



Department of Justice

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ADDRESS

BY

THE HONORABLE WILLIAM B. SAXBE
ATTORNEY GENERAL OF THE UNITED STATES

BEFORE

THE DADE COUNTY BAR ASSOCIATION

12:15 P.M.
THURSDAY, JANUARY 30, 1975
COLUMBUS HOTEL
MIAMI, FLORIDA

In recent weeks, I have been asked how I view my year in the Department of Justice and what I see as some of its main items of unfinished business. With your concurrence, I would like to briefly discuss both matters today.

My major priority -- to leave the Department in somewhat better condition than I found it -- never changed during my tenure. And I believe the Department is more effective today.

The credit for that belongs not to me but to the thousands of career employees whose dedication never flagged even in the worst of times -- and some of the recent worst was without parallel.

When I entered the Department, one former Attorney General was under indictment -- and would later be convicted. Another was under investigation -- and would later plead guilty. And a third had abruptly resigned during the Saturday Night Massacre because of politically-based demands.

The Department continued to function, but it was readily apparent that it had suffered substantial damage.

Morale was impaired in some quarters and a number of career employees were beginning to look for other jobs. Major thrusts of the Department were faltering. Control over the FBI and other agencies of the Department was lagging.

One long-standing difficulty for the Justice Department was that it has appeared to come under some measure of political influence at intervals during the past 20 years. Campaign officials had become Attorney General -- and some of those who held the post later went into the political arena.

I do not suggest that persons are tainted by politics.

But it probably would be better not to appoint anyone as Attorney General who had been ankle-deep in campaigning -- no matter what party or office. The post should serve neither as a reward for political service nor as a launching pad for a political career.

For all of these reasons, I felt when I became Attorney General that it was one of my prime responsibilities to help re-establish the credibility of the Department.

If I contributed, it was in insisting upon an atmosphere free of bias or political taint -- with independence of mind encouraged and the career service supported.

I stressed that matters should be decided on the merits, and that extraneous considerations need not be a factor in the Department's decisions -- no matter who the defendant may be.

I traveled throughout the Nation jawboning for justice -- stressing that the rule of law was not dead but was alive and could be made even stronger. It seemed to me that this was an essential task -- for both the public and the Department's employees, and the lawyers of America -- in view of the grave problems springing from Watergate.

As Attorney General, I spoke my mind on Watergate, and displeased some on both sides of the fence when I called nearly a year ago for relentless pursuit of the truth and stern sentences for the guilty.

I neither meddled in nor interfered with the Office of Special Prosecutor. That may seem like a passive contribution, but as I disclosed recently there were, at times, pressures from aides to President Nixon relating to the Watergate matter which I felt were clearly inappropriate -- and I rejected them. Such a course of action by me deserves no special credit, for that is simply what I was expected to do. In this same vein, when the Special Prosecutor resigned, I appointed his Deputy to succeed him -- because he was the best qualified person and because continuity was so vital to the Office's success.

A number of other things also stand out as I reflect on activities in the Department during the past year.

Several training programs and other efforts to enhance the career service -- including the start of a new Advocacy Institute -- were initiated or accelerated.

New enforcement programs were begun in the areas of securities and cargo thefts. Improvement continued in programs against narcotics and the growing problem of illegal immigrants. Environmental protection efforts were expanded, and an old sore spot removed with the discontinuance of the list of so-called subversive organizations.

As I will recount shortly, I was unable to begin a number of projects or to complete others. There were mistakes. And my efforts did not always meet with unanimous approval -- even within the Department.

For instance, some able officials of the Federal Bureau of Investigation disagreed with my criticism of counterintelligence programs once used to disrupt extremist groups. They were not purged -- or transferred to Butte. I encouraged diverse views and thorough examination of all issues.

In reflecting back on the past year, I believe the Department has returned to the point where it is once again a thoroughly effective and professional operation. It is doing its duties as the law directs -- and doing so free of political bias or taint.

I would like to turn now to some of the issues still facing the Department -- and suggest ways that they might be handled. I make these suggestions without in any sense trying to dabble in matters which are no longer my responsibility. But I feel it may be of some help for the new Attorney General as he collects views and ideas from a great many sources.

Serious crime rose 16 per cent in the first nine months of 1974 -- an awesome increase in the Nation's growing failure to reduce its worst social problem -- and the control of crime must now be the Department's first priority.

States and localities have the basic crime control responsibilities. But the Federal government has a number of important duties -- and one is represented by the billions in anti-crime funds awarded since 1968 by the Law Enforcement Assistance Administration, a Justice Department agency.

There has long been a debate over the effectiveness of the LEAA program. Some feel it has produced little. Others contend that crime would be even worse without its financial and technical aid.

