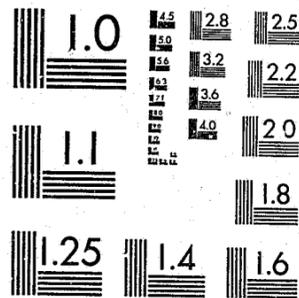


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National Institute of Justice
United States Department of Justice
Washington, D. C. 20531

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Department of Justice

STATEMENT

OF

WILLIAM FRENCH SMITH
ATTORNEY GENERAL

BEFORE

THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

CONCERNING

DEPARTMENT OF JUSTICE AUTHORIZATION

ON

MARCH 24, 1983

NCJRS
MAR 30 1983
ACQUISITIONS

It is a great pleasure for me to be here as the first Attorney General in many years to request significant increases in the resources available to federal law enforcement. The budget under consideration by this Committee provides for the first time funding of more than \$3 billion for the Department of Justice and more than \$1 billion for the Federal Bureau of Investigation.

Although I appear before you to discuss our next budget, that budget can be fully understood only in the context of what has come before. This budget seeks a substantial increase in our resources -- especially to combat organized crime and drug trafficking -- and it builds upon previous accomplishments made despite more limited resources.

We have brought greater coordination to law enforcement at all levels of government by establishing Law Enforcement Coordinating Committees composed of federal, state, and local law enforcement officials in federal judicial districts throughout the country.

For the first time, we have brought the FBI into the fight against drug trafficking to assist the Drug Enforcement Administration. There have been more than 1100 drug investigations involving the FBI, roughly one-third of which have been joint investigations with DEA.

We have indicted and convicted many of the leaders of organized crime considered untouchable by many just a few years ago. In fact, some 350 members and associates of traditional organized crime families have been convicted over the last two years. Another 300 are awaiting trial.

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Building upon the coordination exhibited by the South Florida Task Force, twelve new regional task forces to combat organized drug trafficking are becoming operational and have begun work on their first cases.

We have worked with the Congress in assembling one of the most significant packages of proposed criminal law reforms in our Nation's recent history.

We have also worked with the Congress in drafting the most important proposed reform of our Nation's immigration laws in decades -- and have improved the effectiveness of the Immigration and Naturalization Service while awaiting passage of the kinds of reforms necessary to regain control of our borders.

We have vigorously enforced our civil rights laws -- and brought more criminal cases than any prior Administration during a comparable period of time.

We have brought antitrust enforcement back to the real economic world to punish and deter truly anti-competitive activity. We filed more criminal cases in fiscal 1982, for example, than any prior Administration did in one year -- more than three times the average for each year in the last decade.

We have launched a major civil litigation effort to protect the public treasury against fraud and abuse -- and have collected more than \$200 million owed to the government in the last fiscal year alone.

These are merely a few of the significant accomplishments of the past. The fiscal year 1984 budget envisions many more accomplishments -- and requests the new funding needed to make them a reality. Our previous efforts have

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benefited in many instances from the advice and support of the Congress -- and our future endeavors will also need the same kind of mutual understanding and assistance.

Mr. Chairman, I am requesting today a budget of \$3.4 billion for 55,431 positions and 58,249 full-time equivalent work years. That is an increase of 1,346 full-time equivalent work years over the number allocated to the Department in fiscal year 1983. And the dollar amount of the budget represents a 15.3 percent increase over the amount of budget authority expected for the current fiscal year.

Department officials have been and will continue to appear before you to answer specific questions you may have concerning programs under their direction. At this time I would like to dwell on the most notable feature of this budget -- its request for resources to deal effectively with crime.

This budget provides funding for our attack on drug-related crime, for extensive new prison and jail construction, and for the large-scale application of modern technology to the federal justice system. The budget reflects our considered approach of applying resources in a balanced manner across the justice system. Our approach recognizes and supports the interrelationship of the various components of the system, which include investigations, prosecution, corrections and prisons, and federal assistance to states and localities.

Let me briefly discuss the problems we have identified in the fight against crime and how we propose in this budget to deal with them.

First, this budget addresses the need for investigators. The budget continues funding for 760 Department of Justice investigative staff who will be participating in regional drug-task forces with funding provided also for an additional 500 investigators and support staff in the appropriations for the Department of Treasury.

Second, this budget addresses the need for more prosecutors. The budget completely funds the 340 prosecutorial staff, on the regional drug task forces. These 340 prosecutorial staff together with the 1,260 investigative staff in the Departments of Justice and Treasury, reflect the President's decision to commit a staff of 1600 persons to the fight against drug-related crime. The budget also continues funding the 78 positions obtained last fall for the South Florida Drug Task Force.

