



# Department of Justice

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BY

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AT THE  
88TH ANNIVERSARY CONVENTION  
OF THE  
TENNESSEE BAR ASSOCIATION

MUNICIPAL AUDITORIUM  
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## INTRODUCTION

It is a great pleasure for me to leave the humidity and heat of Washington to come down to the beautiful Smoky Mountains and talk to the 88th Annual Convention of the Tennessee Bar Association; and, as you may know, the current heat we have in Washington has little to do with the weather.

### 1. VIOLENCE IN AMERICA

The topic about which I will talk this evening is a broad topic--the increasing disrespect for our system of law on the college campuses, in our core cities, and on the streets of our urban and suburban areas.

It has become fashionable in some circles to say, for example, that violence is "as American as cherry pie." But this begs the question. While it may be true, historically, that this nation has had sporadic periods of internal violence, we have never accepted physical force as a legitimate means to achieve a political or social goal.

It seems to me that the danger today comes from those who justify physical violence--not as a sporadic or symbolic protest as did Thoreau--but as the only form of protest: as the only consistent and acceptable method of forcing their demands upon the majority.

OVER

There are those on our college campuses who argue that administrators will listen only after buildings are seized and students injured.

There are those among our black community who argue that the white community will listen only after arson and looting have occurred.

There are those in our urban areas who argue that the dropout juvenile mugger and the disadvantaged adult bandit are, in some unconscious way, bringing to our attention their plight.

And several months ago, an eminent criminologist even suggested that society should arrange a formal truce with the organized criminal syndicate because all efforts, so far, to weaken organized crime have failed.

I sympathize very deeply with--and I suppose I do not understand completely--the resentment and hatred that are throbbing in our colleges and in our cities. Because of my age and background, I suppose I cannot fully appreciate the depth of resentment held by students who wish more of a voice in their own affairs and of minorities who wish to participate fully in American prosperity.

But I reject, this Administration rejects, and you must reject the alternative of physical brutality. Broken limbs, damaged lives and scarred buildings cannot be weapons of negotiation. Social progress must be achieved through our peaceful

political processes which are rooted in simple humanity, intelligent awareness and discussion, and sufficient economic resources.

For in this chaotic decade, I must pose to those who advocate lawlessness the query of Mr. Justice Holmes:

"Behind every scheme to make the world over lies the question, what kind of world do you want?"

The kind of world that I want, that this Administration wants and that most Americans want, is a nation of political stability, social advancement and economic growth firmly rooted in "equal justice under law."

Since January 20, as Attorney General, I have made several priority decisions and policy statements in an effort to achieve the kind of world we want; and I should like to detail them for you briefly.

## 2. STREET CRIME

Perhaps street crime is, in the long run, our greatest problem. The latest FBI statistics show that serious crime in the United States increased 17% in 1968 over 1967 to 4.6 million serious crimes--or three-fourths of a million more than in 1967.

The increase is not limited to any particular area of the nation but is concentrated in our urban-suburban metropolitan areas.

It was up 22% in metropolitan regions of one million and up 25% in areas from 500,000 to one million.

Furthermore, juveniles now account for a majority of crimes against property and the juvenile rate is growing faster than the juvenile population.

As Attorney General, I can tell you that street crime in our cities and suburbs and the fear of street crime is changing the fabric of our society, and is forcing our citizens to change their traditional living patterns. They stay off the streets at night. They shy away from helping strangers. They are distrustful and insecure in their own neighborhoods.

This is an area where the federal government has little enforcement power. Here, we must rely on the states and cities for their cooperation. The federal government can offer advice and technical assistance--and we can offer funds.

Our federal leadership in the national effort against street crime will come primarily from the Law Enforcement Assistance Administration in the Justice Department.

President Nixon has strongly supported my request to Congress for a record \$300 million appropriation for the next fiscal year for the Law Enforcement Assistance Administration. Most of this money will go to the states in block grants to be distributed to urban areas, to be used, in one form or another, to aid the administration of justice on the broadest scale.

We need more police and they must, in most cities, be better educated and trained. We need improved juvenile facilities and educational programs to stop our youth from turning to the

streets. We need more efficient justice so that those who are arrested will be tried promptly and either convicted or acquitted. We need a complete overhaul of most prison systems with rehabilitation facilities, psychiatrists, and social workers to assure that the prisoners of today will not be--as four out of ten are expected to be--the prisoners of tomorrow.

But our attempts to decrease street crime have another aspect which is even more important--solving the root causes of common law crime in our cities. It <sup>is</sup> simply not an accident that the highest incidence of crime occurs in the ghetto where poor housing, poor education, and lack of employment opportunities are more prevalent than in other parts of our urban-suburban areas.

