system as a prime objective of investigation: fair
11 trials for the government, and for defendants, in the
12 prosecution of charges.

13 And leaks more than jeopardize--leaks wound the
14 innocent cruelly, many times, beyond the hope of recovery,
15 without the hope or expectation of fair process.

16 In short summary, the disclosure of material
17 facts in a criminal investigation perverts the very
18 purposes which we are sworn to achieve and to serve.

19 I am determined to find those who release such
20 information, and, if they are Department employees, to take
21 appropriate and severe action with regard to them. For
22 these leaks serve no valid purpose. They corrupt and
23 injure all of us.

24 There are many excuses and justifications
25 suggested, and used, to explain why a Department employee

1 would leak information. None of them is valid. All of
2 them are forced, although they do demonstrate characteristics
3 of human weakness. Some such justifications suggest that
4 the press bears a major responsibility for the harm and
5 evil caused by such disclosures. That is not true. The
6 press' duties are distinct and separate from our duty. They
7 are not government employees. They do not solemnly swear
8 to conduct the business of this Department in accordance
9 with the law and the constitution. They serve a different
10 role under different masters.

11 The press' duty is to report events, to challenge
12 official versions, to pursue the facts in search of the
13 truth, and to seize the moment, and the interest of the
14 reader; to try to inform; and to do it all within a few
15 hours or moments under the constant pressures of an imminent
16 deadline.

17 Their duty is to bring sense from confusion; to
18 reduce a thousand details to essentials; and to express it
19 within the constraints of column inches or television
20 seconds.

21 To perform the press must be aggressive. They
22 must use every means within their professional ethics to do
23 their job, and they must use human nature to serve their
24 important duty to the public's right and need to know.

25 But we are not partners with the press. We are

1 in the employ of the Department of Justice. The press is
2 not.

3 We are not professional companions or professional
4 friends or duty mates, although our paths coincide in the
5 pursuit of truth, aggressive investigation, and serving
6 the public interest.

7 Reporters and journalists have a right to ask
8 tough questions, and to use their intelligence and
9 techniques to inform the public, and to do it dramatically.
10 Appeals to employees for the disclosure of information are
11 proper.

12 But they also appeal to fear, to envy, to pride,
13 to idealism, to patriotism, anger, unfairness, stupidity,
14 laziness and other human emotions. And the methods are
15 not without a certain aggressiveness, and a certain
16 intelligence.

17 We all hear from reporters, "I want to get it
18 straight. Please advise me with regard to where it's wrong
19 or I'm going wrong. Can you help me out? Here are the facts
20 that I have. Are they in the ballpark? I intend to go
21 with this story unless you can show me where it is wrong.
22 The explanations I have been given don't hold up. You're
23 going to look dumb, and so is your Department. I understand
24 that the Public Integrity section, or the Civil Rights
25 Division, certainly isn't what it used to be. You're not

1 doing anything these days. I hear the investigation you've
2 been working on for two years fell apart, was bungled.
3 How did that happen? The people upstairs are going to
4 kill this case, you know. It doesn't seem right to us.
5 What do you think? We'd like to hear your side of the
6 story."

7 These openers, and a thousand more, are used
8 daily, and properly, to pry information from you and from
9 me, and they are met usually with good grace with an
10 allegiance to duty and with the refusal, no matter the
11 method, to breach the public professional responsibility
12 which is yours and which is mine.

13 We do have a responsibility to the press and to
14 the public. We are all involved in the public's business. The
15 press has a full right to learn of policy, of process, of
16 appointments; to learn of plans and goals; to learn of
17 our methods and manner, and how we go about this delicate
18 and difficult business of the administration of justice.

19 And with regard to those rights, we have a full
20 and shared responsibility to explain, where possible, our
21 decisions, to hold them up to public scrutiny, and to
22 make available for comments and debate our views and our
23 opinions and our judgments, and to listen, and to learn,
24 how we can do our jobs better.

25 But that is an entirely different thing from

1 the disclosure of confidential information essential to a
2 criminal investigation, done for the purpose of currying
3 favor, or to inflate the ego, and not for the public good,
4 but for some private personal--or some misguided
5 institutional--desire or objective.

6 I want to make it clear that if a Department
7 employee leaks information, he or she not only violates
8 standards of common decency; he or she violates clear
9 Department regulations as well, and I don't have to cite
10 to you chapter and verse that when someone commits such
11 obvious wrongdoing, they are wrong.

