



Department of Justice

"KIDS AND CRIME"

REMARKS

BY

DICK THORNBURGH
ATTORNEY GENERAL OF THE UNITED STATES

AT THE

ANNUAL MEETING OF THE NEW MEXICO COUNCIL
ON CRIME AND DELINQUENCY

ALBUQUERQUE, NEW MEXICO
WEDNESDAY, MAY 2, 1990

Central to the American Dream as we enter this new decade -- men, women, and children -- is the question of values. Those of us in law enforcement, for example, are quick to point out that our fight to win the war on drugs, to control crime and violence cannot be won only in the courtroom. We must ultimately conquer in the classroom, in the work place, in community organizations -- and, yes, in the family. Why there? Because those are the primary forums within which our values are actually nurtured and transmitted. And to whom? To the next generation, to our children upon whose sense of values the quality of life for their own generation will depend, for better, or for worse.

So that as I speak to you today about "Kids and Crime," I am really talking about our capacity to transmit the good and dispel the bad in our current value structure. Only a rising tide of positive values can reduce children's vulnerability -- and their propensity -- to crime.

A daunting challenge, as those of us know who have lived through the parenting process, which brought our own children to maturity. But worth every effort, as I am vividly reminded whenever I ponder the strong sense of values which my children are passing along to our three (soon to be four) grandchildren.

First, let's look at the dimensions of the problem. Unhappily, for too many of America's children today, there is none of that "delight and liberty," which William Wordsworth

called "the simple creed of childhood." Instead, that creed is often a blood oath, sworn to gang loyalty and gang violence in the crack alleys of Los Angeles; or in Detroit, where kids are organizing what criminologist Carl Taylor calls CEOs -- "Covert Entrepreneurial Organizations" for wholesale drug-dealing; or in New York, where the juvenile crime rate is rising sharply -- inside the second, third, and fourth grade classrooms. Assaults on teachers are up 35 per cent -- robbery, almost double -- and the over-all elementary school crime rate, up 25 percent.

Those are children as criminals. But what about children as victims? If some kids become a threat, far more live under threat. And to our horror, that threat often comes from within the home itself. The infanticide of a six-year-old daughter -- at the hands of drug-addicted parents -- we could wish away as aberrant, but must recognize as one more extreme in the evil currency of child abuse.

Hard upon such abuse comes the abandonment of children, and the abduction of children. We keep sad lists today of missing or parentally disregarded children. For 1988, according to estimates by our Office of Juvenile Justice and Delinquency Prevention, there are over half a million children, annually, endangered by their own actions, or fallen prey to others.

To close out this cycle of despair, there is the addiction of children. What can be done for the tiny baby, thrashing at birth to shake off the seizures that are its heritage from its own crack-addicted mother?

Sometimes we almost falter in our hopes for future society in light of such statistics, such prospects. In the past, parental debate has centered around Nature versus Nurture. Does the genetic heritage of a child -- Nature -- settle his or her future? Or does care and parenting -- Nurture -- make all the difference? Most of us would hold with a combination of both, leaning more toward Nurture.

But what of a childhood which is beneficially touched by neither? What of a childhood where Nature and Nurture are like two absent parents? One addicted and perverse, the other brutal and uncaring? What do we do when Nature and Nurture are overridden by nihilism? And it is that prospect of children raised in nihilism -- a loss of childhood that any society must find unacceptable -- that I want to examine with you today.

I

From the beginnings of our democracy, we have paid special heed to the socialization of children. Ultimately, the so-called "child-saving" movement during the Progressive Era achieved two

great social interventions on behalf of our young people: the child labor laws which saved children from exploitation, and the juvenile court which brought children under special and sympathetic jurisdiction.

Ever since, as we have fostered an increasingly child-oriented society, four simple axioms summarized America's response to children.

One, a child is different from an adult. A child is in a dependent status, and must be under guardianship -- by a natural parent or relative, or by an adult provided by the state.

Two, the family plays the chief role in rearing a child. This establishes parents' rights over children and assigns responsibility to the family for raising a child to become a law-abiding citizen.

Three, society has an abiding interest in how a child is reared and in that child's welfare. This clearly points to the state's right to intervene when a child is mistreated or abandoned, or otherwise at risk.

