



# Department of Justice

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STATEMENT  
OF  
ATTORNEY GENERAL JOHN N. MITCHELL

BEFORE THE  
SELECT COMMITTEE ON CRIME  
OF THE  
HOUSE OF REPRESENTATIVES

JULY 31, 1969  
10:00 a.m.

MR. CHAIRMAN:

Thank you very much for your invitation to permit me to testify this morning during your "overview" hearings on crime and the administration of justice.

I understand that you have heard several distinguished experts and that you will hear a number of others both in government and in private life.

You have requested that I speak specifically on three topics: "The Up-Grading of Law Enforcement and Correctional Personnel," "The Improvement of the Criminal Justice System," and "The Potentials for Citizen Action."

Considering the broadness of these three categories, I will attempt to cover them all in varying degrees and would be pleased to have the Department submit memoranda on any subjects which the Chairman does not think are adequately covered.

I. THE UP-GRADING OF LAW ENFORCEMENT AND CORRECTIONAL PERSONNEL

The problem of street crime is one of the most serious crises which this nation faces today. Despite all previous efforts and commitments, the latest FBI statistics show that serious crime rose 10 percent in the first three months of this year over the first three months of 1968. Crimes of violence increased 15 percent over a similar period in 1968.

The increases in crime were truly national in scope. They were led by cities of from 500,000 to 1 million where

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crime increased 15 percent, followed by cities of from 10,000 to 100,000 where the increase was 13 percent.

These latest statistics have only reenforced our belief that a comprehensive and effective federal program to aid in the decrease of street crime is one of the priorities of this Administration.

First and foremost, this means that I am committed to aid, in every way possible, the improvement and strengthening of the local police who are our first line of defense.

Direct action by the federal government to combat street crime is limited by jurisdictional considerations. The primary jurisdiction for the apprehension and conviction of the street criminal is, and should remain, with state and local officials.

This also means that state and local governments have the primary obligation to support and strengthen law enforcement in local communities.

The federal government basically can take action in the following ways--by direct financial help, informational services, research and technical assistance to state and local communities; and by establishing model programs, as in the District of Columbia, which can be prototypes for many metropolitan areas.

Our main vehicle for providing direct financial and technical assistance is the Law Enforcement Assistance Administration in the Department of Justice.

The continued expansion of the Law Enforcement Assistance Administration program is crucial in our federal effort to aid the states.

The first stage of the LEAA program is now completed. The fiscal year 1969 appropriation of \$63 million is almost expended. Most of the money went to states in block grants for action programs and to help them draw up comprehensive plans for the increased action grant money which we hope to obtain in the next few years.

For the current fiscal year we have asked for \$300 million for the Law Enforcement Assistance Administration. If appropriated, \$250 million of this is scheduled to go to the states for action programs -- much of it to aid the police.

Every state has submitted a plan. Many of the plans were excellent and many were not. But most of the state plans showed a great deal of research and intelligent selection of goals and, most importantly, great optimism and enthusiasm for making substantial inroads on the street crime problem.

In general, the states have recognized that the police are the first line of defense and should receive the highest consideration in action grant awards. For example, in the State of Illinois, there was a heavy emphasis on improving and aiding the police in the \$1.3 million which the LEAA granted to that state last year.

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Out of this amount, there was \$236 million awarded for civil disorder control; \$120,000 for the development of police training programs; \$30,000 for a study on how to use civilians in police departments; \$48,000 for a special program to train promising young police officers; \$180,000 for management studies of the efficiency of local police departments; \$60,000 to establish model community relations units.

Furthermore, the statute permits states to retain 25 percent of the federal funds for state use while distributing 75 percent to local government. But many states are willing to give even more of their statutory share to the localities. Illinois, for example, only retained 14 percent for state use. This allocation, I think, answers a frequent fear that the state governments are anxious to keep for themselves as much of the federal funds as possible.

Of the many programs which have been suggested for the improvement of law enforcement, it is my belief that improved training for police officers is probably our most pressing need. While we insist that a physician have more than 5,000 hours of training before he even dispenses an aspirin tablet, many of our cities will send a young, untrained patrolman into a racially tense neighborhood where his actions could initiate serious confrontations and tragedy.

It is unrealistic today to expect a policeman to do his job properly unless he receives adequate educational and technical assistance. Frequently, he is under great stress and must make immediate decisions in a variety of situations, such as pursuing a mugger into a dark alley or settling a family dispute which could result in injury or death -- remembering that more than 80 percent of our homicides occur as the result of disputes between family members or acquaintances.

Considering circumstances today, we actively undermine the police if we do nothing to help them. Public apathy and inaction are unwilling but culpable accomplices to the street criminal.

