



Department of Justice

ATTORNEY GENERAL'S FAREWELL REMARKS

TO DEPARTMENT OF JUSTICE EMPLOYEES

Wednesday, January 14, 1981

I have had the opportunity over the past few weeks to reflect about my four years in the Department -- as Assistant Attorney General, Deputy Attorney General and as Attorney General. One paradox of this city is the perpetuity of problems and yet at the same time how quickly the political climate and thus public attention can change.

Election day this year resulted not only in changes to be made this January but, in the course of a single day, it seemed as if the entire focus of public attention shifted. The entire attention of the country was instantaneously directed forward toward the new Administration and who and what it would be. It was natural that this change should occur. Ours is a forward-looking country which, despite problems or setbacks, retains a deep optimism about the future. This too is as it should be.

But, as this Administration ends and the new one takes office, we should all take a moment to look back, to see what we were able to do and what is still left to be done. And how the recent past may help the future.

As I look back, I have been able to identify one principle, one unifying goal which I think stands out as the Department's major accomplishment. Together, we have made the Department and federal law enforcement stronger but fairer, more precise but more equal, and more effective but more open and understandable.

We have articulated to the public how we as federal law enforcement officers go about our work, and we have established standards, rules and guidelines to properly but carefully exercise the enormous authority and discretion given us by the Constitution and laws of this country.

I know that some question the value of these standards and guidelines. Some may argue that law enforcement agencies, like many businesses in this country, are over-regulated and that some kind of decontrol is needed. But, in the final analysis, the Department of Justice, like any law enforcement organization, must provide the public with information about its activities and provide assurances that there are fair and uniform standards which govern our conduct. Nothing undermines public trust in our institutions more than disparate treatment, inconsistent activities or even the appearance of inequality.

During this Administration we have taken actions to insure that people committing similar conduct are similarly treated and governed by the same rules. In fact, never before has so much definitive information been available to the public about what we do, why we do it, and how we go about it.

In all aspects of the law enforcement process, from investigation to sentencing to confinement, we have established policies and procedures to clarify and regulate our system.

In investigations, for example, there has never been a

clear statement to the public explaining how the Department decides to begin or decline a criminal case. Some may think it is a completely haphazard system, others may know a little more, but the point is that no articulation of our standards existed. To remedy this lack of information, on July 22nd of this past year, we published the Principles of Federal Prosecution. It promotes the reasoned exercise of prosecutorial authority and contributes to the fair administration of the criminal laws. By publicly articulating our prosecution standards for the first time in history, we have made them subject to public scrutiny and critical debate, the better to assure soundness and uniform applicability. In short, we have made law enforcement more rational.

In addition to these general principles, we have published similar rules in specific areas of our enforcement responsibilities, such as our recent release of detailed national priorities for investigating and prosecuting white collar crime. In these priorities, we have demonstrated conclusively our commitment to the prosecution of crimes that threaten the integrity to our public and private institutions-- crimes ranging from public corruption to consumer fraud. Again, one may debate some of our priorities, but for the first time they are on the public record.

In the civil rights area too, we have adopted such guidelines. One very controversial and explosive area which confronted this Administration soon after taking office was the investigation of alleged police misconduct. Without any uniform policy, the Department had no consistent way to analyze incidents to determine

which to investigate and which to leave to state and local officials. During the past year and a half, two measures were implemented to remedy this problem. First, the Civil Rights Division promulgated written procedures for determining when a federal investigation in a new incident would be initiated, how it would proceed, and how it would relate to simultaneous state or local proceedings. Second, we totally revised the so-called dual prosecution guidelines to make clearer when the Department would open its own investigation into an event a state or locality had already prosecuted. Both of these initiatives provided the public, for the first time, with detailed information about how the Civil Rights Division made its decisions. This increased information will both prevent unfair expectations from being raised and, at the same time, will make the Department more accountable in those civil rights cases which we do decide to bring.

A third project initiated in the civil rights area was the Department's support and funding for a study of the police use of excessive force. Here, too, accountability and consistency are the guiding policies because it is our hope that the studies which result will form the basis for national guidelines for the use of deadly force by police. If we are successful in this effort, no longer will a person be subject to different rules in different states or even in different jurisdictions in the same state. This commitment to equal treatment under the law is a keystone to our work.

We have applied this same approach of public accountability to investigative techniques. Just weeks ago, the guidelines on FBI use of informants and confidential sources were announced. And, prior to that, we published the guidelines on criminal investigations of individual organizations, including domestic security investigations. Just last week guidelines on undercover operations were issued. All of these documents constitute a resounding statement that we welcome the public's gaze over our shoulder as we investigate crime.

I should stress that we have not limited our concern with public accountability to the criminal side of the Department's activities. Before I became Attorney General, the Supreme Court conferred upon the government broad power to enforce secrecy agreements between government employees and their agencies in the case of Snepp v. United States. On December 9, 1980, I issued guidelines that will assure that this important tool to protect the security of the country will be reasonably used. As in other instances, those guidelines will be public and binding unless changed or withdrawn by someone else, an act that would itself require some public action that all could see and debate.

Nowhere is this need for public trust and accountability greater than in our trial system. Over the past few years, there has been a great concern that the public nature of trials was being threatened. In my view, public trials provide a fundamental guarantee of a fair justice system. As Attorney General, I was determined that the Department would not contribute to any trend toward closed courtrooms, and so, last October 14, I issued policy

rules requiring that our attorneys normally oppose any motion to close judicial proceedings. The guidelines require high-level approval even in those rare cases where disclosure is justified before Department attorneys may move for or consent to the closure of a proceeding. To my mind, those guidelines are a clear illustration of what a true Department of Justice should stand for, contributing in a positive way to a fundamental public interest.

