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CRIME CONTROL: THE STATE OF THE ART

Interrelationships in the Criminal Justice
System -- Systemic Perspective

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We have come together to look at the "state of the art" in some critical problem areas of crime control and criminal justice administration. In my view, the meeting is indeed a special one. Apart from the direct promise that it holds for new experimentation and a better attack on some of the messiest problems now facing us, it illustrates how far the nation has come in viewing and accepting our crime control service functions -- police, courts, prosecution, defense, corrections -- as a major interrelated governmental service system addressing a number one domestic priority of all American citizens -- safe streets and safe lives.

What are some of the special aspects of this meeting that set it apart?

First, I sense a change in emphasis. Previous convocations of this size and scope have tended to focus on comprehensive sets of standards or recommendations for improving the criminal justice system. We seem to have passed that point and are now focussing on the cutting edge issues, at least as we perceive them today. I refer to sentencing equity, prison overcrowding, the violent juvenile offender, and the like.

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Second, look at the group. I understand that the planners had schizophrenic nightmares about the proper composition of this body. Was it to be dominated by state governors and their key aides, by the 50 state planning agency directors, by state legislators and local elected officials, or by those line administrators and commanders who have little to recommend themselves other than the fact that they get their hands and troops dirty every day meting out the criminal justice "services" that stand between citizens and criminal behavior -- I refer to the judges, the wardens, the police commanders, the county prosecutors, the public defenders and their ilk. Whatever the case, we seem to have wound up with the kind of glorious mix that will either spell "big trouble" in terms of levels of communication and technical content or the best evidence possible that criminal justice is an interrelated and comprehensive system greater than its traditional parts -- I refer to the approximately 300 judges and court administrators, legislators, governors and their aides, police and public safety commissioners, corrections administrators, attorneys general, and even LEAA officials who are with us.

Third. If you will glance over the topics selected for consideration, as I am sure you have, you may be struck by the same fact that I was. In a system where most costs, dollars, and manpower are allocated to the police function, the toughest problems selected for this "state of the art" diagnosis have little direct connection with the police function. They focus on courts and corrections, a startling revelation that can point in no other

direction than that crime control is an integrated and inter-dependent business where judicial and correctional "tails" can and do wag the law enforcement dog -- indeed, wag it mercilessly -- and in turn are vigorously wagged themselves.

Finally, we're looking at accumulating bodies of program results and research findings. We may be confused or disappointed or unsure, but the focus is an emerging knowledge and experience. Frightening isn't it -- a real "emperor has no clothes" situation with the researchers needing to prove that they have something meaningful to tell us about the problems being examined.

I propose, then, that we dub this meeting Sheraton National I to distinguish it from, say, Williamsburg I or Williamsburg II, and, it is special -- we've gone from standards to nasty problems, we're doing it with an odd assortment of bedfellows, we're ignoring the cops in our search for better control of crime and focussing on the problems of the back bench players, we're messing in each others' criminal justice backyards, and we're asking, above all, for proof and evidence, or at least a carefully studied set of best guesses, on where the solutions and pressure points now lie. And as a backdrop to all this is the assumption that sentencing and alternatives to imprisonment and community crime prevention have some real connection in our quest for better criminal justice, more public safety, and the control of crime.

This lesson was, it seems to me, slow in coming. The idea of an interlocking, interrelated criminal justice system as the proper arena for dealing with an alarming crime and public safety

problem was, I think it fair to say, a legacy of the Johnson Crime Commission of the mid-sixties. Lyndon Johnson and Barry Goldwater immersed the nation in a huge consciousness raising exercise on crime in the streets during the 1964 election -- a tutorial whose time had come and that the nation never forgot. Attorney General Nick Katzenbach then brought the "total system" concept and commandment down from the mount with his Crime Commission staff in the form of a dozen report volumes, all talking the new language of the seamless criminal justice web. The directive seemed good, and lo, the Omnibus Crime Control Act institutionalized the concept soon after, and we all began to think "system."

Indeed, it was exactly at about this time 10 years ago that all 50 states were frantically putting the finishing touches on the first comprehensive law enforcement plans as required for "block grant" goodies under the Crime Control Act. The cumulative effect is not to be understated nor depreciated by making light of it as my words may border on. Those developments launched ten years of system orientation that, in my opinion, have accrued much to the benefit of the field and remain to realize their greatest potential in the years ahead. In a gut way we began, whatever our functions, to look at the "crime control" industry, despite its different pulls and component perspectives, as a gigantic, single purpose service industry.

What are the bounds of that "industry" today? Well, perhaps a brief rehearsal might be in order.

