



Department of Justice

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ADDRESS

BY

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ATTORNEY GENERAL OF THE UNITED STATES

Before the
NATIONAL INSTITUTE OF MUNICIPAL LAW OFFICERS

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1. INTRODUCTION.

It is a great pleasure to appear before the National Institute of Municipal Law Officers' Seminar program on urban violence and environmental problems.

As you know, the war against crime is a top priority of this Administration. If this anticrime effort is to be effective, we must mobilize the full resources of federal, state and local governments in a comprehensive and coordinated program.

Our urban areas stand as the front lines in the war which we are waging against crime. And I believe that you, as municipal law officers, must play a key role in efforts to solve the problems of violence stemming from common street crimes and civil disorders.

Your role is crucial. As City Attorneys and prosecutors, your obligations encompass the whole spectrum of the criminal justice system. You must work with police in their efforts to apprehend suspects. You must work with the courts and the local bar associations in their efforts to assure a fair trial. You must work with

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juvenile judges and family court experts in their efforts to counsel our youth. You must work with the corrections officials and probation officers in their efforts to rehabilitate violators.

The first prerequisite to having an effective criminal justice system at the municipal level is to have laws and ordinances which are responsive to the problems which the community faces. You cannot always depend on the laws of your state because those laws may not fulfill all your local needs.

You have a responsibility, therefore, to study your community ordinances and state laws and to seek requisite changes.

In the next few minutes, I would like to offer you some of my thoughts on the reform of municipal ordinances and state laws dealing with street crime and civil disorders and to show you how we in the federal government have made a major effort toward the updating of our criminal code.

2. CIVIL DISORDERS.

The civil disorders we have witnessed in our country over the past few years are generally divided into two

categories: those which have erupted in the wake of planned demonstrations and those which have broken out more or less spontaneously in our inner cities.

In both cases, law enforcement officers, judicial officials and correctional personnel have frequently found themselves without adequate legal tools to handle a multitude of complex problems.

For example, municipal parade ordinances tend to be written to take care of prospectively peaceful demonstrations, such as American Legion parades, or to handle relatively small demonstrations where there is little chance of massive law violations.

Few such municipal ordinances have been revised in the light of Supreme Court opinions of the last decade. These decisions, in general, have tended to place a heavier burden on the local official attempting to impose reasonable limitations on the right to demonstrate.

Most of our present municipal ordinances do not envisage demonstrators who are trained to force confrontations with police.

What I am trying to point out is that we are in a new era of political activity, an era which has produced

problems that eighteenth and nineteenth century municipal ordinances cannot deal with adequately.

The laws must respond to the needs of a mass society as well as to the needs of the individuals in that society.

We are only beginning to feel the impact of the problems which arise when enormous numbers of demonstrators converge upon our cities.

These numbers in themselves, even when peaceful, impose tremendous burdens on the physical facilities of local government. They tax a community's ability to permit a mass demonstration while attempting at the same time to continue functioning on a day-to-day basis.

I think it must always be borne in mind that city officials have a responsibility to local residents to provide health and safety facilities and to permit every day commerce to continue even in the face of a large demonstration.

In short, in a past age when the nation was young and basically rural in nature, when mass transportation was limited and when theories of confrontation had in general not become an art, municipal ordinances enacted to regulate

demonstrations were satisfactory.

Today, in general, they simply are not.

It is much more difficult to make suggestions on how to reform laws and ordinances relating to spontaneous civil disorders. But there are some obvious areas of consideration.

Most municipal ordinances address themselves to individual acts of violence or to violence involving small groups. But in situations of mass violence, such ordinances tend to be ineffective because the burden of proof is so difficult. Suspects are released because police cannot adequately identify them. Prosecutions are unsuccessful because evidence is lost in the confusion. Large numbers of cases are dropped because of the inability of courts to handle such volume.

Under our system of law such problems may be inevitable, and yet they certainly warrant careful research.

What should be done? What is needed first, I think, is careful study and planning of the common law enforcement problems which arise out of massive disorders.

Surprisingly, we do not know which of our laws are really

effective and which are inadequate. We are not sure how they should be changed in order to protect the community and to adhere to constitutional due process protections.

A few cities have made studies of their criminal justice systems in the context of mass arrest situations. But for the most part, they have failed to translate their studies into any meaningful action.

The National Institute of Law Enforcement and Criminal Justice, which is part of the Law Enforcement Assistance Administration, is now drawing up plans to give research grants to states and municipalities to study the revision of existing laws and ordinances, particularly those which relate to civil disorders.

The Institute's research funding will not be limited to law enforcement. It will also encompass adult and juvenile courts and correctional systems.

I think that the first prerequisite is to have a master contingency plan to deal with the administration of criminal justice in connection with civil disorders. Normally the police, the courts and the correctional systems tend to function independently. But it would be my opinion that, faced with the enormous stress posed by a civil disorder,

these three segments of the criminal justice system should coordinate closely in planning their functions.

This does not mean that the executive, legislative and judicial branches of local government should not retain their traditional independence. It does mean that to prepare for periods of great stress they may have to work together so that the entire system does not falter and finally break down in an emergency.

