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Mike Duval

Department of Justice

FOR RELEASE UPON DELIVERY
FRIDAY, MAY 21, 1976

ADDRESS

BY

THE HONORABLE EDWARD H. LEVI
ATTORNEY GENERAL OF THE UNITED STATES

BEFORE

THE AMERICAN LAW INSTITUTE

12:45 P.M.
FRIDAY, MAY 21, 1976
MAYFLOWER HOTEL
WASHINGTON, D. C.

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To start with what may seem far afield of whatever subject I have, I should like to refer to an article by Professor James McGann in a magazine called "Critical Inquiry." That article, which is on the function of criticism, builds upon the work of Professor Harold Bloom in a series of essays published a few years ago under the title "Ringers in the Tower," with the subtitle "Studies in Romantic Tradition." Bloom's essay on Ruskin as Literary Critic provides McGann with material for exhibiting a central conflict. The conflict concerns the role of the critic. The conflict is between the virtue of accuracy and the virtue of the "more imaginative act of vision." As to the virtue of accuracy, Ruskin is quoted as saying: "The greatest thing a human soul ever does in this world is to see something, and to tell what he saw in a plain way." But Ruskin as a prophet, as he grew older, was more captured by the apocalyptic yearnings of mankind, in which seeing becomes an act of prophecy, a penetration into the "life of things," a finding of the truth of imagination. McGann describes the force of this conflict upon Ruskin as finally bringing on what Ruskin described as the Storm Cloud of his later years, when he was beset by a special madness.

I trust I may be forgiven for borrowing this fugitive material so imperfectly from a sister branch of the humanities.

The problem of the conflict is one with which law is fully familiar. We are well aware of the duty and difficulties of attaining accurate description, and the importance of the craftsmanship of detail. We also know that the foreseeability inherent in our judgments lurks in all the ambiguities, not only of speech, but of what we in fact see, or wish to have accomplished. So the Restatement of Law often cannot help but be--and sometimes is intended to be--a predictor--some would say a vision--of better things to come. I do not suggest that this should lead us, as perhaps it did Ruskin, to almost total incapacitation. We are accustomed to the problem. Our system of law is arranged so that we can argue about what we see or ought to see.

You may indeed wonder, as I have, what has brought me to the idea of the suitability of this story about a somewhat mad genius and his view of art, as appropriate for this occasion. The answer is that a major problem for government today, a major problem for the vitality of a democracy, and a major problem for the administration of justice is the achievement of a shared and accurate perception of events and problems. But the accuracy is most difficult to attain. In an age of most extensive and rapid communication, somehow accur acy gets lost. In an age of creativity in the law, our perception of what the problem is can be clouded by the very techniques which have been used to make change possible.

All of this is perhaps a prologue to some obvious concerns which I have. One concern, which I believe is of general importance, is the image of the Department of Justice. It is well enough to say that in the long run it is the reality and not the image which counts, but because of past events and because of the ways of our present society, the reality can become lost in the constant stream of images which may be quite false.

It is with some diffidence that I illustrate this problem. But I want to give two recent examples. The first comes from an article by I. F. Stone in the New York Review of Books. Mr. Stone wrote, "It is depressing that despite all we now know Attorney General Levi has rejected recommendations from within the Department for an independent citizens' investigation of the (Martin Luther) King assassination and insists on turning it back for another self-inquiry by the FBI." Stone was trying to make a point, but his facts were wrong. The investigation of whether the FBI was involved in any way in the assassination of Dr. King has not been turned over to the FBI. I have assigned Michael Shaheen, the Department of Justice Counsel on Professional Responsibility, to recruit a number of attorneys and others to investigate that issue thoroughly and independently and to report their conclusions and recommendations to me. I have also directed Mr. Shaheen to investigate whether the FBI's investigation into

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the assassination was thorough and honest, whether any information concerning the assassination has come to the attention of the Department which should be dealt with by appropriate authorities, and whether the nature of the relationship between the Bureau and Dr. King calls for prosecution, disciplinary proceedings or other appropriate action.

