



Department of Justice

STATEMENT

OF

GRIFFIN B. BELL
ATTORNEY GENERAL

BEFORE

THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

CONCERNING

DOJ AUTHORIZATIONS

ON

MARCH 10, 1978

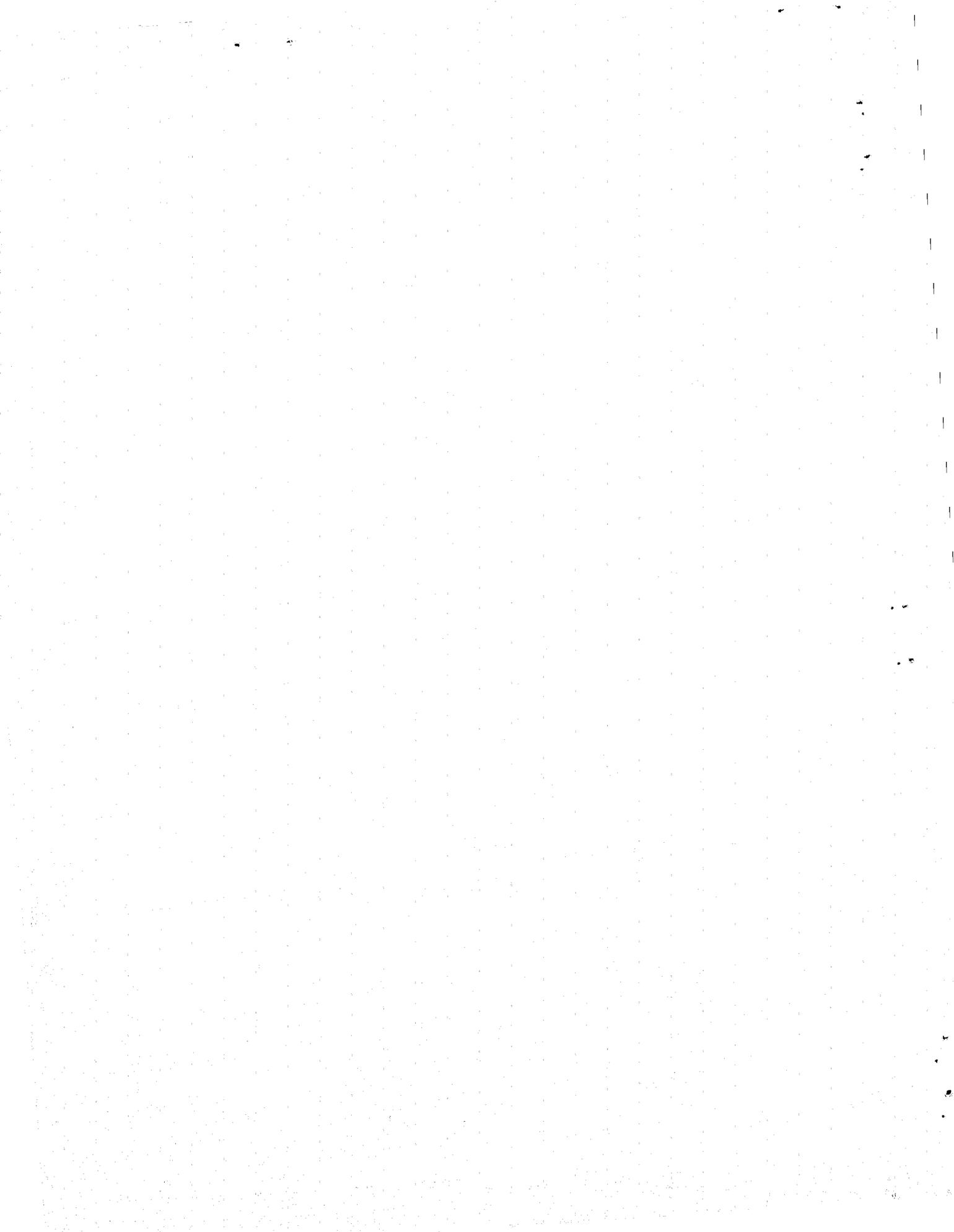
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Mr. Chairman and Members of the Committee:

