



Department of Justice

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ADDRESS

BY

THE HONORABLE EDWARD H. LEVI
ATTORNEY GENERAL OF THE UNITED STATES

BEFORE

THE 82ND ANNUAL CONVENTION
SECOND GENERAL SESSION

OF

THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

10:00 A.M. M.D.T.
TUESDAY, SEPTEMBER 16, 1975
DENVER CONVENTION CENTER
DENVER, COLORADO

The last time I spoke with some of the members of this group, the meeting centered on the problem of drugs. I gave a speech about gun control.

Today you meet to discuss the problem of crime in general. Perhaps, to be consistent, I should give a discourse on the deregulation of American industry. I hope you will forgive me, though, for breaking this pattern. I do want to discuss with you the problem of crime in our society.

Crime is our common concern. It is an important national problem. A high level of crime has an unsettling effect upon the important values and institutions upon which our society depends. Crime taints human contact with fear. It limits our mobility. It makes us doubt ourselves and doubt our ability to preserve the civility upon which our civilization depends. Crime devastates its victims. It hurts us all even when it does not touch us directly. Sadly, crime is dramatically on the rise.

The Federal Bureau of Investigation's statistics show that the rate of serious crime -- murder, forcible rape, robbery, aggravated assault, burglary, larceny, and auto theft -- was 17 per cent higher in 1974 than in 1973. Figures for the first quarter of 1975 indicate that the serious crime rate was up 18 per cent over the same period last year. Looked at over a longer period of time, the increase in criminal activity appears even

more grave. In 1946 the robbery rate was 59.4 per 100,000 people in this country. By 1959 the rate had actually dropped to 51.2. But the downward trend was short-lived and by 1968 the rate had soared to 131. Figures on the number of crimes reported minimize the problem. A study of unreported crime sponsored by the Law Enforcement Assistance Administration showed that the level of crime was in some cities three to five times higher than the reported rate.

It has been argued that a good deal of the rise in crime during the past decade and a half is attributable to the sharp increase in the number of young people of the age group most prone to commit crime. The FBI's crime statistics for 1974 indicated that 75.2 per cent of all persons arrested for serious crimes were under the age of 25. Hopeful as that may be in view of the coming of the post-war baby-boom children into maturity and in view of recent trends in the birth rate, it is little solace to those who suffer crime and the fear of it today as a part of their daily lives. Nor does it take into account the damage high levels of crime may do to the social and moral fabric which is itself the strongest preventative to crime we know.

Crime is, indeed, an urgent national problem. Recently the President sent to Congress a message on crime and a series of legislative measures designed to help deal with the problem. Some of the President's proposals have been controversial. Critics of the handgun recommendation sent to Congress by the President divided roughly equally between those who think it is unduly strong

and those who claim it is too weak to be of any use. Some critics even seem to be making both arguments. The disagreement on this matter should surprise no one, since gun control is an issue which evokes deeply-held feelings on all sides. But there is no dispute that handgun violence has reached unacceptable levels.

More than half the murders in this country, according to some estimates, are committed with handguns. In the decade ending in 1973 a total of 613 policemen died of handgun wounds. A large part of the problem results from the easy availability of cheap, highly-concealable handguns which are commonly known as "Saturday Night Specials." According to some studies these weapons have been used in more than two-thirds of urban gun crimes.

The handgun control proposal would ban the manufacture, assembly, importation and sale of Saturday Night Specials. It would also strike at the criminal use of handguns by attacking the illicit market in handguns. To do so, it would ban multiple sales of handguns since that kind of transaction is often the way weapons get into the illegal market. It would strengthen restrictions in current law concerning the steps handgun dealers must take to make sure they are selling to persons who can legally possess a handgun. And it would double the investigative effort of the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms, which is responsible for enforcing the Federal gun laws. The emphasis would be placed on the Nation's ten largest cities. These measures do not

deprive Americans of the ability to purchase firearms. Whatever slight inconvenience they may cause to persons who seek legitimately to obtain handguns, it is a low price to pay for the promise of reducing the illegal use of handguns and reducing the level of urban violence.

The desirability and efficacy of the President's mandatory minimum sentencing proposal has also been questioned. That proposal would require a prison term for persons convicted of Federal offenses in which they used a dangerous weapon, for persons convicted of extraordinarily heinous crimes such as aircraft hijacking, and for persons who are repeatedly convicted of offenses involving the risk of personal injury to others.