The second illustration derives from one of the reports of the Senate Select Committee to Study Government Operations with Respect to Intelligence Activities. In the first paragraph of its report on Warrantless Surreptitious Entries, the Committee included this sentence: "Since 1960, more than five hundred warrantless surreptitious microphone installations against intelligence and internal security targets have been conducted by the FBI, a technique which the Justice Department still permits." The careful or unintended ambiguity in that sentence conveyed a misimpression which was widespread when reported by the media. It could easily be read, and doubtless was read by some, to mean that the Department of Justice still conducts warrantless electronic surveillance against "internal security" targets--that is, domestic groups perceived to be a threat to national security. The Supreme Court decision in United States v. United States District Court, however, prohibited warrantless electronic surveillance of targets unconnected with foreign powers. The Department of Justice does not use warrantless electronic surveillance against

anyone who is not the agent of a foreign power. One of the first things I did when I came to the Department of Justice was to try to be clear about the policy in this area. I discussed it time and again. To make the point that domestic security surveillance was not involved, I stated on July 9, 1975, that at that time there was no warrantless surveillance directed at an American citizen. This has been true for the entire period since that time as well. It should be no surprise, and hardly news, that the Department of Justice does engage in warrantless electronic surveillance under strict procedures. Former Attorney General Richardson announced that policy in a September 12, 1973, letter to Senator Fulbright after the decision in United States v. United States District Court. On numerous occasions I have announced the number of warrantless electronic surveillances that have been authorized, each time stressing that they are directed only against agents of foreign powers. The Department engages in warrantless electronic surveillance because of the curious shape of the law in this area which assumes that the Department will undertake this activity. I have said that the state of the law is unfortunate and should be clarified by legislation, executive policy-making and court decisions. Misleading statements such as the Committee's reference to internal security surveillances make this clarification difficult.

Such statements, which are fairly typical and for which I assess no blame because they are to be expected in the way things work, reflect undoubtedly a noble objective. Perhaps they are intended to look beyond the details to the spirit. But they mislead and they disfigure. They impede the work of reconstruction.

Most difficult in the process of reconstruction are those areas of law and administration where basic individual rights and bona fide national security are involved. In these areas it is essential that the government take special precautions to be thoughtful and knowledgeable about what it does. The scrutiny is made more difficult because the informed reactions which would otherwise come from the society at large either do not come or are distorted because of the long term effects of secrecy.

As far as electronic surveillance for foreign intelligence, we must recognize that we are dealing with practices and procedures of government that have been kept in relative secrecy for 36 years. Each Attorney General since Attorney General Jackson--along with Congress and the courts--has played a role in one way or another in carrying on or creating the present system. Faced with this problem my associates and I determined that, while we knew it would be an extremely difficult task, the best course would be to achieve legislation in this area.

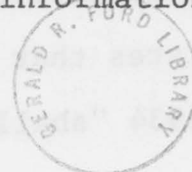
The President some weeks ago announced that he was seeking bipartisan support for the legislation. The Department has worked with members of both parties in the Senate and the House and has consulted with a number of distinguished lawyers and legal scholars, some of whom are present today. It is often said that while present administration practices with respect to warrantless electronic surveillance may be sufficiently protective of individual rights, there is no assurance that these practices will continue. The legislation will meet this concern. It is innovative. It is a step no administration has ever taken before. And because I think it is so extremely important, I want to impose upon you at this time to bring some of its details to your attention.

The bill provides for a suitable judicial warrant procedure by which applications specifically authorized by the Attorney General in each case, under general authorization by the President, would be made to one of seven district court judges designated by the Chief Justice. Appeals from a denial of the warrant application would be taken to a special court of appeals made up of a presiding judge and two other judges designated by the Chief Justice. The United States would have the right to appeal an affirmance of denial to the Supreme Court. The bill would provide for electronic surveillance for the gathering of foreign intelligence information which is defined as: first, information relating to the ability of the United States to protect itself from actual or potential attack or other hostile acts of a foreign power; or second, information with

respect to foreign powers or territories which, because of its importance, is deemed essential to the security or national defense of the nation or to the conduct of the foreign affairs of the United States; or third, information relating to the ability of the United States to protect the national security against foreign intelligence activities. The judge would receive a certification by an appropriate Presidential appointee that the information sought is foreign intelligence information as defined. The judge would be authorized to issue a warrant if he finds probable cause to believe that the subject of the interception is a foreign power or an agent of a foreign power. Foreign power is defined as including "foreign governments, factions of a foreign government, foreign parties, foreign military forces, enterprises controlled by such entities, or organizations composed of such entities, whether or not recognized by the United States, or foreign-based terrorist groups." Special protection is accorded United States citizens and permanent resident aliens in the definition of agent of a foreign power, which is as follows: "a person who is not a permanent resident alien or citizen of the United States and who is an officer or employee of a foreign power; or. . .a person who, pursuant to the direction of a foreign power, is engaged in clandestine intelligence activities, or who conspires with, or knowingly aids or abets such a person in engaging in such activities."