Four, punishment for a crime is to be mitigated when committed by a child. Criminal sanctions against children are stayed by both justice and prudence.

Obviously, all four of these axioms must work together, balancing and supporting each other, if there is to be any successful socialization of children, let alone creation of future citizens. Until recently, that always seemed possible, even in the harshest of circumstances. But if we review these four axioms -- in light of recent juvenile crime, pervaded by today's nihilism -- they seem to have been turned topsy-turvey.

One, how are some of these violent children different from adults? Perhaps by being more violent? On one coast, there is the rapacious outbreak of "wilding" in Central Park, and on the other, the calculated drive-by shoot-outs between Crips and Bloods over territorial rights to sell drugs. How "dependent" is a child with an Uzi? Studies of such matters are problematic, but Dr. Marvin E. Wolfgang's studies show that criminal activity now starts at a far younger age, has grown substantially more violent, and is more likely part of a pattern of repeated crime.

Two, how can the disintegrating family -- often only a single, female parent -- play its proper role in rearing a child? We are all aware of the entrapment of kids having kids -- in a cycle of repeated poverty, brought on by the deepening of America's underclass. You deal with this tragedy daily. But how can such conditions bring forth a law-abiding citizenry?

Three, how can society redeem its abiding interest in the welfare of children? The past record is not good. As long ago as 1962, St. Louis blew up its Prewitt-Igoe housing project to eliminate that failure of bricks and mortar to solve social ills. "When you're raised in a place like this," says boxer Leon Spinks of his childhood there, "all you can think of is how to get out." Other such public housing projects still stand, but too often they serve as redoubts of the inner city drug wars.

Four, for some of these crimes, what mitigation? And I am speaking not just of reckless endangerment of human life by armed juvenile gangs, but the brutal crimes by more fortunate youths -- the hippie murder that destroys a young girl's already tainted life, or the thrill killing where kids execute one of their own buddies, down by the river side. We are dealing with real nihilism here, where youth seems no bar to sociopathic behavior.

I do not want to stretch matters beyond forbearance -- or to appear totally unsanguine. But we are facing grave endangerment of America's children -- those who will soon become America -- and we must do all in our power to come to their rescue. I have more thoughts than answers to offer today, but I am convinced of one thing. Whatever we attempt to do, it will only succeed through that unique combination of strengths we propound as Americans, and wisely try to exercise as loving parents: the strengths of toughness and compassion.

III

To turn to the tough side of the docket first -- we must hold our juvenile justice system to account in this matter of increasing violence by youthful criminals.

The "child savers," as I mentioned, created the juvenile courts, many since become the family courts. These courts nobly pioneered in the rehabilitation of strayed or disturbed youth trapped in intolerable family situations, but they have been exceedingly slow to impart open justice. To a remarkable extent -- on grounds that future lives should not be stamped suspect by youthful mistakes -- they have kept crime a family secret.

That is less and less to be tolerated by American society. A problem adolescence -- even of the most desperate nature -- is no longer seen as mitigation of culpability. Every sympathy exists for children caught in the drug wars -- especially when exploited, for example, as runners because of their juvenile immunity. Congress passed stiff federal penalties in 1988 for drug lords convicted of such ultimate child exploitation.

But the same does not hold true for aggravated violence by under-age criminals. Increasingly, violent youthful offenders are being sent to the adult courts for prosecution to the full extent of the law. Even the death penalty has been exacted by

several juries against murderers below the age of 18 -- and lately upheld by the Supreme Court in Stanford v. Kentucky, a case in which the Court spoke out sternly on how society must decide appropriate punishment for juveniles. Writing for the plurality, Justice Scalia noted that barring the death penalty for those under 18 depends solely on whether American society "has set its face against it." He argued --

in that struggle, socioscientific, ethicoscientific, or even purely scientific evidence is not an available weapon. . .The audience for these arguments, in other words, is not this Court but the citizenry of the United States. It is they, not we, who must be persuaded.

Justice Scalia is here challenging a whole school of liberal thought on juvenile penology. The Court cannot replace a jury's finding as to the magnitude of a juvenile's offense with an abstract, "ethicoscientific" measure of juvenile responsibility for criminal behavior. And its conclusion on the death penalty aside, the Court is speaking here in a vein with which the American people strongly and solidly hold.