The need for mandatory minimum sentences is based upon the concept of deterrence. If the criminal law is to deter potential criminal offenders from committing crime, there must be some assurance that a meaningful punishment will follow a conviction. The length of the prison sentence need not be great, although undoubtedly in some cases it should be. What is important is that the imposition of prison sentences be quick and certain. This is not true today.

A study in Pittsburgh in 1966 indicated that nearly half of all persons convicted of a second offense of aggravated assault and more than one-fourth of all second offenders convicted of robbery were not sent to prison but were rather placed on probation.

Research in Wisconsin showed that 63 per cent of all second time felony offenders and 41 per cent of all persons with two or more felony convictions received no prison term upon the last conviction. James Q. Wilson of Harvard concluded that this evidence "suggests that the judges did not believe jail had a deterrent effect. . . ." But at least one reason the judges may not have perceived the deterrent effect of imprisonment is that they have not, as a group, imposed prison sentences with a great enough frequency. Deterrence will not work when the chance of effective punishment is minimal. That is where we are today.

There are a number of other reasons why punishment for crime is not today quick and certain. The criminal justice system is overburdened. Prosecutors and judges often must resort to devices to minimize the caseload, devices which result in many cases dropped or bargained away without the appropriate imposition of incarceration. There is also a misguided sense that punishment of convicted criminals is somehow unfair to certain disadvantaged groups within society. This idea is misguided because it is precisely those groups which suffer the most from crime. Unwillingness to punish offenders is most unfair to the urban poor who are victimized the most by criminal predators.

The mandatory minimum sentence proposal seeks to reduce the number of incidents in which a convicted, violent criminal goes free without spending a day in prison. It reduces the discretion of judges to put a mistaken notion of fairness into practice. But at the same time it includes provisions that insure its own fairness by allowing

a judge to find, in certain narrow categories of circumstances, that a defendant need not go to prison even though he has been convicted of a crime normally carrying a mandatory minimum sentence. The trial judge would have to make this finding in writing, and under proposals now before Congress his sentencing decision would be reviewable by appellate courts.

Of course it is always possible for judges and prosecutors to reduce the effectiveness of mandatory minimum sentences by bargaining away or failing to convict upon charges that carry a mandatory minimum. But when they begin to understand the importance of the certainty of imprisonment to the deterrent force of the criminal law there is every reason to believe they will act in good faith to make the proposal suggested by the President work. To be sure, this will require them to accommodate to the process of change and to take into account the large problems of the criminal justice system as they perform their functions in the single cases which come before them. Unless they do so there is little promise that the bleak record of the criminal justice system will be improved, no matter what other more simple and less important changes are made.

The President's proposals also included a plan for the compensation of victims of violent Federal crime, an emphasis on new systems to help prosecutors make the most efficient use of their resources by singling out repeat offenders for speedy prosecution,

and a call for efforts to upgrade the quality of the Nation's prisons. It is often said that concern about street crime is a way of avoiding the issue of crimes committed by the wealthier people within society. I do not believe this is the case. The Federal government has traditionally played an important role in the effort to combat what is now known as white collar crime. The Antitrust and Tax Divisions of the Department of Justice were created in part to deal with corporate and other financial crimes. Federal prosecutors have been instrumental in the attack on organized crime and official corruption in many areas of the country. The President's message did not overlook white collar crime. In it, the President proposed revision of the Federal criminal statutes to make them more effective in dealing with this problem. He also ordered a special emphasis on programs within the Department of Justice and elsewhere in the Federal government directed specifically at white collar crime. The Department of Justice's present program gives high priority to the continuing attack on organized crime and official corruption.

The President did recognize, however, that the crime that people fear the most today is violent street crime. He also recognized it is usually not a matter that the Federal law can deal with directly. The Federal government can provide financial

and technical assistance to state and local law enforcement officials, and the President's message included a proposal for a \$6.8 billion reauthorization of the Law Enforcement Assistance Administration through 1981. But the work of dealing with street crime must be done at the state and local levels.

A primary reason for this Federal principle is a recognition that crime is a community problem best met at a community level. This is not a new idea. In 11th Century England communities were fined if one of their members committed a serious breach of the peace unless the community delivered the criminal to justice. In the next century the first elements of an organized police developed, but communities were still put on penalty of fine unless they took various steps to prevent crime and capture persons who broke the law. This system of law enforcement by vigilantes had grave weaknesses, of course, and it was eventually replaced. The possibility of people seizing a scapegoat or doing more violence in the enforcement of the law than the criminal did in breaking it finally led to its reform. Of course, I am not suggesting that we return to the vigilante system. But there was a certain wisdom in the ancient system as well, a wisdom we have begun to lose in our complicated modern society.