Criminal administration is, indeed, a giant national industry. As we approach the 80's (a mere 210 days away), public crime control expenditures now aggregate approximately \$22 billion annually, divided among the major functions into about 55% for police services, 25% for corrections, and 20% for courts (the last including prosecution and defense). Most of these, over 85%, are state and local outlays; and the largest cost component, more than 85%, is personnel. In all areas of activity except corrections, and despite increasing federal and state roles, local government outlays substantially exceed those at federal and state levels (e.g., more than twice as much for police protection as federal and state expenditures combined, nearly twice as much for judicial operation, and one and a half times as much for prosecution).

More than 1.1 million governmental employees are involved in operation of our law enforcement apparatus; about 650,000 in police service; 250,000 in corrections; 150,000 in courts; 60,000 in prosecution and governmental legal services; and 8,000 in public defense. They deal with approximately 20 million reported crimes annually -- about 11 million within the FBI's seven major "index crime" categories -- some eight million police arrests annually, 1.5 million offenders in institutions or under supervision and 4.5 to six million criminal and juvenile court cases. The evidence suggests that total crime, reported and unreported, should be two or three times larger than the known offense figures and that beyond public expenditure, crime costs the nation in personal injury, stolen or damaged property, and concomitant economic loss more than

\$50 billion annually. Organized crime revenues and white-collar crime loss alone have been estimated (at least per "high range" estimates) at close to that annual figure.

Reported major crime in the United States rose some 140% during the decade of the sixties and topped 200% in the span from 1960 to 1975. This represents an increase from 1,880 to over 5,000 per 100,000 population. Of the 11 million index crimes reported in 1977, about one million, or roughly 9%, were violent crimes (murder, assault, rape and robbery) and 10 million were crimes of property (burglary, auto theft, and larceny). Crime continues to have an urban emphasis (a metropolitan area rate of more than 5,800 per 100,000 compared with a national average of 5,000 and a rural rate of about 2,000) and a big-city emphasis (25 cities account for more than 25% of all reported major crimes and 40% of violent crimes, with 20 cities producing nearly half the robberies in the United States in 1975).

Despite the high volume of total arrests, the actual rate of major offenses cleared by arrest of an offender, whether ultimately convicted, has been consistently less than 25% (21% in 1977) with somewhat better experience on violent crimes (46%). Thus, not much more than two million of 1977's eleven million major reported crimes were cleared by arrest. While national statistics on prosecution and conviction are somewhat spotty beyond this point, evidence suggests, as has been the case for many years, that not more than two or three out of ten major offenders are brought to justice for a serious crime and less than one of

those is actually convicted of a criminal offense. Nevertheless, and notwithstanding these discouraging figures, Charles Silverman makes a persuasive case for the fact that, sooner or later, virtually every career criminal or regular repeater will be apprehended, adjudicated and "do some time".

Of those convicted of criminal offenses, the majority are adjudicated not through trial but rather by guilty pleas (60% to 80% in most jurisdictions), typically as the result of "plea bargains" under which the accused admits guilt to the offense charged or a lesser offense on the basis of some understanding with prosecutorial authorities of leniency in treatment or the likely penalty to be imposed by sentencing courts. Of those sentenced our experience indicates that at least two out of three offenders will be punished without a jail or prison sentence, even for felony offenses, with the typical disposition being fine or probation. While for those imprisoned, court sentences in the United States are deemed quite long in comparison with other Western nations, actual time served for felony offenders will generally fall well under two years.

All-in-all, the nation currently has over 1.5 million offenders under supervision on any given day, approximately one-third of whom are confined in juvenile or adult institutions and two-thirds under community supervision (probation, parole, or non-resident community programs). Indeed, the Corrections Magazine annual prison population survey shows that we opened 1979 by breaking the

300,000 inmate "sound barrier" for an all-time high in American prison populations, this despite a 7% decline in the federal prison census.* There are about 600 adult and juvenile institutions and over 4,000 local jails and juvenile detention centers to handle those confined (with the jails also housing substantial numbers of accused persons awaiting trial).

In terms of structure, the picture is awesome. Our nation has close to 20,000 separate and independent police forces, about 2,700 prosecutorial units and some 15,000 criminal courts (200 appellate, 3,000 general jurisdiction trial courts, and 12,000 trial courts of special jurisdiction). As might be supposed, most of this organizational multiplicity is accounted for by units serving rural or low population areas and most manpower and workload is concentrated in larger units serving populous areas. For example, the majority of police departments have less than ten personnel (about 90%) but 150 of the largest police forces account for more than half of all police officers in the nation. Federal and state criminal justice agencies are much less prolific than their county and municipal counterparts. There are, for example, barely more than 100 federal agencies engaged in any kind of police, law enforcement and investigative activities and not more than a dozen of these (e.g., the FBI, Secret Service, Drug Enforcement Administration) have primary law enforcement missions.

* The new LEAA jail census, shows jail populations similarly, but less dramatically up approaching 160,000 in 1978 compared to 142,000 in the last 1972 jail survey.

