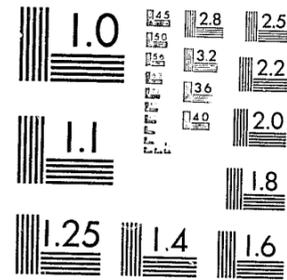


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X Testimony of the Honorable Nicholas deB. Katzenbach, Under Secretary of State, before the National Committee on the Causes and Prevention of Violence, Room 1114, New Senate Office Building, Wednesday, September 25, 1968, 10:00 a.m.

It is a privilege to appear before this distinguished commission. Your assignment is one of difficulty and high responsibility. For the roots and dimensions of violence, reflecting as they do the tensions and strains of our dynamic, growing, changing, multi-racial society are broad and complex.

Before we can effectively cope, we must properly comprehend. Unless we know what is fact and what is misconception we are not likely to make much headway. Shedding new light on the relationships between the various forms and guises of violence and bringing new understanding to its causes will be a major contribution to the peace of mind and the security of our people.

My observations today will be based on my experience as Attorney General and as Chairman of the President's Commission on Law Enforcement and Administration of Justice. I hope, incidentally, that the members of this panel will have the opportunity to study the Crime Commission's report because I am sure you will find there are many areas in which our work and your own assignment overlap and where our findings may prove useful to you.

For the sake of simplicity, I have attempted to organize my remarks by distinguishing between three categories of violence. I shall take each of them up in turn.

In the first broad category I include all kinds of violent crime that are not politically motivated or inspired by some desire to bring about social change, either organized or individual, rational or irrational.

Although this commission is concerned with violence, and although the rate of violent crimes went up 57% between 1960 and 1967, it is important to keep the matter in perspective by remembering that the vast majority of serious crimes are directed against property, and these went up at a higher rate--73% in the same period. In addition, among property crimes "white collar" crimes such as fraud and embezzlement account for almost three times as much loss as such crimes as burglary, auto theft, and grand larceny.

I don't want to go too deeply into this subject because these facts are available, but a number of points that came to light during the investigations of the Crime Commission are worth underlining. One of the most important of these is that it is not the well-to-do who most often fall victim to crime, it is the poor and the

slum dweller. Those earning under \$6,000 are considerably more likely to become victims of rape, robbery or burglary.

These figures surprise many people because far more publicity is given to an attack on a prosperous member of the community than to an attack on a slum resident. And if the crime has racial or sexual overtones, it may have additional aspects of sensationalism.

Actually, contrary to the fears of many people, relatively little crime is inter-racial. In such crimes as rape, robbery and aggravated assault, "whites" are most likely to be attacked by "whites" and Negroes by Negroes.

Another interesting fact not widely recognized is that most murders, rapes, and aggravated assaults are committed not by strangers but by friends, relatives or acquaintances. Here in the District of Columbia; for instance, the Crime Commission found that almost two-thirds of the rape victims were attacked by persons with whom they were at least casually acquainted. A Philadelphia study of murders showed that only about 12% were committed by strangers while more than one-half were committed by a relative or close friend.

The main part of the increase in crime is directly related to the decreasing age of our population. Persons between the ages of 18 and 24 account for almost a third of arrests for murder, rape, robbery and aggravated assault.

Like all other crime, the <sup>high</sup> <sup>rate</sup> delinquency among youth must, of course, be considered in the context of the social conditions amidst which it flourishes. In the highly urbanized, highly mobile, society of today young people are less subject to parental and other social controls than they once were. It is not uncommon for both parents to be working. Divorce-- and in the lower economic brackets, desertion--rates are high, with all this implies for lack of parental guidance and supervision. The Crime Commission sought to spell out clearly the extent to which the inadequacy of our schools, our family services, our housing, and employment opportunities must share responsibility for the present high level of crime among young people.

American society, compared to most others, is socially and economically non-structured. It is easier here than in most countries to climb the ladder and become a success. This is something we pride ourselves on and value highly because it allows those who are creative, able and hard

working to reach the top. Competition is open in a wide range of areas and achievement is highly prized. A highly mobile society, we believe, is not only more democratic but has great economic advantages.

We are, in addition, a rather proud people, with strong notions of equality and individual justice. Americans are not inclined to take any nonsense from anybody, no matter where he might stand in the economic or social hierarchy. We have an anti-authoritarian tradition--which means we take a very skeptical view of authority.

These benefits and these values do not come without cost. They produce stresses that do not exist in societies with rigid lines of class or caste.

The individual's desire to succeed may be stronger than his capacity or knowledge of how to do it. His ambitions are subject to many frustrations, and, if he is, or regards himself, as a failure, they can become acute. This kind of problem is accentuated further among recently arrived ethnic groups where social controls, formerly exercised by strong family ties, have broken up without yet being replaced by a broader social consciousness and self-discipline.