It has been urged that at least as to citizens and permanent resident aliens, even if they are clandestine intelligence agents of a foreign power, there should be no electronic surveillance absent a showing of probable cause that a crime has been or is about to be committed. The bill does not adopt that approach. The espionage laws simply do not make all clandestine intelligence activities undertaken on behalf of a foreign power criminal. To change them to encompass all such activities would be difficult and could make the espionage laws too broad. The spirit behind the suggestion that electronic surveillance for foreign intelligence be tied strictly to violations of law derives, I suppose, from a perceived need for complete symmetry between this area and the traditional law enforcement area. But the symmetry may not be possible in the working out of the details of policy, no matter how inviting it may be in its spirit.

In addition to the probable cause requirement, the bill provides that the judge must also be convinced that "minimization procedures to be followed are reasonably designed to minimize the acquisition and retention of information relating to permanent resident aliens or citizens of the United States that is not foreign intelligence information." Thus we have tried to limit both the scope of acquisition and the retention of overheard information.



We recognize that there may be an argument that the limited sort of determinations to be made by judges under this legislation might not be appropriate judicial business. The bill follows what we regard as the implied suggestions of Justice Lewis Powell in the Almedia-Sanchez and Keith cases that special warrant procedures can be fashioned to meet the unique circumstances that arise in this area.

The bill defines electronic surveillance as the interception of radio communications that begin and end in the United States and all wiretap and microphone surveillances within the United States. This definition does not include intelligence gathering by sophisticated electronic means directed at international communications. For this reason, the bill contains a section concerning Presidential power.

Title III of the Omnibus Crime Control and Safe Streets Act of 1968 included a proviso reserving the President's power to conduct warrantless electronic surveillance for certain described purposes. The Supreme Court, in United States v. United States District Court wrote that Congress, by this proviso in Title III, left Presidential power where it found it. It held that there was no Presidential power to conduct warrantless electronic surveillance of individuals or groups which have no foreign connection. In the latest version of the legislative proposal the section concerning Presidential power states that nothing in the bill or in the Communications Act of 1934 "shall be deemed to affect the exercise of any

constitutional power the President may have to acquire foreign intelligence information if (a) such acquisition does not come within the definition of electronic surveillance in the bill, "or, (b) the facts and circumstances giving rise to the acquisition are so unprecedented and potentially harmful to the nation that they cannot be reasonably said to have been within the contemplation of Congress in enacting this chapter." The first part of this section is meant to leave untouched a program of surveillance of international communications which simply does not fit the kind of analysis and system this bill would impose. This is not to say that legislation is impossible nor that safeguards cannot be designed and implemented. Special protective procedures are already in effect. But an effort to treat this program in the context of the proposed bill would not be useful. The second half of the section of the bill concerning Presidential power represents the lawyer's concern for providing for all possible eventualities. This may seem akin to the vision of the apocalyptic poet, but it serves an important purpose. By stating a provision to provide for a situation of utmost danger, one also narrowly and carefully delimits what it is that can be considered as such a situation in the future. It is at least as important as a guarantee that the standards and procedures in the bill will be followed in all foreseeable circumstances as it is as a hedge against the unforeseeable.

One other feature of the bill has raised some questions-- the lack of a notice requirement such as the one included in Title III. While there may be some disagreement about this, the special nature of the foreign intelligence field, when foreign powers or their intelligence agents are involved, makes such notice inappropriate. Notice would destroy sensitive investigations, cause great risks to individuals cooperating with the investigations and sometimes have other serious implications. While it is not possible to convince everyone on this point, I believe most will recognize the validity of these reasons.

The proposed legislation covers an area that until now has been thought not to be amenable to statutory control. That generally has been the position for 36 years. I believe that if enacted it will be an important step in the restatement, reshaping and advancement of the law. If it is not enacted, I fear much time may pass before another legislative effort goes forward.

I need hardly tell the American Law Institute that the law does not just simply clarify itself. The clarification requires a willingness to raise issues, to confront problems, to articulate principles, to test these principles through their meaning in application. Many of the problems with which the law deals raise the most complex social issues; they have been surrounded with controversy. They must be approached

with care and responsibility. The difficulties can be enormous. But if our law is to be a vital and responsive force--if indeed it is to be a rule of law--then we must not hide from the hard questions. We can only hope that the spirit of candor and thoughtfulness with which these issues are approached will be understood. Let me add that for many of these areas, the work of the American Law Institute itself has helped and can help to lead the way. There is, I think, a great deal for all of us to do.