We know, moreover, that there are only 50 state attorneys general, almost 50 state police forces (Hawaii doesn't have one and several states have separate investigative bureaus), 50 state supreme courts (with intermediate appellate courts expanding rapidly and court unification legislation gathering thousands of local courts into hierarchically ordered, state-administered structures) and not more than 100 state correctional systems (the excess beyond 50 due largely to the existence of separate adult and juvenile correctional systems in about 20 states and separate state institutions and probation/parole departments in some 15 states).

This then is the superstructure in which the "state of the art" is practised -- U.S. style -- and by which the nation and our states respond to criminal behavior. I say "respond" rather than "control" advisedly. Virtually every study commission and serious expert who has looked at the problems of crime sees significant reduction as largely beyond the reach of the "system" or "non-system" itself. This they say, and I believe correctly, is the mission of other American institutions which can provide the kind of economic and social relief capable of reducing pressures toward predatory criminal behavior.

Going back to the agenda for this conference, it is fair now, I think, to make the system connection. Basically, the problems we will be examining are problems of overload. That is, the normal operation of our law enforcement apparatus, particularly police and prosecution activity -- however imperfect it may

be and however hamstrung by Supreme Court decisions -- has taxed our courts and correctional systems to their operational and budget capacities. Thus we come together in the Corrections sequence to look at overcrowding of prisons, restitution and other alternatives to incarceration, and how to keep overflowing institutions decent and humane. In the Court sequence, we seek to deal with court delay and alternatives and less expensive ways to mediate lesser offenses. This is not to suggest that we can indulge in the luxury and simplicity of dealing only with problems of number and efficiency. Important issues of value and philosophy are also lurking and, hopefully, the emerging research will help show their connections to efficiency, cost and overload resolution.

In the Juvenile Justice sessions, we will not just be concerned with deinstitutionalization and community alternatives as a dollar or overload matter but also the wisdom and value of the system's reach over non-criminal behavior -- the status offenders -- and the human destructiveness of overconfinement of young citizens. In sentencing, it is not merely a matter of neutralizing the overload of unbounded indeterminate sentence structures but in moving toward more equity and consistency in meting out punishments from thousands of judicial benches for persons whose sins against the social order have been similarly hurtful. And in Community Crime Prevention, of course, our goal is not simply the relief of overworked police, prosecutors and judges but how to link precious and limited community improvement resources and citizen attention

with tangible crime deterrent and safety enhancement results -- all, hopefully, with a minimum of displacement to other community targets.

We need, then, to look at the research knowledge presented here in terms not only of its searchlight on overload and ineffectiveness but emerging justice values. In so doing, let me offer a few final cautions.

First, we're dealing with the emergence of relatively new formulas (presumptive sentences, community justice centers, total juvenile deinstitutionalization) to replace old disillusionments (the benevolence of the indeterminate sentence, the model training school, the value of court processing of all criminal infractions). We will be, in many areas, firmer about what didn't work in the past than the efficacy of the new proposals. This is no reason not to proceed forward but rather to be realistic and honest about emerging experience, to design new programs knowing that they too will develop rigidities and need "fine tuning", and to be tough-minded. To paraphrase some splendid thoughts of Norval Morris last year at LEAA's Update 1978 for mayors and other local governmental officials, criminal justice decisionmakers, be they legislators or line administrators, have every right to confront the experts and researchers with tough questions and a degree of suspicion. If the experts here can't respond in comprehensible terms, the chances are that their information and formulas are open to question.

Second, if the lessons of the past decade have taught us anything, it is that easy answers in crime control are "trouble". To trade one panacea (e.g., the "indeterminate sentence") for another (the "determinate sentence") can be, and generally turns out to be, a soporific. Research seldom provides clearcut answers and almost never, in the human services field, simple answers. What it does more readily is to offer understanding of what is happening and the insight that a greater range of possibilities, including some new ones, exist to apply in meaningful ways to our criminal justice dilemmas.

Third, we need a sense of the inevitability, however unhappy this news may be, of a continuing quest for crime control effectiveness. For good or otherwise, Sheraton National I will need to be followed by Sheraton National II a year or so hence. The process of continually taking stock of the "state of the art" is itself an indispensable ingredient for improvement of the "state of the art".

Finally, with concepts like "Proposition 13" and "resource scarcity" the rallying cries of our times, it is critical, especially when dealing in justice services and the justice system, to keep our minds and hearts on horizons that transcend considerations of efficiency and productivity alone. Decency, equity and humaneness should never go out of style while we pursue the golden chalice of a crime free America with the single-mindedness of a generation of Dick Tracy's and Batmen. I am sure that such

qualitative considerations will not get lost in the discussions ahead, and it is important that they not do so.

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That famous philosopher known as "Someone" once observed:

"The road to wisdom is always under construction."

Let us hope that these two days will generate some energy and ideas for a few important repairs and some imaginative new mileage when all get back home.

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