Third, this budget addresses the shortage of space available for incarcerating federal prisoners. Federal prisons already are overcrowded; they have 23 percent more inmates than their rated bedspace can hold. The problem of insufficient space doubtless will be exacerbated as we increase our investigative and prosecutorial efforts.

Our budget request contains \$96 million for new federal prison capacity. It requests funds for construction of one 500-bed Federal Correctional Institution (FCI) in the northeastern United States. It asks for planning and site acquisition funds for a second 500-bed FCI in the Northeast, construction of a 500-bed Metropolitan Correctional Center in Los Angeles, an additional 340 bedspaces at existing federal facilities (780 such bedspaces were

funded in 1983), and funds for a number of modernization and rehabilitation projects throughout the Federal Prison System. The budget includes also an additional \$6 million for Contract Community Treatment Centers that would hold eligible federal prisoners nearing their time for release.

The \$96 million requested here builds on the \$57 million provided for prison construction last fall through a 1982 supplemental appropriation and the 1983 budget amendment requested by the President.

Fourth, this budget addresses the need for more space for federal prisoners who have yet to be sentenced. It is best if unsentenced federal prisoners can be kept in facilities located relatively close to federal courts.

The budget also requests an additional \$10.5 million for the Support of the U.S. Prisoners program. This represents a 31 percent increase over last year. An additional \$10 million is provided through the Organized Crime Drug Enforcement initiative for the Marshals Service's Cooperative Agreement Program (CAP). The latter goes beyond the \$5 million provided for CAP in the 1983 Organized Crime Drug Enforcement initiative.

The CAP effort provides state and local detention facilities with funds for equipment, remodeling and, in some cases, construction of more bedspace. This construction takes place upon agreement that a number of bedspaces in local jails will be available for housing federal prisoners in the custody of the Marshals Service. The CAP effort is critical to reopening the dozens of local facilities that in the past five years have quit

offering space, or else offered much less space, for housing federal prisoners.

Fifth, this budget addresses the need for improved technology for the federal justice system. It includes more than \$175 million in new funding for automatic data processing, data telecommunications, voice privacy radio systems, litigation support systems, and office automation for Justice investigative, prosecutive and litigative activities. This money specifically will assist the FBI, DEA and the Immigration and Naturalization Service as each enhances its automatic data processing capability. In addition, the funds will facilitate completion of the FBI's Automated Identification Division System. This system will enable us to identify, within 24 hours, fingerprints taken in criminal investigations. As for the voice privacy radio system, it will enable agents in the street to communicate more effectively and securely with one another.

Sixth, this budget addresses the need to support worthy state and local assistance initiatives. Soon we will be forwarding legislation on this matter. The bulk of the \$90 million we will seek would match dollar for dollar truly effective state and local criminal justice efforts.

Seventh, this budget seeks to improve record keeping by the INS. It includes \$10 million request for establishment of an INS National Records Center. Inasmuch as INS will be converting to automatic data processing, thanks in part to the \$17 million included in the general request for improved technology that I mentioned earlier, the new center should enable INS to maintain a more accountable and up-to-date records system.

Eighth, this budget addresses the need for an increased foreign counterintelligence capability. We seek more support both for staff and operations in the FBI's Foreign Counterintelligence program. The budget adopts recommendations made by the Director of Central Intelligence to improve the FBI's ability to deal with known and suspected hostile foreign intelligence agents operating within the United States. The budget also recognizes the need for additional FBI staff to counter the intense efforts by hostile foreign intelligence services to gain access to sensitive American technology.

Last, the budget addresses the need for personnel in key areas by including funds for more than 500 new positions. These are in addition to the positions that will be funded through the Organized Crime Drug Enforcement initiative and the FBI's Foreign Counterintelligence program.

Of these 500 new positions, 185 would be allocated to the FBI. Some 160 of these individuals would implement the Bureau's voice privacy and ADP initiatives. Another 25 would be assigned to a Hostage Rescue Team based in the FBI's Washington, D.C., Field Office.

Thirty-five other positions would go to the Drug Enforcement Administration. The new positions would be used in the DEA's foreign cooperative investigations, laboratory, ADP, and technical field support programs.

Another 212 positions will be created within the Federal Prison System, the majority in its Medical Services program. And 31 individuals would be added to the U.S. Marshals Service to

provide additional court security under an agreement we reached with the Chief Justice last spring.

The remaining 37 new employees would work in the areas of prosecution and litigation. The Civil Rights Division would have 15 new staff members who are needed to assist our prosecution of criminal civil rights violations and handle the increased workload expected as a result of the 1982 extension and amendment of the Voting Rights Act. The U.S. Attorneys would be given 32 new positions mainly to help in civil litigation. The administration plans to maintain the size of the prosecutive staff added by the Congress in 1983 to the U.S. Attorney's office for the District of Columbia.