I would like to preface my remarks today by noting that this is a unique occasion for both of us. It is the first time that an Attorney General has appeared before you to explain and seek your approval for the authorization of the activities of the Department of Justice; it is also the first time this Committee has been called upon to exercise oversight over the entire range of Departmental functions. I applaud the foresight of this Committee in proposing and strongly supporting the provision of law which requires this hearing today. By placing the entire Department of Justice under a requirement for specific authorization for its programs and activities, you have become a partner with us in the formulation of policy and program direction concerning the Nation's most pressing criminal and civil justice problems. We welcome this collaboration, and we anticipate it will be just as productive as our joint efforts have been in the legislative arena.

While it is your job to explore and question the Department's priorities, directions and resource allocations, it is mine to make the day-to-day administrative and policy decisions to implement our agreed upon policies and directions.

Because the accomplishments and objectives of each of the components of the Department of Justice will be discussed by either the Department officials who accompany me today and who are scheduled to appear before the Committee later, I will not, in my statement, discuss the Department's goals in detail. Rather, I would like to briefly describe what I believe to be are some of the most important issues facing the Department of Justice, and I am sure, this Committee, today.

One of my principal tasks as Attorney General has been to try to assist the Judiciary by working for the enactment of legislation which will enable our courts to keep up with their almost unmanageable caseloads. The litigation that is clogging our Federal courts is not a new problem; it has troubled the Chief Justice, it troubled my predecessors, and it troubles me. But, as we worry about the problem, the courts fall further behind in their ability to handle the legal disputes of our citizens.

This Committee and its Subcommittees have worked hard to develop legislative answers to the often difficult problems of how to make the Judiciary's workload manageable without diminishing our citizenry's access to justice. This Committee has reported, and the House has passed, legislation creating additional judgeships and reducing Federal

litigation based on diversity of citizenship. Legislation that would expand the jurisdiction of Federal Magistrates, thereby reducing litigation before our district courts, has been approved by Chairman Kastenmeier's Subcommittee, and, I understand will soon be before the full Committee.

The Department of Justice supports legislation to reform the judicial selection, retention, and retirement process. To improve citizen access to timely, inexpensive, and equitable justice, we have created experimental neighborhood justice centers as pilot projects to provide a mechanism for the speedy resolution of minor disputes. We have proposed legislation requiring the arbitration of certain disputes in Federal courts and improved procedures for hearing class action law suits.

One of my first acts as Attorney General was to create an Office for Improvements in the Administration of Justice. Under Assistant Attorney General Meador, this office has developed much of the judicial system improvement legislation which the Department has proposed. Through this office, the Department will continue to work to develop legislative proposals which we believe are needed to adapt our Federal judicial processes to our changing national needs.

In the area of law enforcement, leading the Government's fight against white collar crime, organized crime, and illicit drug trafficking has always been a top priority with the Department of Justice; and it continues to be under my administration.

Public corruption is a crime which strikes at the very heart of our democratic system. I intend to see that the Department contributes substantial investigative and prosecutive resources to detecting and prosecuting corrupt officials who violate their public trust.

In the proposed Criminal Code Reform Act, this Committee has a special opportunity to help the Department's law enforcement efforts. Our criminal laws must be comprehensible; they must be manageable. Enactment of the proposed Criminal Code Reform Act will put our Federal criminal laws into a form whereby they can be more easily used by prosecutors, courts, and defense counsel.

As you know, I will soon formally propose specific and substantial changes, particularly management changes, which will improve the efficiency and effectiveness of the Law Enforcement Assistance Administration. Last week I discussed LEAA reform before Chairman Conyers' Subcommittee, and Departmental representatives expect to return to discuss in detail the provisions of our proposal. In the meantime, I want to assure this Committee that I regard state and local law enforcement assistance as an important element of the Federal law enforcement program--an element whose effectiveness will be increased by my reform proposals.