Here too, President Nixon has supported substantial programs. He has proposed a \$2.5 billion hunger program designed to insure, once and for all, that our citizens have an adequate basic diet. He has reorganized the Job Corps retraining program for disadvantaged youths and eliminated some of the less efficient aspects. He has continued the Head Start program for the educationally underprivileged and transferred it back to the Department of Health, Education and Welfare where it belongs. He has maintained the Office of Equal Opportunity, mainly as an experimental laboratory to try for new solutions. He has asked for a \$700 million appropriation for the Model Cities programs in an attempt to rebuild our inner cities and offer the local residents some control.

#### VOLUNTARY ACTION

We hope that the states and cities, in attempting to solve our national crime problem, will invite private industry

and non-profit organizations to participate in meaningful anti-crime programs under the guidance of government officials and professional organizations.

The voluntary sector of our community offers an enormous reservoir of money and manpower to help in non-police functions, such as juvenile programs, narcotics rehabilitation programs, and work training programs for prisoners.

Therefore, we have been working, for the last three months, with major private organizations in an effort to form a united anticrime fund.

This fund would have two main purposes: to collect money from the private sector and to distribute this money to professional groups and volunteer organizations for local anticrime programs.

As President Nixon said in his inaugural address: "We are approaching the limits of what government alone can do . . . we must reach beyond government and enlist the legions of the concerned and the committed."

We know that private citizens can help. In Royal Oak, Michigan, retired businessmen, corporation executives, and lawyers have volunteered to establish a successful program working with juvenile offenders on probation.

The Jaycees has started a promising program to establish local chapters in prisons which emphasize education and job training. The Jaycees then take responsibility for the

prisoner after he is released to see that he obtains employment and helps him to adjust to civilian society.

These are some of our plans so far in the street crime category.

3. ORGANIZED CRIME

Now, I would like to discuss our organized crime program.

We will spare no effort to attack this nationwide organization of racketeers who corrupt our youth with illegal narcotics, who taint our public officials with bribes and corruption, who pervert the outstanding ideals of the labor union movement, who employ murder and torture to collect their debts, and who, in a very real sense, prey mainly on the poor and less educated segments of our population. ✓

President Nixon has asked the Congress for a record \$50 million appropriation to launch a meaningful nationwide campaign against organized crime, utilizing all the weapons at our disposal.

Almost all of this money will be used to increase the Strike Forces, a relatively new concept in organized crime investigations. These Strike Forces are now in eight cities and a year from now they will be in an additional 13 cities.

The Strike Force is composed of investigators and lawyers from the FBI, the Justice Department, the Bureau of



Narcotics and Dangerous Drugs, the Internal Revenue Service, the Secret Service and other agencies. This unified inter-departmental approach has proved extremely successful. In one city alone we have been able to obtain 30 indictments in an attempt to permanently eliminate an established organized crime syndicate.

Our tactic is to spread an intricate and well manned net of federal law enforcement, ranging from minor tax violations, to extortion and common law crimes to narcotics and gambling violations.

One of our most useful tools in the investigation of organized crime is wiretapping. Since I became Attorney General, I have reversed the previous Department policy and have authorized wiretaps of organized crime syndicates. For example, one tap led to the seizure of a \$6 million shipment of heroin in New York City and to the arrest of a number of alleged narcotics importers. Another wiretap in the midwest led to the seizure of counterfeit money and to the arrest of four alleged counterfeiters.

I strongly believe in the right of privacy and I recognize the abuse to which wiretapping may be subjected. That is why I personally review each application and why I believe, in general, that court supervised wiretapping is the best approach.

But we must balance the equities. We must protect our homes and offices from unnecessary invasions. We must protect our communities from organized gangsters.

4. RACIAL DISORDERS

As opposed to organized crime, the racial violence in our cities is disorganized and sporadic. It erupts without warning. It is rooted in the hostility of unfulfilled promises and the bleakness of ghetto life.

It will only be removed when all Americans recognize that minority citizens must be granted equal rights to education, to employment, to housing, and to the full enjoyment of our society.

Nevertheless, in the interim, civil disorder cannot be ignored. And while, of course, massive force is a solution, it is not a solution which we endorse except under the most extreme circumstances.

What is needed is intelligent and sensitive law enforcement; and to be frank, an ability to roll with the punches without pushing the panic button.

The Department has formed an emergency task force which is composed of experienced lawyers and members of our Community Relations Service.