The American Negro had to experience a family structure often shattered by slavery. As the gradual process of ethnic and racial assimilation continues--and with the passage of time and the equality brought by better educational opportunities--these problems will hopefully diminish.

There are many other things about our society which we value and believe desirable, but which produce a fall-out of difficulties or frustration. We are rich and advanced in terms of technology, institutions, and organizations. Many problems that go along with affluence have occurred here that have not yet come to others.

Organized crime, for instance, feeds on affluence. Racketeering, fraud, embezzlement and all kinds of other white collar crimes flourish only where there is wealth. Credit cards--just to take one example--provide a whole new category of violations and law-breaking that exists in few other places. Auto thefts flourish most where the most autos are.

Some of the most horrible examples of violence occurring in this country today stem out of organized criminal activity. Organized crime operates out of complex and diversified structures with its own strictly enforced codes of law. Its principal weapons of enforcement are terror and intimidation. The most brutal and arrogant kind of threats are used in attempts to thwart the processes of justice. A great deal of government time, money and effort must be used to guard witnesses and their relatives, some of whom have to resort to changing their names, residences and even appearances to escape reprisal. Numerous examples of this kind can be cited. Right now, for instance, relatives of witnesses who helped break the bribery case of James Marcus in New York City must be kept in protective custody.

In Chicago not long ago a would-be witness was found castrated and hanging on a meat hook; in Los Angeles a witness was almost as brutally murdered. In a case (People vs. Kaiser) in the New York Court of Appeals in December of last year Justice Keating described how the pregnant daughter of the victim in an extortion case received a telephone call advising her that "if your father doesn't cooperate we'll come to Sylvia Lane and kick your ... pregnant belly in."

Organized crime uses violence in its attempts to intimidate and corrupt not only private individuals, but law enforcement officers and even judges. It is an aspect of violence which seek to intimidate and undermine the processes of justice itself and which deserves more attention than it gets. I hope this commission will not overlook it.

There is one last type of crime that fits into this category--one that has had a traumatic impact on America in the last several years and one which had much to do with the creation of this commission--assassination. The assassination of political figures must not be confused with political assassination.

This country has had four Presidents and many more political leaders die violent deaths at the hands of

assassins. But we have not yet had a case of true political assassination in the classical sense of an attempted take-over of power. Very few assassinations in the United States have even been the result of conspiracies. Almost all have been performed by crazed and lonely men like Lee Harvey Oswald who wanted attention and got it by killing someone famous.

Despite this historical pattern, people still seem intent on looking for a conspiracy. Perhaps it fills some kind of a human need to find a rational explanation for an irrational act.

A far more reasonable, if no more comforting, explanation for the rash of assassinations is what psychologists call "pattern setting". A mentally disturbed individual, excited by what he reads or sees on television, will be more likely to act out his own fantasies. And he may do so by copying the previous crime. Joseph Bachmann, the man who shot German student leader Rudi Dutschke, for instance, said he had been "inspired" by the killing of Martin Luther King.

Mentally unbalanced people will always be with us. Scientific explorations also indicate that certain physio-

logical abnormalities may be related to outbursts of uncontrollable anger. The young sniper who shot at people from a tower at the University of Texas some years ago was later found to have a brain tumor. It is only logical to suppose that if a frantic or deranged man has easy access to a gun he will be more likely to use it -- on himself or on others--than if he does not. And it follows, therefore, that it is a wise idea to keep the weapon away from him.

A great deal of evidence is available in support of the conclusion that sensible gun laws can lower the incidence of homicide. States with strong firearms control laws have markedly lower rates of murder by gunfire than states with weak laws and the same is true for cities. Such laws are not a cure-all but an act of elementary precaution. They are analogous to seat belts in cars. They cannot prevent you from killing yourself if you want badly enough to do it. But they might save you if you unexpectedly lose control.

The United States is now the only advanced country that does not have stringent gun control laws. It is high time we followed the example of other civilized nations.

The gun bills already passed this year in Congress are a start but I do not believe they go far enough. This commission will be performing a great public service if it underlines once again the contribution gun control laws can make to the curbing of violence.

I would like now briefly to consider what I have put in a second category of violence--violence masquerading as law and order.

We have in these United States lived under a dual system of justice, one for the white, one for the black, in too many states in too many circumstances. In many places we have had law and order but it has been law and order without justice operating extra-Constitutionally, and often really nothing more than socially condoned violence. The instruments of violence were used in support of a so-called law and order which, by every ethical standard I know, was far more reprehensible than any riot.

Time and time again when I was Attorney General I ran up against the often sincere police chief or sheriff who said that Negroes could not be allowed to do this or that because if they did there would be trouble. The solution was always to deprive the blacks of their rights

in the name of law and order. Law and order would be the reason a civil rights worker was jailed on a traffic violation charge. And, of course, it was in the name of law and order that the Governor of Mississippi and the Governor of Alabama were prepared to frustrate the Constitution of the United States and the lawful orders of its courts.