The problem of undocumented aliens, and legislative proposals to deal with it, are certainly not new. Indeed, the chairman of this Committee, when he chaired the Immi-

gration Subcommittee, was one of the first persons to point out the problem and suggest employment controls to solve it. Last August, the President sent a legislative initiative to the Congress outlining his recommendations for a proper solution to the undocumented alien problem. Enactment of the President's proposal will, I believe, reduce the flow of undocumented aliens into this country and clarify the status of the millions of such aliens already here. I think that this Committee probably knows more about undocumented aliens and their effect on this country than any single group of people that I know of--I look forward to your cooperation and your guidance in this most difficult of problems.

Turning to the Department of Justice as an institution, I should point out that I regard the management of the Department to be a matter of immediate concern. If the Department is to be responsive to the needs which pressure it, then it must be manageable. The management of the Department has been measurably improved by the creation of the position of Associate Attorney General--a step which could not have been made without the assistance of this Committee. The Associate Attorney General serves as the senior policy official for those organizations responsible for civil justice activities. The Deputy Attorney General continues to be the second ranking Department official and serves as the senior policy official for those organizations handling criminal justice activities. The creation of the

Office for Improvements in the Administration of Justice, which I have already mentioned, was another early step taken to improve the soundness of the Department's structure.

Before concluding and allowing my assistants to describe the Department in much more detail, I would like to mention a matter which I regard as a threat to sound government and which should also be a matter of great concern to this Committee. I refer, of course, to the continued erosion of the salutary principal of centralized control of Government litigation, whereby Congress continues to grant exceptions to the provisions of title 28, United States Code, which provide that the Attorney General shall control, and in turn, be responsible for, the conduct of Government litigation.

I believe that the Government must take uniform legal positions in our Federal courts and that the legal affairs of our departments and agencies must be conducted with some degree of predictability and certainty. I believe that Government litigation should be monitored so that only the strongest cases are presented to our trial and appellate courts. I believe that legal disputes between Federal agencies should be settled by the Attorney General, not litigated in our Federal courts.

At present, some twenty-six separate Federal entities now conduct at least some of their own litigation beyond the supervision and control of the Department of Justice. The rapid diffusion of litigation responsibility

caused by a number of legislative enactments over the last several years is creating a situation which is rapidly becoming chaotic. There appears to be little overall rationale to support a system which is resulting from individual committees reporting out legislation to give their favored agencies some degree of independence from the Attorney General's control. Some agencies are given complete independence, others only with the concurrence of the Attorney General. Some agencies have authority to conduct all of their litigation, others are permitted to only enforce agency process. Some agencies can enforce all of the agency's statutes, others can only enforce some of the agency's statutes. Some agencies can ask the Attorney General to bring enforcement actions, others can require the U.S. Attorneys to enforce their statute. If the Congress is to deal adequately with the question of Government litigation, it should do so by a method whereby the allocation of litigating authority can be dealt with on a uniform basis with respect to all agencies; it should not continue to enact piecemeal legislation which creates a patchwork system of government representation before our courts.

On August 25th, the President directed the Office of Management and Budget's Reorganization Project to review the Federal Government's system for providing legal advice and representation to the various departments, agencies, and regulatory commissions. The Reorganization Project's report, which should be presented this year, will - we