My view is that the Nation's efforts to reduce crime -- including those of the Federal government -- have been a dismal failure. There is no other conclusion that can be reasonably drawn in view of the incredible increase in crime statistics in recent years. And they keep going up despite billions in Federal aid. I take scant comfort from the estimate that crime might have been even worse without LEAA -- since it already is awful beyond description.

Though I have no ultimate answer to propose, one obvious way to begin is to conduct a prompt, relentless, and indepth study to determine how wisely LEAA funds are being spent.

This study should develop not only those positive changes that could be carried out administratively but recommendations for needed legislative improvements as well.

No single approach will produce the needed results in the effort to control crime -- a program of many facets is required -- but I would like to emphasize one ingredient that is vital for success.

You know, I sometimes think that we have lost our will to control crime because otherwise we would have taken meaningful action long ago to cure a problem of grave proportions.

Our society has become strangely reluctant to look tough problems squarely in the face -- and devise tough and effective solutions.

I'm beginning to wonder increasingly whether we have lost our toughness, whether we really still have what it takes to face the hard questions that are causing such agonizing difficulties for us.

For instance, the hard questions on inflation were ignored for years.

So were the hard questions concerning recession.

And the hard ones concerning energy.

And in this business of facing the issues squarely, by the way, I think the legal profession ought to start asking itself some searching questions. Nearly every one of those convicted or shown to be guilty in Watergate was a lawyer -- and it is a fact that the Bar had better not ignore, not if it cares anything for the legal system or the future of this Nation.

Every lawyer is going to have to work harder to fulfill the great trust placed in him. Every Bar group is going to have to work harder to carry out their enormous responsibilities -- and show they are worthy of their great power.

Now, getting back to criminal justice and crime control, it is time to stop mouthing the easy answers -- or saying that the problems are so great that they cannot be resolved.

Tough problems call for tough answers. Society must have standards it adheres to and enforces -- or else there can be no progress or decency for anyone.

We are kidding ourselves -- deceiving ourselves badly -- if we think that criminals are going to be turned into law-abiding citizens by a sort of laying-on of hands, or a lot of good intentions.

Those who break the law must be caught and prosecuted and given an appropriate sentence. I believe there should be effective rehabilitation -- especially for youthful and first offenders. But for those who commit violent crimes -- or repeated crimes -- there is only one answer, and that is to separate them until they are no longer a danger to society.

This concept of humane punishment seems to go against the grain of a great many persons in our Nation today. But what's the alternative? It's what we have today -- a society that by its own inaction and permissiveness in effect gives to thousands of criminals a license to murder, maim, rape, and rob.

The problem of dealing with crime has been with government ever since there has been government -- and every civilization has sought to deal with those who broke the laws.

Some 2,000 years before the birth of Christ, Hammurabi, the king of Babylonia, codified both criminal and civil laws -- and his code was based in large part upon the laws of a still earlier civilization.

Many of those laws contained penalties that today seem harsh and brutal -- but at the same time they show the enormous concern with which crime was viewed by man at the dawn of history. We should learn from history the sad lessons of those who failed to cope with lawlessness.

Crime is a staggering problem. It was a problem in the early cultures. It is a problem in the 20th Century. But it is a problem that we better tackle in more effective ways.

We must find ways to begin policing society again -- and policing ourselves.

The level of prosecution is inadequate in too much of the country, and dangerous felons are often allowed to plea-bargain their way to freedom. In addition, judges must not only begin to impose appropriate sentences -- they must also end the destructive practice of freeing dangerous offenders who are awaiting trial. By every available yardstick, we know that large numbers of dangerous criminals commit new crimes while they are free awaiting trial -- or when they have been given probation or a suspended sentence or otherwise diverted.

You know, we don't do a bad job of catching major criminals. Most of them are caught numerous times in their careers. That's why we know there are career criminals. But the problem is that they all too often are diverted or given such inappropriate sentences that they are able to begin new crimes within a very short time.

Now, I know I'm considered pretty much of a hard-liner in criminal justice when I talk like this. I'm accused of not paying enough attention to the social problems that supposedly breed crime.

Of course, there are a number of problems in our society which may contribute to crime. But these social and economic areas -- as important as they may be -- are beyond the scope of criminal justice.

These problems should be attacked and eliminated because they are maladies in and of themselves that detract from the well-being of society.

If, through their elimination, breeding grounds of crime are sanitized, that should be a welcome and unlooked-for bonus.

What we must concentrate on now, though, is finding more effective ways to cope with those who prey upon our law-abiding citizens and institutions today.

But in doing this, we must make sure that fairness permeates the criminal justice system everywhere in the country. This is particularly true of everything done by the Department of Justice.