Our juvenile justice system must find more effective ways to address the offenses of violent young criminals -- especially when they show themselves incorrigible. Serious offenses by criminals with prior records -- whatever the age of the offender

-- must be treated seriously. We can argue the minimum age for punishing any criminal activity, except recidivism.

As Governor of Pennsylvania, for example, recognizing studies by Dr. Wolfgang that 20% of apprehended juveniles committed 68% of serious juvenile crimes, I proposed a category of "dangerous juvenile offender" -- those juveniles, age 15 or older, who had faced court at least once after their twelfth birthday, and were charged again with a violent crime. Such dangerous offenders were to bear the burden of proof as to why their trials should not be shifted to adult court. Hearings for such offenders were to be open to victims and public. And dangerous juvenile offenders were not to be excused from mandatory sentencing or registration and dissemination of photographs, fingerprints, and criminal histories.

IV

At the same time, we must recognize the untenable social entrapment -- those near conditions of nihilism I've discussed -- in which too many of America's children are reared. The National Commission on Children recently found that one out of every five children in this country grows up below the poverty line. A child born in the 80s has a 30 per cent chance of finishing high school while still living with both parents -- if he or she is white. If black, the chance is six per cent. What chance does

such a child have -- given the weakness of the family structure, and often the pervasiveness of the drug culture, under these unhappy conditions -- to become a law-abiding citizen?

This is a larger matter for the entire society -- far larger than I can encompass today -- but I believe I can speak to one point from the perspective of law enforcement. A law-abiding citizen is somebody who -- somewhere along the line, through family, or school, or church -- was taught respect for the law. At an early age, respect for the law must be inculcated as a leading value of this democratic society. It is one of the necessary lessons of childhood.

I know how naive such an espousal of values can sometimes sound to those of you who daily treat daily our troubled youth. But I also know we possess a wealth of values that we too infrequently turn to our advantage. We overlook them when -- if you will -- a little child could lead us right to them.

But it is adults, not little children, who must in the end determine the way if true leadership is to prevail. And I am speaking of adults as role models -- and the values we represent and convey by sympathetic word and exemplifying deed.

So long as the family is intact, the parent is always the pre-eminent role model. But too often, as noted, the family

exists within a deteriorating social fabric, and has even abdicated its child-rearing responsibilities altogether. Then others must become role models -- teachers, leaders in our houses of worship, and, increasingly, those who command the largest audience of all among today's youth -- those in the public eye whose values are communicated to young people through the omnipresence of television.

I am speaking, inevitably, of sports figures, entertainment stars, and, ultimately, those who chart the course of government and other institutions in our society. And here the record is spotty. Too often responsibility is avoided, or irresponsibility openly flaunted. How often are the values that parents or others seek to convey cynically undermined --

- * By entertainers who make light of -- or even glorify -- the use of drugs, or the illegitimacy of their offspring?
- * By athletes, such as the NFL star who justified his use of cocaine because it was only "in the off season"?
- * By government officials who preach, but do not practice, the simple virtues of honesty and incorruptibility in the conduct of public office?

- * By business and financial leaders whose pursuit of greed and avarice trashes the positive values of the honest market place?

Like it or not, these are the models of misrule who command the headlines and dominate the six o'clock news. They purvey countervalues that can wrongly direct and distort the lives and aspirations of today's children. They are undermining our compassionate guardianship, the combined efforts of Americans seeking to reinforce our traditional values.

It is clear that not just new laws -- nor more regulations, nor further court decisions -- will do the job alone. Only heightened standards of conduct, leading example, and resolute exhortation can forward those founding values which have created this "One Nation, under God, indivisible, with liberty and justice for all." Only then can nihilism reinforced by negative role models be effectively countered, and negated in its turn.

A whole generation, including those yet unborn, awaits our response. They are the ones who must deal both with the threat and the temptation of crime within their lifetimes -- as victims or perpetrators. And it is up to us, within and without the system, to transmit the values which will govern their own response. I hope I have suggested some ways in which we can do so today.