

1972 Annual School for Sheriffs
and their Deputies
N. C. Sheriffs' Assoc. & the
Institute of Government
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I will try to make my comments to you tonight fairly brief, and I am sure you will appreciate that. You have completed a course of instruction which required that you do a lot of listening, and I know that by now you feel very much like the little boy who attended the revival service at my home church of Neill's Creek.

(Relate the "I've got a belly full, too" story.)

Seriously, though, I'm sure that this is not your attitude else you would not have taken the time from your family and from your duties to come to Chapel Hill for the excellent training you have received here this week. I commend you for your desire to become better law enforcement officers, and I thank the Institute of Government for their continuing efforts to provide training and leadership in the area of law enforcement.

As SBI Director Charles Dunn said recently in a paper titled North Carolina Law Enforcement: Analysis and Recommendation, "Law enforcement in North Carolina is today at a crossroads." The people of our State generally recognize that the law enforcement profession needs help and that it must have it now. But they have been talking about this for some while, giving lip service to "law and order" or "law and justice." Now the time has come when lip service will no longer suffice.

It is evident, I believe, that any effort to upgrade an institution, system, or profession must begin with public awareness of the problems. Already, we have done a great deal to make the public more aware of the problems of law enforcement. We have not done enough but are, in fact, approaching the end of what is necessarily the first phase of improving the profession. We must now begin to develop programs which have the active support of community leaders and which meet squarely the problems we face.

Law enforcement has many needs. Officers generally place more training and educational opportunities as a first priority. Obviously, training and educational

opportunities rank high on your list since you are at this very moment taking advantage of the educational resources available to you.

"Salaries and benefits also rank high. Better equipment, particularly communications equipment, is needed.

"Retirement benefits are frequently so low that police officers cannot afford to retire. Most must either get other jobs or continue to serve as officers."

From a management point of view, additional planning and innovation are essential in order to obtain maximum efficiency. Law Enforcement must pattern itself more after business." (Charles Dunn, SBI Director)

These needs exist at a time when the crime rate is still increasing in this country. The most recent FBI crime statistics look like a rerun of last year's and the year before and the year before. True, some scattered cities seem to have made an impact on the rising crime rate. They have done so for the most part after campaigns to solicit active citizen support and by instituting innovations in law enforcement services--things we are involved in here in North Carolina. These success stories, though, are few and far between.

The first nine months of 1971 compared with the first nine months of 1970 show that crime in the United States increased 6 percent.

Violent crimes were up 10 percent

Robbery was up 12 percent

Murder, 10 percent

Aggravated assault, 8 percent

Forcible rape, 7 percent

Property crimes, as a group, increased 6 percent.

And armed robberies increased at the especially alarming rate of 17 percent. I was pleased to see that in the Southern region robberies actually declined for a change.

So as you can see, it is the same old story. What are we going to do that we haven't done in the past to change it. Obviously, we must do something. President Nixon recently stated, "If we limit ourselves to calling for more judges, more police, more lawyers operating in the same system, we will produce more backlogs, more delays, more jails and more criminals."

What is needed now, the President said, is "genuine reform." Certainly, we all must agree, to some degree, with this observation by the President.

When we talk about improving a profession and the system in which it operates, it is easy to oversimplify by stating that increasing salaries will solve all the problems. Ever since becoming Attorney General, I have advocated increased salaries for law enforcement personnel, and I will continue to do so for I believe this is essential. But I believe you will agree also that we will never solve the crime problem--or any other problem for that matter--simply by paying the same people more money to do the same things in the same way.

This was the argument used when teachers first came forward and asked that their professional status be improved and that greater emphasis be put upon improving education in North Carolina. In response to that challenge, Governor Sanford came forward with his program of "quality education", designed to change the manner of educating our children in the public school to make it more effective and efficient while at the same time doing more for the teaching profession in our State. His idea worked. The people bought it, and we made greater strides in improving the educational system in this State than we had made in decades before. Needless to say, the professional status of public school teachers was enhanced, also.

In North Carolina, many law enforcement agencies have embarked on their own "quality law enforcement" programs. These programs have not been heralded with the same trumpets as "quality education" or greeted with the same fanfare by the press. But they are just as important to the people of our State and their success is imperative.

Much of the impetus has come from funds granted by the Law Enforcement Assistance Administration coming through the Governor's Committee on Law and Order. Law enforcement planning regions covering the entire State have developed programs designed to expand services, improve the quality of existing services, and examine the whole philosophy of law enforcement in some areas of the State. They are bearing fruit and people on the local level are the primary beneficiaries.

Those of us here tonight, however, represent only one part of the criminal justice system. You represent law enforcement, the first link in the chain. To strengthen law enforcement and not strengthen other important links would be sheer folly. And there are links in the chain which, in my opinion, are weak and demand immediate attention.