This Administration is going to help law enforcement. For that reason, we have appealed to the Senate in an attempt to restore \$50 million cut from the Law Enforcement Assistance Administration by a House subcommittee. We need every nickle of that \$300 million and we probably need much more in the coming years.

Rhetoric and good intentions will not stop a burglar or a hold-up man. What will stop him is an efficient and well-trained police force. The more we delay in providing adequate funds to state and local governments, the more we must blame ourselves for failure to take corrective action.

Here, I must emphasize that the federal government can only be a junior partner in funding and other efforts. The state

and local governments must be prepared to provide the majority of the funds even if it requires increases in already heavy taxation. I am confident that our local communities will respond by providing their share of the funds when necessary.

There are many other aspects to our federal efforts against crime which will have both a direct and indirect benefit to the cities and states.

Here again, we will strongly rely on the LEAA grant program.

For example, out of every 10 persons imprisoned for a serious crime, four will after their release return to crime. It is the belief of most experts that if we can achieve a substantial decrease in the rate of recidivism, we can achieve a substantial decrease in the crime rate.

But all too often, as you know, state prisons are merely temporary storehouses. They do not provide sufficient job retraining programs nor much needed psychological services to assure that the released felon will return to a useful life in society.

In addition, I believe that there are many new concepts in prison rehabilitation which are proving extremely successful. The halfway house concept which eases the transition between incarceration and civilian life; the community offender center which provides a range of facilities for the juvenile and adult

offender, including psychological counseling and treatment; and a regional prison concept which may be used eventually to eliminate antiquated county and city jail systems.

In all of these areas, the federal government is prepared to help the states. Grants from the Law Enforcement Assistance Administration are being used for prison studies, and special training of prison personnel, and for research into new ways to deal with recidivism.

The Federal Bureau of Prisons has a program of technical assistance and training which it offers to state and local prison administrators.

## II. ORGANIZED CRIME

Another area of major concern in most large metropolitan cities is the organized criminal syndicate.

Here, the federal effort to upgrade local law enforcement is related directly to the assignment of federal personnel.

We have asked for a record \$55 million appropriation to take immediate and aggressive action against the organized criminal syndicate. The core of our program is the strike force -- which is a team composed of Department of Justice lawyers, FBI agents, Internal Revenue Service agents, and personnel from other government agencies.

We plan to have a total of 13 strike forces in operation by the end of this fiscal year and seven more in operation by 1971.



The strike force moves quietly into a city with a serious organized crime problem. And, in cooperation with state and local officials, the strike force draws a net of federal law enforcement around the organized crime syndicate. It investigates and attempts to prosecute labor law violations, tax law violations, gambling, federal common law violations and a whole range of criminal activities.

So far, the strike force concept has proved very successful. In those cities where the strike forces have obtained indictments and convictions, we believe that the criminal syndicate leadership has been substantially damaged.

Furthermore, our informants tell us that a strike force has a psychological deterring effect. It causes the syndicate to slow down its operations, just by its very presence.

Closely allied to our organized crime effort is our expanded action against illegal narcotics. Frequently, the organized crime racketeer controls the distribution of marihuana and heroin. But the narcotics problem which is now so prevalent among our youth has caused us to launch a separate effort, spearheaded by the Bureau of Narcotics and Dangerous Drugs in the Department of Justice.

Not only have we asked for increased appropriations for our narcotics program, but we are concentrating on attempting to locate and prosecute major wholesalers instead of making a large number of arrests of street addicts. Also, in this field,

we are increasing our educational efforts to inform students, educators and parents about the danger of narcotics and how to avoid them.

In both of these efforts -- organized crime and narcotics -- our federal teams are working closely with state and local officials. We hope that this increased cooperation will not only result in more prosecutions against important criminal figures, but we hope that more and more states will be encouraged to start organized crime and narcotics efforts of their own. We will be offering them technical assistance and informational aids and, through the Law Enforcement Assistance Administration, we will be offering them supplementary funds for planning and action pilot projects.

In line with this effort to make our organized crime and narcotics efforts more effective, I have instituted two new policies by executive decision.

The first is my decision to use the provisions of Title III of the Omnibus Crime bill to place wiretaps and other electronic eavesdropping devices on organized crime and narcotics suspects.

So far, this has proved to be a valuable tool, both for informational and prosecutive purposes. Although we have not found it necessary to authorize a great number of telephone taps at any one time, I have been told that the knowledge that a

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telephone tap may, at any time, be authorized, has substantially interfered with organized communication system -- and, as you know, communication is essential to the successful operation of any large-scale, coordinated activity.