When a local situation appears tense, we quietly dispatch our task force to see if it can be of aid to local

political leaders, law enforcement and courts in handling possible disorders. While civil disorder is basically a local affair, a major riot has such national repercussions-- including the possibility of federal troops--that we think we have an interest in helping local officials to cool the situation.

In the last several months, the Department of Justice has co-sponsored meetings with local police chiefs on how to handle possible civil disorder. These meetings, for example, have stressed the importance of community relations activities between the police and the local ghetto residents.

We have stressed that community relations programs should not be pro forma rituals. They should be conducted on a wide scale so that as many police and as many minority leaders as possible talk to each other--not at each other-- in an attempt to bridge the hostility that frequently incites disorders.

Until now, I have been discussing crime and disorders in our urban areas. As a final comment, I would like to discuss the disorder in our universities.

#### 5. THE IDEA OF THE UNIVERSITY

The American university educational system is one of our proudest achievements.

James Russell Lowell once noted:

"It was in making education not only common to all, but in some sense compulsory on all, that the destiny of the free republics of America was practically settled."

Or, as the Commission headed by former Solicitor General Archibald Cox reported:

"A university is essentially a free community of scholars dedicated to the pursuit of truth and knowledge solely through reason and civility . . . resort to violence or physical harassment, or obstruction is never an acceptable tactic for influencing decisions in a university."

#### THE STUDENT MOVEMENT

To date, we have had disturbances on more than 200 campuses--about nine per cent of the colleges in the country. In only a small number of such disturbances was there any severe physical violence and bloodshed reported. The total arrest rate, of 2300, is less than 4/100ths of one per cent of all of our students.

While accurate statistics are not available, it is believed that less than two per cent of our students have engaged actively in any disruptions causing physical or property damage.

It might be convenient to look at these statistics and suggest that the situation has been exaggerated. I think not.

Society has a way of selecting symbols and it is no accident that some of the most violent demonstrations have occurred at some of our most highly regarded universities-- California, Wisconsin, Harvard, Cornell, Duke, Columbia--the universities to which we point with pride as among the leaders of our higher educational system.

Furthermore, it is undeniable that, while violence-prone activists represent a small percentage of our students, some of their actions have struck a responsive chord to a whole generation: so responsive, in fact, that the activists receive at least tacit support or neutrality from many other students.

A decade ago we saw the "silent generation" going quietly from the university to earning a living. Today, we have the "involved generation" who are interested in the problems of our society. They are active in civil rights, in poverty, in hunger, in education for the poor, in job retraining, and in partisan politics. I welcome this generation's

demand that the university not be an extraterritorial community removed from society, but that it and its members deeply involve themselves with the problems of the day.

But if they are to assume a role as adult activists in a community, they must also assume the obligations that go with adult citizenship. And one of the primary obligations upon which we exist is a simple maxim, carved above an entrance of the Justice Department in Washington, which says:

"Law alone can give us freedom. Where law ends, tyranny begins."

Campus militants, directing their efforts at destruction and intimidation, are nothing but tyrants. But there are others who share the blame by failing to act-- university administrators must take firm and immediate action to protect the rights of faculty members to teach and of other students to learn. Faculty members should stop negotiating under the blackmail threat of violence. Apathetic students should stand up for the rights of those who wish to pursue civility and scholarship in the academic community. To the extent that they remain neutral or refuse to act, they are all accessories to the tyranny we are now witnessing.

The time has come for an end to patience. The time has come for us to demand, in the strongest possible terms, that university officials, local law enforcement agencies and local courts apply the law.

OVER

I call for an end to minority tyranny on the nation's campuses and for the immediate reestablishment of civil peace and the protection of individual rights.

If arrests must be made, then arrests there should be. If violators must be prosecuted, then prosecutions there should be.

It is no admission of defeat, as some may claim, to use reasonable physical force to eliminate physical force. The price of civil tranquillity cannot be paid by submission to violence and terror.

#### THE CONSTITUTIONAL RIGHT TO DISSENT

The genesis of our current student problems is thought to lie in our encouragement of lawful dissent.

The right to express disagreement with the acts of constituted authority is one of our fundamental freedoms. The First Amendment expressly protects "the freedom of speech" and "of the press" and "the right of the people peaceably to assemble, and petition the Government for a redress of grievances."

As one Supreme Court Justice has described it:

"The right to speak freely and to promote the debate of ideas is . . . one of the chief distinctions that sets us apart from totalitarian regimes."

And as Mr. Justice Brennan has said:

"The vigilant protection of constitutional freedom is nowhere more vital than in the community of American schools.

The class room is particularly the 'marketplace of ideas'."

THE LIMITS OF DISSENT

But there are definite limits beyond which these First Amendment guarantees may not be carried.