DOJ-1976-05

Department of Justice

file

MAY 5 1976

ADDRESS

BY

THE HONORABLE EDWARD H. LEVI
ATTORNEY GENERAL OF THE UNITED STATES

BEFORE

THE FEDERAL BAR COUNCIL'S LAW DAY DINNER

UPON RECEIPT OF

THE LEARNED HAND MEDAL FOR EXCELLENCE IN FEDERAL JURISPRUDENCE

7:30 P.M.
TUESDAY, MAY 4, 1976
GRAND BALLROOM, HOTEL PIERRE
NEW YORK, NEW YORK

To receive an award carrying the name of Learned Hand from this bar whose lawyers and judges have contributed so much to the jurisprudence of our country is a cherished honor. That this comes because of the position I hold at this moment is particularly gratifying. It is commonplace to speak of the skepticism which many felt toward our governmental institutions and offices because of the difficulties of years past. Skepticism has its uses, but the claims of our republic and of our democracy require an equally robust faith. You and I share and take most seriously the duty to justify and to help in the continuation of this faith. This is the calling of our craft. We cannot have a government of law without the belief in a government of law. So, as any fiduciary, I would hope a position representing the work of many, and charged with the enforcement of the rule of law, would be regarded as worthy of its trust. I do not claim this as a great accomplishment, but one which we must always make clear is to be expected.

So I thank you for myself and for my colleagues for this reminder. I should add, although it goes without saying, that the role which I have undertaken would be impossible

without the understanding, support and desire of the President, whose duty it is to see that the laws are faithfully executed.

It is particularly gratifying that this award should come to me from you through Harold Tyler, who left you to join me in this effort to fulfill an important trust and whose presence with me is surely the best assurance I can give you.

I find it entertaining to think of how Learned Hand would have reacted to a procession of men and women over the years singing his praises at an event such as this. I assume he would have been pleased. But that he would have exercised, as he often did, his right not to listen.

There was a realism about Learned Hand, placed in a setting of an awareness and knowledge of the limitations and values of our culture. When he spoke, we realized it was an authentic voice for the best in our civilization -- yet able to speak objectively. He was not afraid, and he asked no quarter, as he said, of absolutes. He knew the force of judicial power; he exercised it, but with an insistence that it was only one among many in the pattern which makes for governance. He put law in its place, proud of his craft, knowing the solution to many of our problems was not an easy matter. "The law," he wrote,

"is no more than the formal expression of that tolerable compromise we call justice, without which the rule of the tooth and claw must prevail . . . the best of man's hopes are enmeshed in its success; when it fails they must fail; the measure in which it can reconcile our passions, our wills, our conflicts, is the measure of our opportunity to find ourselves." He had the skepticism and he had the robust faith.

I think it is correct to say, and I rely upon my recollections of conversations with him, that much of the direction of our present law as created by the courts would not have been to his liking and would be contrary to his long-run prediction as to the role of the courts. He did not believe the courts should be the central forum for the discussion and resolution of social issues facing the country, and he thought that in any event the country eventually would not stand for this. He wrote of the compromises which "almost always must be in a free country," and warned that "if they are to be upset under cover of the majestic sententiousness of the Bill of Rights, they are likely to become centers of friction undreamed of by those who avail themselves of this facile opportunity to enforce their will." He thought there would come a time when the Supreme Court's handling of such issues under

constitutional rubrics would be much more limited. Of course, he knew of the active and special role of the courts throughout our history in the creation of law. I doubt if he would have expected the avidity with which lawyers have preferred judicial to legislative solutions. He would have thought, I believe, that the job at hand for the courts was to make our system for the administration of justice work more effectively and fairly, and he most surely would have included for our time the improvement of our system of criminal justice.

I propose to speak briefly about certain proposals for the improvement of that system--proposals well-known to you, hoping, I guess, that through this repetition I can move things along. I will not discuss the proposed new Federal Criminal Code, except to say that extraordinary compromises have been offered in the Senate. I believe the need for it is great, and I hope progress with it can be made.