The second executive decision taken by the Department of Justice has been to establish a new policy in relation to the United States Supreme Court opinion in Miranda v. Arizona.

As you know, the Miranda decision required that, prior to interrogation, law enforcement officials warn a suspect of the charges against him, of his right to remain silent, of his right to an appointed or retained counsel, and of his right to terminate his interrogation at will.

Many critics have claimed that the Miranda decision has "handcuffed" the police. I have not seen any studies which document the effect of the Miranda decision one way or another. But I do think that the underlying premise of the decision -- that the police are frequently unfair or coercive toward a suspect -- was a great psychological blow to the morale of our local police departments.

Last year, Congress passed the Omnibus Crime bill which provided that the Miranda warnings were not necessarily mandatory but are only to be considered as one aspect of whether the confession is voluntary. Until recently, the Department of Justice had declined, with one exception, to use the Omnibus Crime bill provision.

On June 11, 1969, Mr. Will Wilson, Assistant Attorney General in charge of the Criminal Division, suggested that the Omnibus Crime bill be utilized. In his memorandum, Mr. Wilson said that, in general, federal lawyers and law enforcement officers will continue the present practice of giving the full warnings outlined by the Supreme Court. However, if a federal official inadvertently fails to give a full warning, the Department of Justice now believes that the confession may still be a voluntary confession and should be presented to the court as evidence. That is to say, we believe that a failure to give a full warning does not necessarily mean that the confession is invalid and that the Department should automatically concede error.

I hope, by this new policy, to be able to salvage some organized crime and other cases which might otherwise be lost.

The memorandum also outlines a new policy in relation to United States v. Wade. Here, the Supreme Court said that an accused is entitled to have his counsel present at a pretrial identification lineup. The Omnibus Crime bill specifies that the absence of counsel at a lineup should not automatically exclude the identification of the suspect at the trial. Our new policy will seek to take advantage of the Omnibus Crime bill provision. Where we are convinced that the lineup was fair -- for example, where the suspect was lined up with a number of suspects of similar physical characteristics -- we will attempt

to introduce the lineup identification on the grounds that it was based on an independent recollection and not on any inherently coercive features of the lineup procedures.

I know that we may be subject to criticism by some for establishing these new policies. And I believe they will be useful, fair tools for law enforcement and I am hopeful that the courts will uphold our position.

In addition to the executive policy decisions on crime, we have proposed or supported a number of significant legislative proposals.

For example:

A broad Federal Immunity of Witnesses Act, which will give us powers we need to obtain testimony from recalcitrant witnesses or ask for contempt citations if they refuse the immunity.

Amendments to the Wagering Tax Act which will fill in some of the loopholes involved in the double jeopardy problems involved in the registration of gamblers.

Special legislation aimed at legitimate business activity which is supported by illegal gambling funds.

Two bills to stop pornographic advertising in the mails and to protect children from receiving obscene publications.

A comprehensive overhaul of federal narcotics laws.

And S. 30 introduced by Senator McClellan, which contains some useful tools against organized crime.

### III. THE COURTS

None of our efforts to attack street crime, organized crime and illegal narcotics will be of maximum effectiveness unless we can overhaul our courts.

From one end of the nation to the other, local, state and federal criminal courts are becoming hopelessly overcrowded.

Perhaps Washington is an unusual example, but the median time from indictment to the disposition of a criminal case is now 9.5 months or more than twice the median of 4.5 months of two years ago. We are receiving similar reports from other metropolitan areas.

Justice so long delayed is of benefit to no one. The public loses confidence in the judicial processes' ability to acquit or convict. Innocent persons under indictment must remain with a legal cloud on their reputation for needless amounts of time. Guilty persons under indictment walk the streets flouting their contempt for our judicial administration. Law enforcement officers become demoralized when their efforts are not resolved.

In order to keep up with their dockets, courts in many areas have resorted to what is known as assemblyline justice. Overworked prosecutors are not able to give intelligent attention to their cases. Overburdened appointed counsel become discouraged by long delays and postponements, or by their inability to devote sufficient time and attention to their indigent clients.

President Nixon recognized court reform as an immediate necessity in his District of Columbia message. To help the courts, he proposed the creation of additional judgeships. To help the prosecutor's office, he proposed additional prosecutors and suggested a plan for the priority handling of serious criminal cases.

To insure that indigents receive adequate legal services, he proposed an increase in the legal aid agency staff to make it permanent.

We face similar problems in our overcrowded civil dockets. I think it is futile to tell a poor ghetto resident that we will provide adequate legal services for the protection of his liberty, but that we should remain apathetic when his property is endangered in a civil action. Our nation is based on the protection of liberty and property and we must give adequate attention, especially to the small claimant who now, in many parts of the country, must wait for years to collect an insurance claim or a negligence award.