The Supreme Court has flatly rejected the argument "that people who want to propagandize protest or views have a constitutional right to do so whenever and however they please."

Only two months ago, the Supreme Court ruled that the right of students to engage in peaceful protests does not include the right to disrupt the educational process.

Thus it is clear that students do not enjoy any special prerogative to interfere with the rights of other students or, as the Supreme Court has said: ". . .conduct by the student in class or out of it . . . is . . . not immunized by the constitutional guarantee of freedom of speech."

The right to be a student carries other fundamental rights than the right to dissent. Among these valuable rights which must also be protected, are the right to use research facilities, free from occupation by demonstrators; the right to use libraries free from seizure by dissidents; the right to consult with administrators free from having one's personal file and records destroyed; the right to study in an atmosphere of "reason and civility."



WHAT SHOULD BE DONE

Having briefly defined the problem, I feel obligated to offer a few suggestions on what can and should be done to resolve it.

My jurisdiction, as you well know, is limited to the application of federal law. Our concept has always been that, unless we in the federal government have a clear mandate, we permit the states and the municipalities to deal with law enforcement problems. The clearest mandate we have, so far, is the anti-riot provisions of the 1968 Civil Rights Act. It prohibits persons from crossing state lines with intent to incite riots.

We have substantial information confirming the widely accepted belief that several major university disturbances have been incited by members of a small core of professional militants who make it their tragic occupation to convert peaceable student dissatisfaction into violence and confrontation.

These circumstances can only lead to the conclusion that this hard core is bent on the destruction of our universities and not on their improvement.

You can be assured that these violence-prone militants will be prosecuted to the full extent of our federal laws.

We are also collecting a great deal of information about student disorders and those who cause them.

We are offering this information to state and local law enforcement officials operating in jurisdictions where campus disorders may occur.

No society, including an academic society, can survive without basic agreement by a great majority of its members as to the fundamental precepts upon which it operates.

The first precept for any academic community must be to outlaw terror.

The second premise is that students, faculty and administration officials should all participate, in some measure, in the decision-making process. What this means, at a minimum, is that university administrators must offer a serious forum for responsible student criticism--and more than that, it must be clear to the students that their grievances will be honestly considered and will not be lightly dismissed under the procedural ruse of an artificial dialogue.

Third: universities must prepare for prospective violence. It is no longer acceptable for a university administration to claim, after the events of this year, that they were taken unawares--that they acted in panic and that their mistakes can be blamed on the alacrity with which the demonstration developed.

Here, too, the entire university community should be consulted since it is the censure or approbation of a majority of this community which will determine the course of student violence.

If, as has been done at some universities, the majority overwhelmingly rejects minority violence, the militants are left isolated except for brute physical power.

In any event, the university administrator should, in anticipation of the outbreak of a disturbance, consult with local law enforcement officials and courts on the methods of handling various disturbances. Preparation and coordination by these parties may well eliminate the disturbance and will assure the timely application of any required counter-force.

Fourth: if all else fails and a major disturbance does occur, university officials should consider applying immediately to a court for an injunction.

This approach has been used in the last six weeks with increasing success--at Howard and George Washington Universities in Washington, at Columbia University in New York and at several other schools. The civil injunction appears to have several advantages. It carries the judicial authority of the courts rather than the administrative authority of the police. It carries the certain knowledge that violators will be prosecuted for contempt on the motion of the court rather than the frequent hope that the university will grant an amnesty and decline to prosecute for common law crime violations. It does not permit a continuing dialogue under the threat of more violence.

The injunction takes the university out of the law enforcement business, where it does not belong, and replaces it with the court which is better suited for this purpose.

Let me be specific: University officials are not law enforcement experts or judges. When a violent outbreak occurs, they should not take it upon themselves to decide how long the violence should endure and what rights should be trampled upon until local government is called in. For minor demonstrations, which involve no serious disruptions, the university should have the viability to decide for itself what the best solution may be.

But when people may be injured, when personal property may be destroyed, and when chaos begins, the university official only aids lawlessness by procrastination and negotiation. The university is not an extraterritorial community and its officials have the obligation to protect the rights of the peaceful students on its campus by use of the established local law enforcement agencies and the courts.

### CONCLUSION

I should like to conclude this address by asking our citizens to consider the words of Rousseau:

"If force creates right, the effect changes with the cause: every force that is greater than the first succeeds to its right. As soon as it is possible to disobey with immunity, disobedience is legitimate; and the strongest being always in the right, the only thing that matters is to act so as to become the strongest. But what kind of right is that which perishes when force fails?"