



# Department of Justice

PS  
667  
1K53

---

"AMERICAN JUSTICE---AN UNFINISHED AGENDA"

AN ADDRESS OF

THE HON. RICHARD G. KLEINDIENST

ATTORNEY GENERAL OF THE UNITED STATES

AT THE

ANNUAL MEETING OF THE

NATIONAL CONFERENCE OF STATE LEGISLATIVE LEADERS

MIAMI BEACH, FLORIDA

DECEMBER 8, 1972

When death came to Cecil Rhodes, the British empire-builder in South Africa and founder of the Rhodes Scholarships, his last words were:

"So little done -- so much to do."

We know that Cecil Rhodes was one of the world's great doers, and owed us no apology for his sins of omission. Yet it is this very breed of doers who are most acutely aware of what remains to be done--not only within their own ability but within the destiny of mankind.

It is this combination of humility and vision which must command all of us who are connected with the system of law and justice in America.

Seven years ago the alarming rise of lawlessness in the United States brought about the creation of a National Crime Commission to examine the situation. Two years later, after a thorough investigation, that Commission outlined for us the enormous problems which urgently needed solution.

It told us that "America's system of criminal justice is overcrowded, overworked, undermanned, underfinanced, and very often misunderstood."

And it warned: "To lament the increase of crime and at the same time to starve the agencies of law enforcement and justice is to whistle in the wind."

Since then we have done much to attack this problem. Many of the States began to improve their criminal justice systems. At the Federal level, Congress passed the Omnibus Crime Control and Safe Streets Act of 1968. Among other things it created a Law Enforcement Assistance Administration to help the States in their reform efforts. Since then this Administration has requested and Congress has appropriated over \$2.3 billion for this purpose, including the funds in the current Fiscal Year. Much of this money has been or is being matched by the States, in addition to their own self-sufficient improvement efforts.

Supplementing this Federal-State partnership effort, this Administration secured tougher legislation and greatly intensified its enforcement in such specialized Federal areas as organized crime and narcotics.

The result of all this is that in many localities, policemen are better trained, and are using more effective equipment and methods than ever before.

The result is that in some areas, prosecutors' offices are better staffed and more efficient than ever before.

The result is that in some courts the dockets are better managed and the backlog of cases is shorter than ever before.

The result is that a number of correctional institutions are able, more than ever before, to give individual treatment to inmates and to prepare them for a successful return to the community.

And finally, the result has been to control the crime wave that had been mounting at an ever-faster rate in the 1960's. In the first half of 1972 the increase in crime was the lowest recorded for that time period in 13 years, and was comparable to the increase in population.

This has been a tremendous achievement--one of the great examples of Federal and State cooperation in a joint crusade.

But this is a time to talk, not about what we have done, but--in the humble spirit of Cecil Rhodes--about what we have not done.

It is a time to remind ourselves that, although we believe we have controlled the mounting crime wave, the number of serious crimes reported in the United States in 1971 was approximately double the number reported in 1965 when the Crime Commission was created to examine that mounting wave of lawlessness. If it was alarming then, it surely still is alarming now and must command our urgent attention.

We believe we have stopped the increase in the crime rate, but we now need to turn it sharply downward.

We need to recognize that, despite conspicuous improvements in various areas across the country, most of the problems identified by the Crime Commission are generally with us today.

Would anyone seriously question the applicability today of the Commission's statement: "In many jurisdictions there is a critical need

for additional police personnel"?

Would anyone seriously question the applicability today of the Commission's statement that in a number of large cities, the trial courts are characterized by "cramped and noisy courtrooms, undignified and perfunctory procedures, badly trained personnel overwhelmed by enormous caseloads"?

Would anyone seriously question the applicability today of the Commission's statement: "In the correctional system there is a critical shortage of probation and parole officers, teachers, caseworkers, vocation instructors, and group workers"?

By this I do not mean that we should have or could have achieved instant and complete reform of our criminal justice system in the space of five years. It has been estimated, for example, that it would require at least \$12 billion alone just to modernize our prison buildings in the United States. There is a limit to the speed with which we can expand our reform movement. At the Federal level, multiplying the annual budget for law enforcement assistance by more than tenfold in four years' time has been an enormous administrative challenge.