Public accountability for the administration of justice, however, is not promoted solely through rules for the Department's behavior. In order to obtain real trust and confidence, the law enforcement agencies must reflect the society they serve. Over the last four years, we have made outstanding progress in making the Department more representative of the population of this country as a whole. If we are to be sensitive in performing our assigned tasks to the perceptions, hopes and wishes of the diverse groups that make up this country, it is critical that we have among us representatives of those groups. The credibility of federal law enforcement within the many communities that make up the United States depends in large part on the existence of such a representative work force, and contributes to the accountability of our work. In the past four years, the number of minority and female criminal investigators in the Department has almost doubled. Of all new Assistant United States Attorneys hired in the past three years, forty percent have been minority or female. Of the

141 attorneys hired for 1981 through the Honors Program, more than half are women and thirty percent are minority. The Department's performance can only improve in the future through implementation of the affirmative action plans adopted by every component at my direction.

The accountability brought about by fair representation is not limited to the Executive Branch either. It stands to reason that our court system will be better able to receive the public's trust if that system is composed of representatives from all the groups which make up our society. One of the outstanding contributions of this Administration has been in its insistence on this kind of fair representation in judicial nominations. President Carter has appointed or elevated 38 blacks to the federal bench, twice as many as were serving when he took office. He has increased the representation of women eight-fold, to the present 43. This Administration has appointed 16 Hispanic federal judges, three times as many as were serving in January, 1977.

Enhancing the public accountability of government also has been a theme we have been pursuing in much of our litigation. Many of the civil rights initiatives that Drew Days and the Civil Rights Division have implemented, for example, are based on this plain but essential principle.

Our voting rights efforts seek to insure that no segment of a community is excluded from the political process or has its true voting strength diluted through discriminatory devices or schemes. Because of these efforts, Dallas, Houston and other

cities in this country now have minorities on their councils and legislatures where there were none before. No society can be free and no justice ministry can claim its name if its citizens are effectively disenfranchised.

We have taken special measures in the area of police use of deadly force because as infrequently as police abuse occurs, any single incident can completely disrupt public trust and confidence in law enforcement. We have established special civil rights units in 38 United States Attorneys' offices. These units not only provide a pool of experienced investigators and prosecutors for civil rights cases, they also provide a place in the community where individuals can come to make complaints, find out information and know that the federal government is trying to be responsive to their needs.

Our drive toward public understanding of law enforcement has been supported by many others in the Department as well. The Office for Improvements in the Administration of Justice, under the able leadership of Dan Meador and Maury Rosenberg, has continued to work diligently to rationalize the Federal Criminal Code, to provide speedy justice in our courts and to find ways for our citizens to redress their grievances in new, less cumbersome ways. The aggressive work of the Lands Division in protecting the environment under Jim Moorman's leadership is an important legacy to future generations. The Civil and Tax Divisions have done an extraordinarily professional job in asserting important principles before the courts. And the Federal Prison Standards are a blueprint for prison reform over the next decade. But my goal today

has not been to catalog the many achievements of each component of the Department. There have been so many that this would be an impossible task. The record of the work that has been done will stand on its own merits. Today I simply have wanted to offer you my thoughts on what strikes me as the theme which best describes our work together over the past four years.

An additional thought I have had while reflecting during the past few weeks has been how very fortunate I was to be able to serve in the Department of Justice. It is clear to me that, whatever achievements have been made in the Department since I became Attorney General, have been the natural product of the collection of talent, dedication, wisdom and professionalism of the people here. I suspect that if one tried to catalog the successful and unsuccessful leaders of this Department over the decades, the ranks of the successful would include those Attorneys General who came here willing to believe in the intelligence, good faith and ability of the people he found here and brought here. The ranks of the unsuccessful, on the other hand, would probably contain a large number of those who arrived or quickly became suspicious and unwilling to acknowledge the worth of the people who make up the Department and their past accomplishments and tried to operate with an imported elite few.

Perhaps because of this high professionalism, there is an unusual community spirit among those people of both political parties who have held high office here. This is a source of strength

to new Attorneys General, and a source of comfort to outgoing ones. It makes me optimistic about the future of this place -- as optimistic as I am proud of the recent past that I, among others, helped to shape.

For me being Attorney General has been demanding, exciting, rewarding and fun.

Of course, I could not and do not claim that my stewardship of this Department, any more than that of any other Attorney General, has been faultless. But it has been a time of progress, of quiet building, whatever storm may have temporarily roiled the surface of the waters. That building could not have occurred without the intelligence, dedication and loyalty both of the Administration appointees who have served with me and those of you who were here before we arrived and will remain after we leave. And so I owe sincere thanks to the Deputy and Associate Attorneys General; to all the Assistant Attorneys General; to the Heads of the Bureaus and Offices; to my personal staff; and, most of all, to all of you. We owe a special debt of gratitude to President Carter who has supported the Department of Justice so well and insisted on its strength and independence.

I thank the press, print and media, for their objectivity and constant alert to our work. It has helped us to do a better job far more than it has ever hindered us. I personally thank all the members of the press, with one or two notable exceptions, for their accuracy and fairness to me.

In the end, every Attorney General stands or falls largely on the basis of his judgments and vision and what all of you do with him or against him. I want to thank all of you for standing and working with me responsibly and enthusiastically. I want to thank you for bringing us to the point where the American public knows more about what we do than ever before in history.

As I ready to pass the leadership to the new Attorney General, I wish you continued strength and success in your noble enterprise, the pursuit of justice under law.