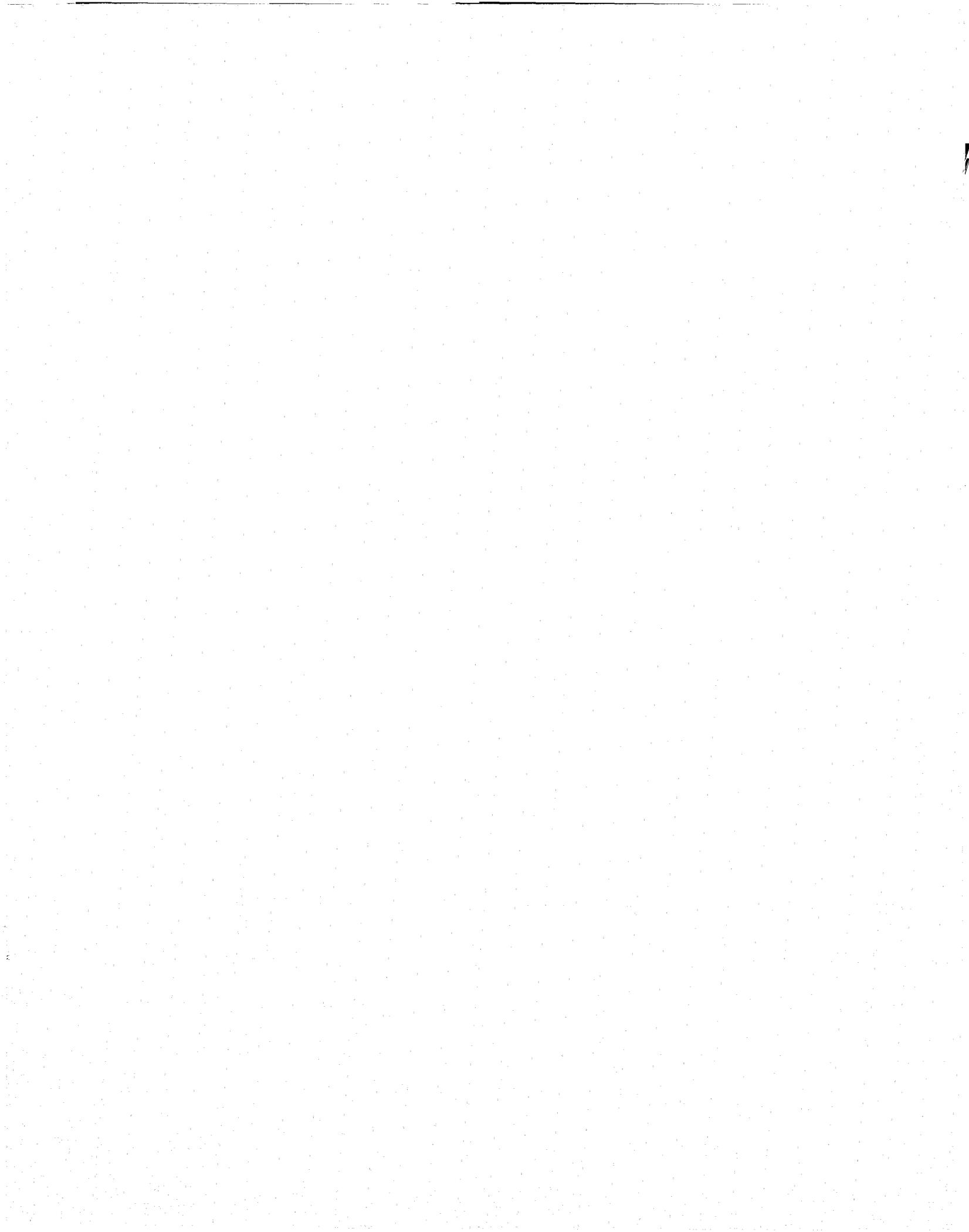
hope - contain this Administration's answer to the questions of how best to conduct the Government's legal business. In the meantime, it is this Department's position that no more piecemeal amendments to the title 28 provisions should be made.

I think that some sense can be made out of the question of how best to conduct Government litigation if one Committee in each house were to review the many different litigation authority provisions which are now contained in bills referred to other committees. I think, for example, that this Committee, which was responsible for the provisions of title 28 concerning the Solicitor General's control of Supreme Court litigation, would be in the best position to determine whether, in contravention of what I understand are the unanimous views of the Justices of the Supreme Court, the Solicitor General's responsibility should be breached. Yet two other committees, one in the Ninety-second Congress and the other in the Ninety-third Congress, have reported and enacted into law legislation which allowed two agencies to litigate in the Supreme Court without the supervision and control of the Solicitor General. A committee other than this Committee has seriously considered legislation which would allow a so-called independent agency to call grand juries and conduct criminal prosecutions in the enforcement of certain statutes.

On January 16th I wrote of my concern to the Speaker of the House of Representatives, and I recently received a

copy of a similar communication by the Chairman of this Committee. This Committee's assistance is appreciated.

Of course all of the Department's activities and objectives are important to me, as I am sure they are to this Committee. I have tried to point out, however, those areas which are of particular concern to me. I think that with the help and guidance of this Committee, the Department can do still more to ensure that its activities are conducted in the best fashion possible.



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