Order by itself is not hard to bring about. Any society, if it is willing to be repressive enough, if it is willing to tolerate enough injustices or let them fester beneath what looks like a tranquil surface, can have order. But it is order and a just society that we are attempting to work toward in the United States.

I think we can be proud that many of the difficulties we are having as a nation, and many of the splits and clashes that divide us, stem directly from our efforts to live up to our idealism and to build a better society. We have undertaken a major social upheaval rather than tolerate the continuance of institutionalized injustices throughout our country.

Some of the turmoil and violence we are now living through is unquestionably the by-product of the great

social changes we are undergoing as we work to perfect our country. And I think that if we consider the magnitude of what is being accomplished as we meld together the most heterogeneous population of any country, we have managed to do it with a relatively small amount of violent disruption.

This brings me to the last--and to me the most troublesome--category of violence, that involved in mass demonstration and riots.

The overwhelming majority of Americans want to work within our democratic system and to seek change peacefully through political institutions. By and large these institutions have been designed to be responsive to the will of the people--not simply to permit a majority to dominate a minority but, through free political institutions, to achieve compromises satisfactory to most. A workable democracy can be realized only when the majority does not seek to impose its will forcibly on a substantial minority with deep feelings, or a minority seek to coerce a majority through resort to violence or wide-spread civil disobedience. "Consensus" is not a term coined by President Johnson; it is the essence of our political system, of responsible citizen participation as well as responsible government action.

In times of crisis it isn't easy to achieve.

I do not and cannot condone those who advocate violence to secure change--even when I am sympathetic with the change they advocate. Nor do I believe in civil disobedience on

personal moral grounds however strongly and honestly felt. But I can come to these conclusions only because I deeply believe that our democratic society has the capacity to be just. Were I to feel otherwise there would be much to be said for opting for justice in preference to "law and order."

Belief in the capacity of our society to be just to a racial minority is not, and could not be, universal among our black citizens who--even since the abolition of our gravest national injustice, slavery--have been treated to a century of prejudice, governmental inaction, and even officially sanctioned segregation. If we have found a new determination to deal with these injustices, it is too recent to obliterate the scars of 100 years or inspire absolute faith in the system.

I can attest personally to the difficulties of seeking to work within the Constitution and our federal system to break down a system of officially sanctioned segregation in the South--an unconstitutional system often justified by appeals, ironically, to "law and order". And the job is by no means finished.

Today we are trying to cope with the infinitely more

difficult problems of deep prejudice elsewhere in our society--in our schools, our businesses, and our living accommodations throughout the land. And we have, beyond that, the duty to help overcome the effects of a century of injustice. We cannot remove the Negro's chains and, without any helping hand, invite him to join the competitive race against others who/ encumbered by the/ effects of prejudice and disadvantage. Despite every effort, progress has been slow and passions on all sides have become aroused. In this context, faith in white America's capacity for justice will have to be nurtured not demanded.

It is, I think, a magnificent tribute to our democratic system that the great majority of Negro Americans continue to have faith in it despite years of denial and prejudice. If some have lost patience and now preach radical solutions, including the use of violence, we should not be surprised even if that violence cannot be tolerated. We should, I think, recall that it is not without precedent--the violence employed by Alabama State Troopers when they attacked Dr. King's peaceful demonstration at Selma in 1965; the murder of three civil rights workers in Mississippi with the connivance of a deputy sheriff; and countless other examples.

We cannot tolerate riots, but we must learn to recognize

them as, in large part, a vote of "no confidence" in a system that for centuries has held its black population down and, for barely a decade, had made even a limited effort at real justice. If the innocent and the near-innocent are swept up with the guilty in an iron-fisted and brutal crack-down on black slum-dwellers in the name of "law and order," we will only confirm and spread the inflammatory belief that our society is incapable of sympathy and justice for its black minority. The fires must be put out, but not by forms of wholesale repression that will furnish the kindling for greater conflagrations in the years to come.

Handling a recently awakened black America/<sup>justly</sup>despite the depth of its distrust of white America's capacity for justice is the domestic problem with the greatest potentiality of extensive violence. But our concern is almost as great for the violence--nearer to many of our homes--associated with the idealism of our youth today.

We would be blind if we/<sup>failed</sup>to see that many of our best young men and women are torn between a belief in the fundamental fairness of our democratic system and a sharp cynicism born of an acute sense of its injustices. Both belief and

cynicism are taught; both can be supported by facts; both are learned by our young. Most, by far, are still in the camp of the believers, but their belief is strained by the depth of their disagreement with many of our policies and practices. Besides the continuing offense of racial prejudice, the war in Viet-Nam and the felt inequities of the draft/<sup>are</sup>perhaps, the two most important examples.