For example, the city council normally enacts ordinances which the police enforce and the courts act upon. If a city intends to enact special ordinances to deal with disorderly behavior during civil disturbances, certainly the police, the courts and the legislative body should work together in formulating them so that problems of enforcement and interpretation will be settled ahead of time.

If overcrowded detention facilities would result from mass arrests, then prosecutors, police, jail authorities and the city council ought to plan in advance for the requisitioning of additional facilities and vehicles to transport suspects.

There ought to be provision made for the temporary appointment of more prosecutors, defense counsel and court personnel to process the cases as promptly and as fairly as possible. This might also involve the legislative body's power to fund and authorize additional appointments.

A few major civil disorders have graphically shown us how our system has not kept up with the times.

In studying your local system of criminal justice and its ability to respond during emergencies, I hope you will learn a great deal about its overall deficiencies during its normal day-to-day operations.

We are becoming increasingly aware that our criminal justice system is failing on many fronts and that broad-scale improvements are necessary.

In large measure the improvements fall into three categories: more money, more and better trained personnel, and revision of existing laws and ordinances.

We have made a careful study of the situation in Washington, and the Administration has proposed a comprehensive anti street crime program which we hope may serve as a model for other cities with similar problems.

3. WASHINGTON MODEL PROGRAM.

For the purpose of this meeting I would like to outline for you briefly some of the revisions we are suggesting in the District of Columbia Code and in the federal statutes which will affect the administration of justice in Washington.

Our most ambitious program is a thorough reorganization of our court structure. Currently, the median time between indictment and disposition of a criminal case here is about eight months. Misdemeanor and felony authority is divided between our two separate court systems. There is no integration of domestic relations and juvenile courts.

After long and careful study, we decided to unify our local court structure into a single Superior Court. There will be a single criminal court branch and a unified family and juvenile court branch.

We found that the problems of juvenile delinquency frequently relate to marital breakups, and the same counseling services should be available to help those involved in both types of cases.

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We propose, under this integrated plan, greatly to expand the number of judges, prosecutors, and paid defense counsel. I do not believe that the public can have much confidence in a system where prosecutors are so overworked that they cannot intelligently try their cases and where defense counsel for indigents are so overworked that they may not be able to put forth their best efforts on behalf of their clients.

We have already received authorization for an increase in the U. S. Attorney's staff. We now are awaiting passage of our legislation to establish a full-fledged public defender service. It will be capable of offering free lawyers to about 60 percent of the indigent persons who appear in most civil, juvenile and criminal proceedings.

We have asked for increased government payments to private attorneys who represent indigents. And we have asked for an expansion of our local bail agency to permit more effective investigation of the background and personality of an arrested suspect.

In the areas of corrections, we have asked for new physical facilities, greater use of half-way houses and expanded rehabilitation efforts.

We think that prison reform and the reform of juvenile institutions are an absolute necessity. The FBI reports show that 47 percent of persons arrested for serious crimes have been previously imprisoned. The reports also show that juveniles now account for 38 percent of our FBI crime index arrests.

It is quite obvious that new laws and new funds are needed in these two priority areas.

In our proposed revisions of the criminal law, we have also placed great emphasis on aiding law enforcement officers.

The well-trained beat policeman is still our single most effective weapon against street crime. But he can be offered some additional tools to aid him in his job.

We have asked for a new law making it illegal to resist an unlawful or questionable arrest. Hopefully, this law would stop the type of police-citizen confrontation which often leads to serious disorders. The citizen would be required to go along peacefully and argue the legality of the arrest before a magistrate and not before a crowd.

We have supported administrative guidelines authorizing the police to stop and frisk suspicious persons

for dangerous weapons without having to make a formal arrest and appear at a magistrate's hearing. These guidelines would reduce the periods of time the police are required to be away from their regular duties. City councils might be able to adopt similar guidelines without obtaining authorization from state statutes.

We have asked for the legislative authority to permit police to conduct a search of suspected premises without first knocking and announcing their authority. We have found that, frequently --- especially in narcotics cases --- the knock and announcement procedure gives a person time to destroy evidence. Under our provision, the police, in most instances, must obtain a warrant and must demonstrate to the magistrate that evidence is likely to be destroyed.

Perhaps our most controversial proposal is a request to detain those dangerous criminal suspects whose background and behavior make it likely that they will commit another crime if they are released while awaiting trial.

This proposal for pretrial detention guarantees that the defendant will receive a full court hearing, representation by counsel and a prompt appeal. We think

it is much fairer than the old bail system where a high money bail could be arbitrarily imposed on an indigent suspect in order to deny him his freedom.

Several studies have shown that certain types of criminal offenders are more likely to repeat their crimes than others. Among them are armed robbers and narcotics addicts.

I think you can see from our District of Columbia program how vital a role a municipal law officer can play in suggesting revisions of laws affecting the administration of justice. You know the problems of the police, the courts and corrections and you are in a unique position to have an over-view of the entire system.

CONCLUSION

I hope that you will return to your local communities and give serious consideration to the updating of ordinances, regulations and state laws which affect your community's ability to handle the violence associated with civil disturbances and street crime. We in the federal government are anxious to help you. I think you will find our Law Enforcement Assistance Administration funding program of great assistance in helping to underwrite studies necessary for the revision of criminal justice procedures.