But you don't achieve this fairness by making Justice an independent agency or creating a permanent Special Prosecutor, as some have proposed. Either step, I think, would tend to remove the Department from public view -- and public accountability.

Rather, public scrutiny of the entire government -- including the Justice Department -- must be enhanced.

I believe it is essential to develop today new safeguards by both the White House and the Congress that would cover the entire intelligence community of the Federal government -- including the Justice Department, the CIA, and the Defense Department.

At present, we are faced with two factions which have what I feel are extreme views.

On the one hand, many persons feel that there is little or no need for intelligence agencies in a democratic society and that we do not need the material they collect or safeguard.

On the other hand, there are those who feel that virtually any conduct is justified by national security needs -- including breaking laws that we have come to take for granted.

I believe that a middle course must be followed.

We live in a world that is still hostile to us in many ways. There is, believe me, a need to gather intelligence -- and a need to keep our secrets from being stolen.

We cannot permit dissemination of information on military hardware or military tactics or planning without serious repercussions. And the same holds true for secret diplomatic information.

There are, I assure you, persons in this country who are in the pay of foreign governments to infiltrate government agencies and transmit our classified material abroad.

But we cannot give a blank check to the intelligence agencies. We have done that in large part since the end of World War II, and that is one reason for the problems we now face in this area.

The intelligence agencies have grown up without having an ultimate consumer for their product. Sure, information naturally flows to agency or department heads and eventually on up the line.

But in major ways, the intelligence has been developed for the benefit of the intelligence community itself. It has grown into a self-generating system that costs billions and is still largely removed from Presidential or Congressional control.

The most effective way to exercise that control would be by creation of a joint Congressional and Executive Branch oversight program. The Congressional part of this effort would be a committee representing both the Senate and the House. The President would then appoint a number of ex-officio members from the Executive Branch -- or from outside the government.

This super-committee would conduct a constant monitoring of all intelligence work -- including a review of plans and operations to make certain they were both legal and productive.

The intelligence agencies should not compete with each other -- or duplicate the work of each other. There should be no busy work. What we need are efficiency, legality, and much economy. A bureaucracy that has little direction will always find something to do -- and frequently it is mischief.

By exerting proper control over the intelligence functions, two substantial goals could be attained. We could renew the confidence of the people in their government and show that it is not oppressive. And we could save billions of the public's tax dollars.

As far as the Department of Justice alone is concerned, I believe that its intelligence functions are now properly limited and controlled. But I believe firm and effective oversight will be of great help -- and not the least of those served will be future Attorneys General.

The Justice Department has responsibilities to enforce the law -- and it also has responsibilities to safeguard the rights and freedom of all Americans.

For those reasons, I believe that Congressional oversight of Justice should be particularly intense.

This can best be accomplished by formation of a permanent watchdog committee in Congress to provide the eternal vigilance necessary to truly guard against abuse.

Today, only the Senate Judiciary Committee has any such direct oversight responsibility -- and then only over the FBI. That is not enough. The entire Department should be

reviewed on a regular basis, by a bi-partisan committee composed of members of both houses.

At the same time, the Department should be required to report to Congress, perhaps twice a year, about any directives, suggestions, or inquiries it receives from the White House or Congress relating to pending or possible cases or investigations. Sunshine, I believe, can be a powerful preventive medicine as well as a great disinfectant.

Congress also should forbid all presidential appointees in the Department of Justice from taking part in any political activities.

These proposals do not reflect on any individuals. Rather, they represent an effort to strengthen existing institutions. These new safeguards would demand integrity from the timid and the intimidators, would build the morale of the dedicated civil servants -- they are legion -- and soften the skepticism with which the public views government.

The next Attorney General will also have to come to grips with the long-standing problem of how the Department is managed, and how to exercise his authority rather than permit agencies to go off on their own courses.

In a number of areas, the Department must develop a sense of greater urgency.

Compelling needs are all around us -- narcotics, organized crime, public corruption, a flood of illegal immigrants, racial conflicts still unresolved, justice still not extended to all, the spreading stain of crime.

In some cases, like immigration and antitrust, more manpower and more funding are needed. In other instances, federal aid programs, for example, it is simply a matter of developing more effective plans that can be carried out with existing resources.

Every major responsibility of the Department touches millions of Americans. If it succeeds in its tasks, the quality of life for every American is enhanced. If it fails, personal suffering or impairment of our system is the certain result.

Adequate performance does not depend on luck. It depends in part on the dedication of the Department's officials -- and in part on the level of outside interest. The Congress, the public, and the press should be zealous in their scrutiny of the Department.

Not long ago, the interest of all three lagged, and the country escaped a disaster by the skin of its teeth. Other potential catastrophes may be on the horizon, and we shouldn't have to be hit over the head more than once before becoming permanently prudent.

Thank you.