I continue to be disturbed when I hear statements by public officials to the effect that North Carolina's courts are functioning beautifully, that dockets are not crowded and that all is well with the courts system. Well compared to what?

I talk with people almost daily who have been in the courtroom as witnesses, as plaintiffs, and as defendants who say that the courts are bogged down, that justice is not being administered efficiently or expeditiously, and that their contact with the court has diminished their respect for it.

This is a tragedy. In years past, we have encouraged private citizens to go to the courthouse and observe the court in progress in order to increase their understanding and their appreciation for the judicial system. I suspect that if we want to preserve what little confidence the public has left, we should instead ask them to stay away.

Certainly, for the most part in our State, we are blessed with qualified and capable judges and solicitors. But the system in which they operate is now being referred to as a "non-system" and speedy trial as provided for in our Constitution, in many cases, is the exception rather than the rule.

The delay in trial which frustrates you as police officers has been defended by some court officials on the ground that it is the defendants and their attorneys who are delaying the trials and, therefore, no one's rights are being abused.

Now I ask you if the rights of the prosecuting witness are not being abused when he has been victimized and yet sees the lawbreaker remain free and unconcerned since he knows that he may never have to answer for his wrongdoing. I ask you if witnesses are not being abused when they are subpoenaed to court over and over, when they lose time on their jobs and income, and often even put their jobs in jeopardy because cases are repeatedly continued usually without advance notice.

I ask you if the citizens of this State are not being abused when defendants are allowed to sidetrack the judicial mechanism and use it to their advantage. I ask you if you as law officers are not being abused when you waste hours and days in court waiting to be called for cases in which you are witnesses.

Now I know that "[c]riminal adjudication will never be a completely efficient process but there is a good reason to believe that it can become a more efficient process

than it is now, without losing anything that is worth keeping." (Richard G. Kleindienst)

Surely, court dockets can be handled in a more efficient manner than they are. There is no reason why, with preplanning, the courts cannot determine to a greater degree what cases will be called on a particular day prior to the time that a hoard of witnesses, plaintiffs, and defendants cram into the courtroom to be told that they either must sit for days or that their case will not be called until another term of court.

But the problems cannot be solved by court officials alone. The legal profession in our State has an obligation here too. David Naply, an English solicitor writing for the May issue of "Nation's Business" said "British advocates are expected to assist the court in attaining justice and avoiding delays and the legal profession as a whole so performs."

In the United States and in North Carolina, it is understood that attorneys are officers of the court and, therefore, have an obligation to contribute to its decorum and efficiency. However, I am afraid that this obligation to the court has become increasingly subserviant to the

interest of individual clients.

The Director of the Federal Judicial Center in Washington, D. C. recently stated that "[t]he lawyer who throws obstacles in the path of orderly and expeditious court progress may in some instance be serving a narrow financial or personal interest of a single client, but he is necessarily prejudicing the interests of his other clients who desire and are entitled to speedy determinations. To choose to serve the interests of one client at the expense of others can find no defense in the tradition of the lawyer's duty to his client.

"Moreover, as an officer of the court, the lawyer has a duty to uphold and serve the responsibility of the courts to afford speedy justice. His opportunity here is often far greater than that of the judge. His responsibility is proportionate to his opportunity."

(Alfred P. Murrah)

To sum up, the simple truth of the matter is that lawyers must wholeheartedly join in shouldering the responsibility for advancing calendars. The time has past, if it was ever with us, when we could afford the luxury of dilatory tactics designed to delay the judicial process.

If we do not act and act quickly we may soon see legislation which will place a mandatory time limit on trials and provide for dismissals with prejudice after that point. Certainly, we do not want the experience which Florida had when its Supreme Court promulgated a rule providing all defendants who requested it a trial within 60 days. The trial courts were incapable of meeting this trial date immediately and several hundred cases were dismissed.

We must proceed more cautiously than this, but I think the public is demanding speedy trials and that this pressure will be felt by legislators, many of whom also share this concern. I tend to agree with some who have suggested that if we impose mandatory time limits that we should do so first on an experimental basis with relatively flexible court rules rather than relatively inflexible statutory commands.

I am not one to come before you and pretend that I have the answer to all the problems of the criminal justice system, I do not. I do believe as strongly as I believe anything that you don't solve problems by ignoring them. You don't solve problems by stating all is well

when many things are wrong, and it is obvious to everyone. You don't inspire public confidence this way and in fact you contribute to public disrepute and the deterioration of the system.

It is about time to face squarely the problems and begin to propose definite solutions. The law enforcement community, I think, is moving forward towards this goal. Again, I commend you for your efforts to improve the administration of justice in North Carolina and encourage you to take the message back home to others who may need your prompting and your motivation.