



Department of Justice

ADDRESS

BY

THE HONORABLE GRIFFIN B. BELL
ATTORNEY GENERAL

BEFORE

THE DISTRICT OF COLUMBIA CIRCUIT JUDICIAL
CONFERENCE

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In the four months that I have been Attorney General, a major objective for me has been to begin programs to aid the Federal court system. One of my first acts as Attorney General was to set up the Office for Improvements in the Administration of Justice. It is headed by Assistant Attorney General Daniel Meador, who has taken a two-year leave from the University of Virginia Law School to carry out this priority assignment.

This morning's busy schedule precludes a detailed discussion of every item on the Department of Justice's agenda. But I would like to mention briefly some of the programs we are developing and others under study.

We expect a bill to be introduced in a few days to significantly expand the authority of Federal Magistrates. We feel it will have a major impact on caseloads in the Federal District Courts.

Under the bill, magistrates could preside over any civil case, with or without a jury, if the District Court and the parties consented.

In criminal cases, the authority of magistrates would be broadened to permit them to hear any misdemeanor -- again if the court and the parties consented. However, it is important to note that even if the others gave their consent to the new procedure, the defendant would always have the option of selecting a District Court trial. Magistrates would be permitted to impose fines of any allowable amount in cases they were permitted to handle.

An important provision of the bill would create machinery for improving the quality of magistrates. Expanded use of magistrates would improve access to the courts for everyone -- including those who are less-advantaged.

We also expect that legislation will be introduced soon to limit diversity jurisdiction. The bill would not go as far as some measures now before Congress, but it will be a major step, reducing Federal civil court filings by as much as 10 percent. The bill would prohibit a Federal court filing by a plaintiff in his state of residence, thus returning the case to the state court where it belongs.

Another bill has been prepared to help jurors and witnesses. Among other things, a new schedule of fees will be proposed, along with a guarantee of re-employment and enforcement of the guarantee. It is unthinkable that some

jurors and witnesses must risk their sources of income in order to participate in the judicial process.

A major study focuses on arbitration, both compulsory and voluntary. As we all recognize, there are problems connected with compulsory arbitration. But I believe the problems can be resolved. To cite just one positive example, in Ohio certain kinds of cases are assigned to three attorneys for arbitration. The parties may accept the panel's eventual decision or go back on the docket for a court hearing. The finality rate in this procedure is 95 percent.

We are looking at this system and other possibilities as well. A staff study on a possible arbitration experiment will be concluded shortly.

Class actions are receiving a great deal of scrutiny nowadays. Some Department of Justice research has been done on alternatives for dealing with the grievances of large numbers of persons. A study is also being conducted of possible ways to modify Rule 23 of the Federal Rules of Civil Procedure, which sets up the guidelines for parties to form class actions.

One of the more ambitious projects under consideration would be creation of a Federal Justice Council. The Council would have members from the executive, judicial, and legislative branches. It would provide a forum for discussion of court-related problems, and it would be the catalyst for improving the courts and their related functions.

Our thinking on this matter is still preliminary, but the idea has merit. Comparable proposals have been made before, most notably by Chief Justice Burger.

One proposal being examined holds that the Council would have to be at the very highest level of government in order to have maximum impact. This approach would call for these six members: The Chief Justice and a judge to be selected by the Judicial Conference; the chairpersons of the Senate and House judiciary committees; and the President and the Attorney General.

A great deal more work has to be done on this idea, and I would appreciate your suggestions and comments.

One of the new efforts already underway to aid the judiciary is the President's program of panel selection of judges for the Circuit Courts of Appeals. As you know, President Carter established a Circuit Judge Nominating Commission last February. It is composed of 13 nominating panels in all, including one for the District of Columbia Circuit. The panels will recommend to the President what we are certain will be the best possible candidates for Courts of Appeals.

Five panels have already been announced, and four more will be announced shortly. This is an historic program, offering a wider and better choice of U. S. Circuit judges.

We must likewise move to improve the selection of United States Attorneys. There are 94 U. S. Attorneys across the Nation. If we are really serious about fighting crime nationally, we need to be more serious about selecting U. S. Attorneys.

We are studying other possible programs to help the Federal courts. One experiment would help ease Court of Appeals caseloads by having certain categories of cases assigned to the same three-judge panels. We also are studying the possibility of preparing impact-upon-the-courts statements when legislation is introduced in Congress which would potentially entail new and broader fields of litigation.

Efforts are underway to advance the judicial process at the local level. One of the most promising concepts is the Neighborhood Justice Center. A general design has been completed, and we hope to open three Neighborhood Justice Centers on a pilot basis next fall.

The centers would be alternatives to the courts for settling many kinds of disputes through mediation, conciliation, fact-finding and other approaches. The centers would bring justice much closer to the people at far less cost. There would be, naturally, recourse to the courts for those who preferred it. The centers would be funded by the Federal government but would be under the control and supervision of local courts.

No matter how excellent a program may be in theory, it will certainly fail unless the entire Justice Department adheres rigidly to three great principles.

First, we must be totally ethical and honest. Second, we must be absolutely fair in all of our official duties. Third, we must be as open with the public as is humanly and legally possible.

To these three principles about which I have been talking in my recent addresses about the Department of Justice I should add a fourth: restraint. Perhaps restraint can be considered an element of integrity. In any event, all of us in government must constantly guard against arbitrary abuse of power. There is ever a thin line between vigorous pursuit of duty and abuse of power bestowed by the people. We must constantly restrain any temptation to cross that narrow line.

Under these several standards, I expect all attorneys in the Department of Justice to be above reproach in every aspect of their professional conduct. This means being superbly prepared. It means upholding both the law and decorum. It means proper behavior in court. There can be no exceptions.

One of the best precepts for all of us in the Department is found in a Supreme Court decision of more than 40 years ago. The case was Berger v. U. S., and the court overturned a conviction because of misconduct by a U. S. Attorney.

Mr. Justice Sutherland said for the court that a Federal attorney "is the representative not of an ordinary party to a controversy, but a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case, but that justice shall be done."

In everything we do at the Department, we are trying to help reach that goal of justice being done.