What I am trying to point out is that the public confidence in the administration of criminal justice can also be affected by the administration of the civil court system.

But more manpower is not the only solution. In many areas we need more information and we need management studies on court calendaring and docketing, both in the criminal and civil field.

There have been several recent successful studies done in this area. In Wayne County, Michigan, despite an increase in judicial manpower, four months was the average time from a preliminary hearing to a formal arraignment. But a detailed study showed that the delay was attributable to the court reporters. They were so overworked that they could not transcribe preliminary hearings.

Since 93 percent of the cases were disposed of by a guilty plea, the transcription of preliminary hearings was eliminated except in those cases where a trial was demanded. Now I am informed that in Wayne County the period of time has been reduced to about a month.

Two recent studies of the federal courts in New York and Philadelphia have shown that a small number of law firms have a majority of civil cases relating to maritime claims. Because of this overload, the lawyers frequently ask for postponements. The Federal Judicial Center, under the directorship of former Associate Justice Tom C. Clark, is starting several projects in a joint venture with the Department of Justice to obtain computer programming operations for federal courts. If these pilot programs are successful, the federal center plans to extend its systems to other large city districts.

We have always proceeded under the theory that a lawyer may waive his client's right to the expeditious disposition of his case; or that a prosecutor may waive the public's right to have a case tried promptly.

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But when a court calendar situation reaches the point where the public and the bar begin to lose confidence in our courts to promptly settle civil and criminal litigation, I think that the courts have an obligation to demand changes.

#### IV. CITIZEN ACTION

It is quite clear that the demands of law enforcement and the administration of justice on its broadest scale cannot be completely met by government alone.

President Nixon recognized this in his inaugural address when he said: "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."

Today, millions of Americans want to enlist in efforts to combat crime. We receive communications daily from individuals and organizations who ask: "What can I do? I am willing to help."

A recent poll indicated that at least 10 percent of the adult American population would be interested in serving in voluntary anticrime programs.

We know these volunteers can help. There are more than one million independent volunteer organizations in the United States; 320,000 churches; 2,000 united funds and community chests; 35,000 voluntary hospitals; 6,000 private funds; 100,000 volunteer welfare organizations; and 36 million Americans in fraternal and service organizations.

Individuals can enlist. In Royal Oak, Michigan, retired businessmen, corporation executives and lawyers give their time to work with young people on probation.

Civic groups can enlist.

The Jaycees has a rehabilitation program which operates in a number of prisons. Local Jaycees chapters offer job rehabilitation and counseling to incarcerated convicts. When they are released, the Jaycee chapter attempts to find them jobs and aid their transition back to civilian life.

Corporations can enlist. The Aetna Life and Casualty Company has made a material contribution to the rehabilitation of offenders with its "bonabond" program. This plan, run by ex-offenders, supplies performance bonds which often make the difference between a job for the released offender and a return to a life of crime.

Professional groups can enlist.

The American Bar Association has operated effective programs on the local level through its Criminal Law Section and its Special Committee. The National Advertising Council drew up a National Auto Theft Prevention Program.

Similarly, the Boy Scouts, the Chambers of Commerce and hundreds of others have engaged in significant volunteer projects.

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Since last March, I have met with a number of private professional organizations in an attempt to help them organize a comprehensive and coordinated volunteer anticrime effort. The program we have outlined would provide professional guidance and volunteer action mainly in the areas of juvenile crime prevention and rehabilitation; supplementary aid to law enforcement agencies in such matters as management studies and personnel employment, and aid for prisoner rehabilitation and retraining. Although there has been some understandable conflict among some of the groups which wish to participate, I think we have reached a point in the negotiations where our program is taking a final form.

In the next month, I hope to have a conference at the Justice Department to finalize a master plan for citizen action that will rely heavily on the knowledge and expertise of such professional organizations as the American Bar Association and the International Association of Chiefs of Police. At the same time, we will discuss whatever funding arrangements may be available from private and governmental sources.

I am optimistic that this program can prove very successful if it is carefully planned and responsibly led.

Mr. Chairman, I should like to leave the Committee with one final observation which has become increasingly apparent to me. Crime is a deep rooted and ugly aspect of our society and its substantial decrease will take a long period of hard work.

Private citizens who volunteer to work with juvenile delinquents must be prepared to face rejection. Citizens who choose to work with the prison system must be prepared to face despondency and failure -- symbols of the urban crises.

But I think that if we face the realities of trial and error -- and if we are prepared to spend the money and manpower -- we should be optimistic about our ability to solve the national crime problem.