12 In this case, because of the flood of the leaks,
13 their serious nature, I feel compelled at least to refer
14 to volume 28 of CFR Section 50.2(b). It is entitled,
15 "The Release of Information... Related to Civil and Criminal
16 Proceedings." Part (b)(6) of the regulation makes the
17 point I have made unambiguously: "the release of certain
18 types of information generally tends to create dangers of
19 prejudice without serving a significant law enforcement
20 function." The regulation concludes: "...personnel of the
21 Department" should not make available statements concerning
22 evidence in a case, "whether or not it is anticipated that
23 such evidence will be used in trial."

24 Of course, if the leaker was or is an attorney,
25 he or she violated the code of professional responsibility.

1 If the leaker was an FBI agent or employee, he or she
2 violated the Bureau's internal rules, found in the manual
3 of administrative operations and procedures.

4 And any employee who leaks such information
5 violated not only the prohibitions that I have quoted
6 but other specific and general prohibitions against
7 unprofessional behavior and misuse of official information.

8 No employee can protest they were unaware of
9 these duties or responsibilities. The entire text of
10 Section 50.2, plus an explanatory memorandum, was circulated
11 throughout the Department by former Attorney General Bell
12 as recently as July 23rd of last year.

13 At times it may be difficult to serve the duty
14 of openness, which I wholeheartedly endorse, and the duty
15 to explain and provide access to the press for information,
16 and at the same time to distinguish and to serve the duty
17 not to disclose confidential information.

18 The recent leaks about ABSCAM and other sensitive
19 investigations do not present this difficult problem, and
20 there is no policy of this Department, nor of any of our
21 profession, which justifies these leaks.

22 For those closer questions, where there are
23 conflicts or difficulties between responsibility and
24 openness, and the public's right to know the public
25 business, I suggest just two practical considerations.

1 One, refer inquiries to the Public Affairs
2 Office or public information officers, whose job it is
3 to respond day-in and day-out forthrightly to the press;
4 who are familiar with all the rules; and who are
5 experienced and careful in the performance of their twin
6 duties of openness and confidentiality.

7 Secondly, to the extent that you communicate
8 with the press, and it is proper to do so, do it on the
9 record, for attribution, and you will get a quick sense
10 of right and wrong when you begin to feel doubt as to
11 whether you're comfortable with the answers being identified
12 with you, or attributed to your name.

13 I am calling on you, as members of this
14 Department, to continue to fulfill your responsibilities,
15 and the responsibilities of your profession and craft,
16 and to be committed to exercising the trust which is placed
17 in you, as you have done in the past, and as is true with
18 99.9 percent of you, I am confident you will do so in the
19 future.

20 But I am calling on you for more than that. I am
21 calling on you to share my condemnation of any among you,
22 whatever their position, or whatever their role or rank,
23 where they breach their duty, where they stain the
24 Department, where they lower the respect for your integrity
25 and honesty, where they erode the confidence of the public

1 and corrupt the principles for which we all stand.

2 I am doing two things, one of which you are
3 clearly aware of. I have appointed Richard Blumenthal to
4 investigate the ABSCAM leaks under Mike Shaheen in the
5 Office of Professional Responsibility, with the full
6 cooperation and assistance of the Federal Bureau of
7 Investigation, and one of its principal officers, John
8 Otto, and with the assistance of other
9 prosecutors and investigators drawn from the ranks of the
10 Department and of the FBI. They are charged with the responsi-
11 bility to conduct this investigation as intensely and as
12 specifically, without limitations other than the law and
13 our policies, to attempt to find the persons responsible
14 for the leaks and, if they are within the Department of
15 Justice's ranks, to find the causes, or at least some of the
16 causes, which may have lead to the leaks.

17 Secondly, I am having our policies, as expressed
18 in the regulations, and our practices as we conduct our
19 business, and our standards, carefully reviewed, not in the
20 intense heat of the reactions to the ABSCAM investigations,
21 but carefully and coolly, to see whether they need
22 adjustments or modifications so that we can all, not 99.9
23 percent of us, but all of us, better carry out our
24 responsibilities to, and justify the faith of the American public.

25 If a Department employee leaks confidential

1 information from an investigation, that employee, if found,
2 will lose his or her position; if not found, at least that
3 employee will lose his or her honor and self respect.

4 Thank you very much.

5 (Applause.)

6 ATTORNEY GENERAL CIVILETTI: This session--I'm
7 meeting with two sessions of the Department today in an
8 effort to talk directly to as many people as possible. And
9 I will communicate to all of our fellow employees outside
10 of Washington, both by videotape, and by a transcript of
11 these addresses.

12 Thank you again.

13 (Scattered applause.)

14 (End of proceedings as recorded.)
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