The criminal law cannot be enforced entirely by the government. Obedience to it must be a part of the basic values of the citizenry. Social institutions and the people whom they comprise must take an active part both in buttressing the basic belief in obedience to the

law and in facilitating the enforcement of criminal sanctions against those who do not obey. I recognize that our society values highly its diversity. Various events in this century have shown a fear that the call to obedience in law is the signal for repression. But the obedience which comes from a justified sense of trust is not repressive. And a high level of crime itself can enforce a kind of conformity that is intolerable in our society. It is amazing the extent to which many communities and social leaders have come to accept the high rate of crime. It is also dangerous.

At the same time indifference to the larger aspects of the crime problem seems to be growing, willingness to cooperate with law enforcement officials seems to be declining. There are many reasons for people hesitating to help law enforcement officials. They may be unsure the criminal process will result in any kind of punishment for the convicted criminal -- and this is one of the most insidious effects of the increasing crime rate. They may be afraid of retaliation in the knowledge that police, faced with severely strained resources, cannot guarantee their safety. But there are other reasons as well. They may have lost faith in the fairness and decency of their laws and the process by which they are enforced.

This has led to a difficult period for some law enforcement agencies. The Federal Bureau of Investigation has been faced recently with criticism, often unjustified, for its past actions. There have been abuses of power by law enforcement agencies in the past. As in every human endeavor there will always be abuses and

errors of judgment. But the excess zeal of the past could be replaced by a dangerous excess of hesitancy in the future. The retrospective view of past abuses is in many ways unfair. It is forgetful of the historical circumstances and the different standards of behavior held by society in the past. It is one sided and fails to give credit to the heroism and dedication displayed over the years. Looking back and taking stock is often an important endeavor, but its point is not to be destructive. The problem is one of internal discipline, and this is a problem law enforcement agencies share with every professional group in society.

I am proud of the Federal Bureau of Investigation and its Director. Its agents have functioned efficiently and effectively during this difficult period. Director Clarence Kelley has been candid and outspoken. He has supported the institution he leads and has directed changes in it which aim at making it a more fair and effective law enforcement agency. During this period of torment, the FBI has continued to operate with a sense of professionalism and decency. Its reputation is strong enough and its personnel dedicated enough to stand up to the current pressures. It is a trying time, but it is also one of great opportunity.

A generation of young people is coming of age during this period of questioning. While it is often said that these young people will grow into an unhealthy skepticism about law enforcement agencies, in fact the events they witness during these critical years

may have the opposite effect. This time of rethinking presents an enormous opportunity for law enforcement agencies.

The law depends upon the willing acceptance of the people. Law whose rules depend solely for their enforcement upon the force of arms does not deserve the name of law. It is nothing more than coercion. There is a coercive element in all legal systems, but in our system of laws obedience is largely a matter of willing compliance. Before they will voluntarily accept it, people must believe in the fairness and honesty of the law -- in the process by which it is enacted and in the process by which it is enforced.

If the faith upon which law ultimately depends has been eroded, then we must take steps to restore it. As police officials, you are in the best position to do this important work. The police, more than anyone else in the system of justice, touch the lives of people. Police agencies are closest to the problems of the communities you serve and are the most visible representative of the law. You can make the ideals of the law manifest to people. Your conduct -- your concern for people and your basic decency -- can do a great deal to reinforce a public sense of trust in the way the legal system operates. And we must do our best to give you the fullest support and to make the other parts of the criminal justice system work effectively.

The problem of crime in every respect concerns us all. Not only does crime make a wound in all our lives, but also the control of crime depends upon our concerted effort as a people. In that sense it calls upon our most basic cultural strengths. Police

perform a most important role in the effort, not only in their efficiency in detecting crime and apprehending criminals but also in showing us the deeper strength of our law which lies in its fairness. This is an enormous responsibility. It requires more of police than is required of most other social institutions. You must exemplify the best qualities of society in order that your work in protecting society might succeed. For this is the real solution to the problem of crime. In a very real sense the quality of our society depends upon your success. This will not be easy. It will be enormously difficult. But with the support you should have and with your dedication and ability, I am sure you will succeed.