But let us be frank enough to admit, with Cecil Rhodes, "So little done--so much to do." And let us be humble enough to accept the confession in the Book of Common Prayer:

"We have left undone those things which we ought to have done....."

Let us face up to the fact, as given in the FBI's annual Uniform Crime Report, that less than 21 percent of offenses known in 1971 were cleared by arrest.

Let us face up to the fact that in many areas, policemen still receive little basic training, and their pay simply does not measure up to the responsibilities we give them.

Let us face up to the fact that in ~~the~~ lower courts of some States the prosecutor is not an attorney and the judge is not required to have a law degree.

Let us face up to the fact that, as reported for Federal criminal cases by the Administrative Office for United States Courts, the median time for disposition of a case in a jury trial is 6.3 months and in some districts up to 12 and 15 months; and that in many State Courts a disposition time of two years or more is not uncommon.

Let us face up to the fact that in some of our largest cities the bulk of the criminal cases are not brought to trial because if they were, the court system would collapse under the caseload; rather, defendants are encouraged to plead guilty to a lesser charge--often a misdemeanor instead

of a felony--in order to get them off the docket, and as a result, most of them are sent back onto the streets uncorrected and undeterred in their criminal pursuits.

Let us face up to the fact that in many jails, juveniles are not separated from adults, first offenders are not separated from hardened criminals, and the accused are not separated from the convicted.

Let us face up to the fact that the caseload for the typical parole officer is so heavy that he is able to devote an average of only 15 minutes per month to each of his parolees.

Let us face up to the fact that, depending upon which survey you read, between 60 and 70 percent of offenders released from penitentiaries are rearrested within three to five years.

These facts do not speak of reform accomplished. They speak, at best, of reform begun. They tell us that although we are beginning to curb the worst extremity of crime in the United States, much of our criminal justice system may still be characterized by such words as slow-moving, inefficient, antiquated, and uneven in its justice. It is apprehending only a fraction of the lawbreakers. It is moving only a fraction of these through the legal process that leads to correction. In this process it is moving so slowly that the accused and the accuser alike may ask whether justice is being served. And the offender who finally does reach a program

that is supposed to be correctional is generally not corrected at all. In many if not most cases, his real teachers are his fellow inmates, who enable him to graduate with an advanced degree in crime, ready to start the cycle again.

So long as these conditions remain, we may take little comfort in the present dramatic improvement of crime statistics. The situation is still pregnant with trouble in those numerous localities where few accused criminals are prosecuted, a fraction of convicted criminals are incarcerated, and few criminals who are incarcerated are corrected.

This situation exists because the long-standing shortcomings of the criminal justice system are finally catching up with us. Many judges are refusing to sentence offenders to prison because they know that they will be still more criminalized when they come out. And while these are returned to the streets with no correctional program other than probation, those who do go to prison are more and more the hardened or dangerous type.

Thus in our major cities the public peace is challenged by experienced offenders who have been through the justice mill and are not afraid of it, and our prison systems are being challenged by violent criminals who think they have little to lose by riot, kidnapping, and murder.

If we are willing to look the situation in the face, we who are trying to reform the criminal justice system have a very large and urgent unfinished agenda. That agenda includes, in my opinion, two major parts--State efforts supported by Federal funds, and State and local efforts supported by their own funds. Of the two, the largest by far is the second part--the self-

sufficient and self-starting efforts by States and localities.

When our Federal republic was created nearly 200 years ago, it rested primarily on a unique system of dual Federal and State sovereignty. That system has permitted the American people, almost alone among the major societies of the world, to maintain the close touch with their Government that is the essence of democracy. Nowhere is this localized popular control, in contrast to a centralized bureaucracy, more essential to freedom than in the field of justice.

This truly American concept was recognized and furthered by Congress when it drafted the Omnibus Crime Control and Safe Streets Act of 1968, which insisted that the bulk of Federal assistance may not go directly to any locality, but must go to and through the States, which would have primary responsibility for planning the use of these funds.

