

Speech by

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Tarboro Jaycees Outstanding
Young Law Officers Banquet

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I thank you so very much for inviting me to come to Tarboro and share this occasion tonight with you. I am honored that you would ask me and pleased to have an opportunity to discuss with you some problems which face us today in the administration of criminal justice in this State.

We do have problems and I commend you as Jaycees for the efforts you are making to focus on them, bring them within the public spotlight and then promote public support for programs designed to cope with them. Your recognition tonight of Outstanding Young Law Enforcement Officers in this area is just one way you are doing this.

But it is a good way. It is good because you are giving credit where credit is due, rewarding public servants for jobs well done and thus encouraging good work in the future.

It is good because you are saying to young people who are about to enter a profession that law enforcement has its

rewards, that the effort expended is appreciated by the community, that the profession is an honorable one and worthy of consideration.

It is good because hopefully this program will cause each of us to be more conscious of the needs and challenges of law enforcement and to make sure that they are met in Tarboro and Edgecombe County.

It is good because hopefully the interest displayed here will encourage young officers to remain in law enforcement, increase their skills and effectiveness, and become professionals in the truest sense of the word.

This is important because these are critical times for law enforcement in North Carolina.

SBI Director Charles Dunn said recently in a paper entitled North Carolina Law Enforcement: Analysis and Recommendation, "Law enforcement in North Carolina is today at a crossroads." Most people in our State recognize that the law enforcement profession needs help and must have it now. But we have been talking about this for a long time, giving mere lip service to "law and order" or "law and justice". The time has come when lip service will no longer suffice. We must do more than display a bumper sticker saying "Support Your Local Police" and root for the good guys in the TV serials.

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. This program tonight is a vital part of that effort.

We have not done enough but are, in fact, approaching the end of the necessary first phase - the public awareness phase - of improving the profession. Now we must begin to develop programs which have the active support of you and other community leaders and which meet squarely the problems we face.

Law enforcement has many needs. Officers generally give first priority to more training and educational opportunities.

"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 that.

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

Violent crimes were up 10%

Robbery was up 12%

Murder, 10%

Aggravated assault, 8%

Forcible rape, 7%

Property crimes, as a group, increased 6%

Armed robberies increased at the especially alarming rate of 17%.

I was pleased to see that in the Southern region, at least, robberies actually declined for a change.

So 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 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 because 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 one argument used by the opposition 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 honored here tonight, however, represent only one part of the criminal justice system. They 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.

Last night in Raleigh I expressed my concern about statements made by public officials that North Carolina's courts are functioning beautifully, that dockets are not crowded and that all is well with the courts system. When you look at the statistics, you can only ask, "Well compared to what?"

The critical nature of the problem we face is indicated by statistics from the Administrative Office of the Court.

On January 1, 1967, in the Superior Courts in North Carolina, where our more serious crimes are tried, there were 10,819 criminal cases pending. By the end of 1967, there were 11,903 cases. By the end of 1968, there were 12,278; by the end of 1969, there were 12,640 and by the end of 1970, there were 16,919 pending cases. This represents an increase over four years of 56%. During 1970 there was a 33.8% increase in criminal pending cases in the Superior Courts.

The District Courts, where traffic and less serious criminal offenses are tried, showed an increase in pending criminal cases from January 1, 1969 when there were 50,422 cases on the docket to December 31, 1970, when there were 78,506 on the docket - in just two years, an increase of 35.7% in our backlog. During 1970 alone, the rate of increase was 22%.

Statewide statistics are not available for 1971 but the magnitude of the problem can be shown by statistics for the year ending December 31, 1971, from ten counties selected at random.

In Wake County, for example, at years end there were 8,640 criminal cases pending in the District Court and 1,544 pending in the Superior Court, for a total of 10,188 criminal cases pending of which 300 were drug law violations. The Superior Court criminal docket backlog increased 63% in one year!

In Cumberland County there were 4,050 criminal cases in the District Court and 363 in the Superior Court for a total of 4,413 cases pending.

In mecklenberg there were 6,313 cases in the District Court and 875 in the Superior Court for a total of 7,188 criminal cases pending.

Guilford County, including High Point and Greensboro, had 9,750 cases pending in the District Court and 602 in the Superior Court for a total of 10,352 criminal cases pending.

Forsyth County had 681 cases pending in the District Court and 846 in the Superior Court for a total of 1,527.

Buncombe County had 3,520 criminal cases pending in the District Court and 528 in the Superior Court for a total of 4,048 pending criminal cases.