Large numbers of American citizens have deep and passionate feelings on these subjects. They see the failure of our democracy to respond to what they passionately believe to be right as a failure of our democracy to respond to morality. They--especially the young who have the certainty which youth enjoys--begin to question if a system so wrong (in their eyes) can really function in the interests of justice.

As a nation, we have no more important challenge than <sup>They must come to believe</sup>the competition to hold the faith of our young/in the capacity of our system peacefully to rectify its own injustices.

Those who deny the capacity of our democracy for fairness rest their case on the proposition that the United States is, at heart, as repressive as a dictatorship--though far more subtle--in its maintenance of the status quo and its

protection of special interests. Their job, as they conceive it, is to strip away the subtlety and reveal the brutality of America to the young, the idealistic, and the uncertain. The key to this has recently been a conscious attempt to turn the custodians of law and order into instruments of violence and repression against peaceful and idealistic demonstrators.

The short of the matter is that we have seen, and will see more, efforts of small groups<sup>of agitators</sup> mixed in a large and peaceful demonstration to so enrage the police that they strike out at innocent and guilty alike. A peaceful demonstrator<sup>clubbed</sup> by a policeman will, it is thought, learn that peaceful demonstration has no place in our democracy, that orderly and democratic change is an illusion.

For those of us who believe in our system and who want our children to share our belief, it would be the rankest of folly to agree to play the role of the "heavy"--the repressor of the idealistic and innocent--which our opponents have assigned to us. We must allow a maximum of leeway for orderly demonstrations and, even then, we must handle provocation to repression with a patience and restraint designed to clearly<sup>identify true</sup> the/offender, not<sup>slander</sup> the police or other authorities.

The problem must be dealt with as a political one, not as an ordinary matter of crime and law enforcement. For in the final analysis "law and order" depend on political factors--on respect for and voluntary compliance with law; on trust in our political institutions; on belief that those who are privileged to serve the cause of law enforcement serve all the people, not special groups.

I do not, of course, believe that the mob should be permitted to take over. But I do know that what agitators want is a confrontation with authority under circumstances where authority can be made to appear brutal and arbitrary--where it can be discredited as lawless. To accomplish this end the police will be baited mercilessly, attacked, perhaps, by members of the mob. Rumors of police brutality will be spread among the crowd. The anger of those who are, pure and simply, demonstrating peacefully will be fanned. And the tempers of the police--who are, after all, human--will be severely tested.

In such circumstances it is, above all, important to preserve two principles: First, the right of people to demonstrate peacefully for their political views; second, respect for the integrity and impartiality of law enforcement officials--in appearance as well as fact.

In concrete terms, this means that authorities will have to bend over backwards to give every reasonable opportunity for orderly demonstrations. And it also means that the police will have to put up with taunts, insults, and provocations, although they, like the rest of us, will be sorely tempted to strike back. When some demonstrators engage in / <sup>activities</sup> too dangerous to be tolerated, police response must be limited to those demonstrators, not the innocent with which they surround themselves.

Experience suggests this is difficult; it also suggests it is possible where careful training and reasonable rules are present.

Handled by the authorities in this way, the 1967 march on Washington in protest against the war in Viet-Nam was an especially forceful example of our society's willingness to permit and to hear massive but orderly dissent. The excesses of the radical minority in the crowds were handled with a restraint that let blame rest where it belonged--on their irresponsibility rather than on the supposed repressiveness of the system. Whatever one's views on the war, the demonstration was a victory for those who believed in our democratic institutions, a loss for those who hoped to reveal them as<sup>a</sup> sham..

We shall have to learn to repeat over and over again the lessons of this occasion if we are to prevent a small radical minority from using the incitement of violence by our police to undermine the allegiance to our institutions and traditions of a much larger number of our best young citizens. No one can pretend that this will always be easy. If I thought less of our police, I would doubt that it is even possible. It is, however, not only possible but essential. For only if the legal instruments of the society work in a restrained and humane way to allow constitutionally sanctioned dissent to express itself fully will we be able to avoid the serious clashes that can, if repeated, tear up the very fabric of our society.

The end of violence in America, expressing as it does the profound social and economic changes our dynamic nation is now undergoing, will doubtless not come overnight. It can only be delayed by identifying the techniques of law enforcement appropriate for the Mafia with those sensible for handling a massive demonstration, or by abandoning the many positive things we are trying to do to deal with the historic aftermath of slavery in this country.

Above all, an end of violence will not come so long as we persist in over-simplifying a problem as complicated as the society it is found within. This commission has a heavy responsibility in leading us to the balanced understanding and sober judgment we must have if we are to come to grips successfully with the forms of violence we find among us.

**END**