This system of separate sovereignty, working in partnership, is as valid today as it ever was. It is supremely worth saving and, if possible, enhancing. And this means that the States should not only continue to match the growing amounts of Federal assistance, but should increase their own independent and self-sufficient programs for criminal justice reform.

I am pleased to note, before this distinguished audience of State legislative leaders, that the Federal and State partnership has been marked with excellent cooperation.

The State legislatures have generally appropriated the funds to match Federal assistance.

They have recognized the need to dovetail Federal and State law in many criminal justice areas. In narcotics control, for example, 35 State legislatures have passed their own version of the proposed uniform State code on this subject.

We are in the habit of working with each other, and we have found that such voluntary cooperation does not hurt our independent sovereignties, but in fact, can strengthen them.

With this in mind, I would like to close with a broad suggested agenda remaining for our mutual but separate action in the field of criminal justice.

First, we need to build strongly on the beginning already well made in better training and education for peace officers.

Second, along with this increased professionalization of peace officers, we need to improve their compensation to attract more people who will commit themselves to a lifetime profession.

Third, we need to move strongly ahead in providing equal hiring and promotion opportunities for minority members in our police departments and our corrections institutions.

Fourth, we need to improve the training, the compensation, and the professionalization of public prosecutors.

Fifth, we need to complete the task, already so well advanced, of providing legal aid and public defenders for all Americans who may need them.

Sixth, we need to extend the use of modern management techniques, including data processing, in the administration of courts and court calendars.

Seventh, we need to provide the means for relieving the criminal courts of those cases--such as drunk arrests--which can be handled as well or better by administrative agencies.

Eighth, we need to promote the work, already under way by bar associations and judicial councils, of modifying court procedures to minimize deliberate attempts to delay or frustrate justice.

Ninth, we need to further the effort, already begun by some States and the Federal Government, to overhaul and simplify their criminal codes.

Tenth, we need to promote, without impinging on judicial independence, more appropriate and consistent sentencing for persons convicted of the same types of offense.

Eleventh, we need to establish many more separate facilities at the State and local level for the special treatment of narcotics addicts, and of juveniles.

Twelfth, we need to increase the trained manpower and womanpower in the field of probation and parole, and we need to create more large-scale programs to involve private citizen groups in the process of restoring ex-offenders to useful lives in the community.

Thirteenth, we need to re-orient our correctional institutions away from the prison-fortress concept and toward the task of salvaging human lives for meaningful citizenship.

This agenda is the rather brief and generalized offering of one public servant involved in the criminal justice process in the United States. Amplification of each item would require a speech in itself. Other officials could undoubtedly add further items to a proper agenda.

Certainly such an agenda comes with a high price tag. But we have long known that if we can interdict the vicious cycle of crime, non-correction, and more crime, we can bring about long-term savings, not only in the monetary cost of crime and of fighting crime, but also in more important savings--the salvaging of human lives.

For my part, I want you to understand that I feel a very heavy responsibility to provide leadership for further improvement in every one of these areas. I can assure you that the Department of Justice will be devoting intensive efforts in the months immediately ahead to accomplish this. I place the greatest priority on developing concrete programs to improve enforcement, courts and corrections, and on achieving faster progress in the future than we have in the past.

At the same time, I am aware that the bulk of the action must take place at the State level. My purpose in sharing these concerns with you today is not to order other people's priorities, but respectfully to

urge consideration and action on a huge and pressing nationwide problem. My purpose is also to try and define the magnitude of the task before us. For to grasp the magnitude is to realize, at the same time, a terrible sense of immediacy. The job is so big, and in the time-scale of history we began working on it only yesterday. The growing incidence of jail and prison disorders, the frequent resort to the bomb and the incendiary, the exploitation of terror by a new breed of extortionists--these are some of the warnings we are receiving in an era in which even technology can be commanded by desperate men. They are some of the compelling reasons why I am tempted to add still another phrase to the sobering words of Cecil Rhodes: "So little done--so much to do--and so little time to do it."