These figures are from our more populous counties where court administration should be the best in our State, yet the backlog of cases is staggering and steadily getting worse.

In ten counties: Bertie, Buncombe, Clay, Cumberland, Davidson, Forsyth, Guilford, Mecklenberg, Wake, Wayne and Wilson - randomly selectwd as representative of the entire State, there were at the year's end 36,866 criminal cases pending in the District Court and 5,646 in the Superior Court - a total of 42,512 cases. This total figure represents an increase of 15% in our criminal case backlog over a period of just one year.

Let me digress for a moment to just comment on the effect of this backlog on our most pressing law enforcement problem - drug law violations.

In Cumberland County there are approximately 125 narcotics cases awaiting trial in the Superior Court and many more in the District Court. In Wake County, there are 250 drug cases in the Superior Court backlog. The practical effect of this delay in trial of drug offenders is to frustrate the dedicated law enforcement officer and to convince the pusher that punishment is remote if at all.

I point out that in the backlog of pending criminal cases, approximately one in three has been continued or postponed at least one time. While these continuances may be

necessary or desirable in some cases, the abuse of this practice has had the effect of compounding our courtroom delays.

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.

For the most part, in our State we are blessed with qualified and capable judges and solicitors. There is no finer judge anywhere than your own Phil Carlton. But in many parts of our State the system is really a non-system and speedy trial as provided for in our Constitution is the exception rather than the rule.

The delay in trial which frustrates you as police officers and citizens 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 abused when he has been victimized and yet sees the lawbreaker remain free and unconcerned since he knows he may never have to answer for his wrongdoing. I ask you if witnesses are not abused when they are subpoenaed to court over and over

again, 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 abused when defendants are allowed to sidetrack the judicial mechanism and use it to their advantage. I ask if you law officers are not abused when they must waste hours and days in court waiting to be called for cases in which they 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 not, 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. I think we should re-examine and give renewed emphasis to this duty of the legal profession to the total system of justice, as well as to individual clients. Hopefully, as a result, we can "develop a partnership between the legal profession, the courts and the public in the organization and improvement of the courts and other projects devoted to the effective administration of justice." (Justice Tom C. Clark)

"...[A]s 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)

I think it important to note that as a practical matter lawyers usually will ask for very little more than they have been led to believe court officials will grant. If they know continuances are handed out as a matter of routine and that a continuance enhances a particular client's case, then they are sure to ask for it. The alternative is to refuse, have the

client feel his representation is not aggressive and vigorous enough, and have him seek the counsel of another attorney who will obtain for him the advantage that a continuance offers.

I believe that most attorneys would actually welcome a less relaxed attitude by the court concerning the continuance of cases. They are the first to recognize that a continuance may benefit a particular client but necessarily slows the judicial process and prejudices the interests of his other clients who desire and are entitled to a speedy trial. A relaxed attitude of the court in fact forces him to serve the interest of one client to the expense of others - a proposition contrary to the tradition of the legal profession.

These increasing backlogs and continuous delays are a critical matter. They erode the effectiveness and credibility of the court. They further weaken an already overburdened system.

Last night I suggested that our State now needs legislation imposing a mandatory time limit after arrest during which criminal trials must be begun. If the flow of cases in our courts across the State does not substantially improve, I intend to recommend legislation of this type for the consideration of the 1973 General Assembly.

Though various time limits have been suggested, I now favor a 90 day maximum period during which trial must have begun. Mandatory dismissal with prejudice would follow except where the court makes a finding that the ends of justice would not be met by trial within the mandatory period. In computing the time elapsed, periods attributable to delay requested by the accused or his counsel, or unavailability or inability of the accused to stand trial would not be included. Delays requested by the accused would be granted sparingly and then only for good cause shown to the court.

Senator Sam Ervin has introduced legislation of this general character in an effort to expedite trials in the federal courts and Governor Jimmy Carter of Georgia has recommended similar laws for his State.

We need to move carefully if we do enact this change in our law. 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 justified in demanding speedy trials.

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.

My remarks here tonight will probably be disputed by some, and that's fine. Some will vigorously disagree with my conclusions about the need for changes in our system, and that's fine, too. But I hope that there will at least be a discussion and public airing of this growing problem, for I believe that only through an informed and aware public can any meaningful improvements be made.

North Carolinians are known for facing up to their problems squarely and proposing definite and realistic solutions. It is time now for us to look carefully at the situation in our courts and honor this tradition.

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