The budget does not include funding for juvenile justice grants, state and local drug grants, and the service of private process program in the U.S. Marshal Service. These reductions would save almost \$85 million. The proposed termination regarding the private process program builds upon P.L. 97-462, signed Jan. 12, 1983, which had already effectively minimized the Marshals Service role in that area.

Another proposed reduction would save \$10 million in the INS Detention and Deportation program. In 1982 Congress funded the operation of the Ft. Allen, Puerto Rico, Service Processing Center, which was activated for the Haitian detention effort. Since there is no need for Ft. Allen, the funds for its operation can also be eliminated.

Mr. Chairman, I believe our programs promise a highly effective attack on all forms of crime, but especially drug-related and organized crime. This budget will require

substantial new expenditures, but the total cost will probably be less than what is spent in one week on illegal drugs in this country. Indeed, it will be less than what is spent in one week on many federal programs.

On a number of occasions, the president has stated that his commitment to the war on crime, especially in drug trafficking is unshakable. I share that unshakable commitment. We intend to do what is necessary to end the drug menace and cripple organized crime. This budget will help accomplish just that. It is a comprehensive and carefully crafted budget that will improve law enforcement efforts throughout the Department of Justice. Although the battle cannot be won quickly, I firmly believe it can be won. I ask this committee to join us in the fight.

In addition to our budgetary commitment to the fight against crime, this Administration is strongly committed to working with the Congress to achieve much needed legislative reforms. This fact is underlined by the President's Comprehensive Crime Control Act of 1983.

The bill which the President sent to Congress on March 16, 1983 has been introduced as S. 829 by the distinguished Chairman, Senator Thurmond, and the distinguished Senator from Nevada, Mr. Laxalt. It is a comprehensive package of reforms designed to restore a proper balance between the forces of law and the forces of lawlessness. It is not necessarily intended to be processed as a single piece of legislation. However, it does establish our legislative agenda for the 98th Congress and it does include the measures we need to strengthen our ability to fight crime effectively.

This morning I would like to outline the bill's most important provisions. Title I concerns bail reform and would permit the courts to consider a defendant's danger to the community when setting bail. It would reverse the presumption in current law in favor of granting bail after conviction. And it would provide for revocation of bail and increased penalties for crimes committed by persons released on bail.

The bill also provides for comprehensive sentencing reform. It would abolish the current system of parole that has led to so many abuses and substitute a system of determinate sentences with limited good-time credit. It would establish a commission to set sentencing guidelines, and it would allow appeals of sentences not within the guidelines.

We also seek reform of the exclusionary rule in order to permit the introduction of critical evidence while achieving more precisely the goal of deterring illegal police conduct. Under our proposal, evidence would not be excluded if law enforcement officers seized the evidence with a good-faith, objectively reasonable belief that their conduct was within the law.

We would amend the law of forfeiture to provide for the forfeiture of the profits and proceeds of organized crime enterprises and drug trafficking enterprises. We would obtain authority to "freeze" forfeitable assets pending judicial proceedings. We would be permitted to obtain the forfeiture of substitute assets when other assets have been removed from the reach of the government.

The bill would provide for a much-needed amendment of the insanity defense. Under the proposal we now advance, the defense would be available only for those individuals who are unable to appreciate the nature or the wrongfulness of their acts.

Those who make such a claim would bear the burden of proof by clear and convincing evidence. Our proposal would also eliminate expert testimony on the ultimate issue of sanity or insanity and would for the first time provide a federal procedure for commitment of individuals found not guilty by reason of insanity.

Our legislation also proposes many other changes. One is reform of the habeas corpus procedures to require federal deference to "full and fair" state court proceedings and to limit the time for filing habeas corpus cases.

Another would strengthen the penalties for drug violators and strengthen the DEA's ability to prevent diversion of legitimate drugs to illegal purposes.

In discussing badly needed legislative initiatives in the administration of justice, I would be remiss if I did not also mention the proposed Immigration Reform and Control Act of 1983. This legislation, recently introduced in both Houses of the 98th Congress, would increase the law enforcement powers of the Immigration and Naturalization Service by imposing sanctions on those who knowingly hire illegal aliens. And it would reform and expedite our procedures to return those who came or remain here illegally. At the same time, the bill would deal realistically with illegal aliens who are now here -- and safeguard against discrimination -- by granting them a legal status. Failure to enact reform legislation of this kind can only result in further illegal migration, greater public frustration over the government's inability to control our borders, and the negative social and economic effects occasioned by so large a number of persons living outside the law.

Mr. Chairman, that concludes my remarks. I am, of course, ready to answer any question you or the members of the Committee may have.

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