Our system of criminal justice is not working well. It performs inadequately in the prevention of crime. While the rate of increase in crime has recently been cut in half, if one believes the statistics, the most current

data indicate: that since 1969, reported crime has risen by more than 30 percent while the population has grown only five percent. We are only now beginning to realize the magnitude of the differences between the amount of crime experienced and the amount of crime reported. The breadth of that gap is appalling. For 1973 it is estimated that only 44 percent of crimes of rape were reported to the police; only 43 percent of assaults; only 32 percent of larcenies. A study published by three M.I.T. researchers last summer projected--on the basis of current data and factors, and assuming that no changes in public policy toward homicide would be forthcoming--that "approximately two percent of those born now in large American cities will be murdered, and under not unreasonable assumptions the actual figure might reach as high as four percent." Thus at current homicide levels, the study points out that a randomly chosen urban American boy born in 1974 is more likely to die by homicide than an American serviceman in World War II was to die in combat.

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We should not assume no change in policy. The present rapid rise in the prison population undoubtedly reflects present changes in attitudes. At the same time it denotes other problems. But we cannot ignore the warning of these figures.

We have considerably more violent crime than any other Western industrialized nation. But some of the nations of Western Europe in the last few years are experiencing even more frightening crime growth rates. Many countries on the Continent have seen two or threefold increases in robbery in the last three or four years. The explosion of violent crime is being shared. No doubt that the weakening of many institutions, including most particularly the family, is a factor in these results. But nothing good comes from this point if the conclusion is that, therefore, it is not the law's problem. It is the oldest problem which in one form or another the law has had. No doubt there are other factors: the size and mobility of populations, a distrust of the fairness, appropriateness and effectiveness of the criminal law, a lack of awareness that all segments of the population, including most particularly the poor, are deprived of an essential freedom as long as this breakdown persists.

The clear portent of this shared experience of the modern age is that the problem will persist until the law itself takes the measures necessary to stop it. Judge Frankel has noted that the imposition of sentence is "probably the most critical point in our system of administering criminal justice." Punishment is not swift; it is not certain, and it is often correctly perceived as unfair,

because it is unequal without reason. It has the attributes of a lottery. The evidence that there are unsupportable disparaties among sentencing courts has to be taken seriously. As an example of the average imprisonment, sentence for forgery ranges from 25 months to 45 months among the ten circuits. The average sentence of imprisonment for an interstate securities conviction ranges from 25 months to 65 months, depending on the circuit.

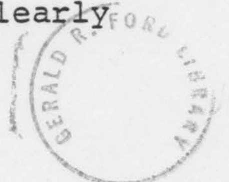
There are major disparaties between the granting of probation and requiring actual imprisonment. In two small districts of similar size, geography and population density, we find that in one, 71 percent of all convicted defendants go to prison, while in the other only 16 percent are imprisoned. In comparing two other districts of moderate size, the respective percentages are 72 percent and 16 percent. We are aware of no explanation for this based on the nature of the crimes.

The criminal justice system as it works has failed to impose sentences of imprisonment which are credible to either the public or the convict. The sentence of imprisonment which is imposed upon the defendant in open court has little likelihood of being, without translation, the sentence which the defendant will actually serve. Last year, the average adult federal offender served less than 50 percent of his actual sentence. Some years ago the figure would have been 63 percent. I have heard it argued

that this is a principal merit of our system. Particularly while a crime is fresh, so the argument runs, the public wishes harsh sentences. The system can supply these sentences but the defendant need not serve them. But I believe this deception--if that is what it is--only adds to our problems of gaining understanding and reform. Public opinion polls have repeatedly shown that the general public increasingly believes that the courts are too lenient.

A study published this year by the Twentieth Century Fund proposes a "presumptive sentencing" approach to ensure equal treatment and certainty of punishment. A committee funded by the Field Foundation and the New World Foundation also this year reported proposals for significant reform of the sentencing process. I know the Second Circuit is leading the way in efforts to reduce sentence disparity through the development of procedural rules and the development of benchmark sentences to be used as points of departure for sentences in similar cases. Because Deputy Attorney General Tyler was active in this endeavor as a district judge, and is a very persuasive person, you will not find it strange that the Department of Justice is very much interested in exploring the establishment of a Federal Sentencing Commission.

The establishment of a Federal Sentencing Commission would complement enactment of the proposal by the President for a system of mandatory minimum sentences for a number of serious crimes. Under the President's proposal mandatory minimums would apply to extraordinarily heinous crimes, such as aircraft hijacking or major trafficking in hard drugs, to all offenses committed with a dangerous weapon, and to offenses involving the risk of personal injury to others when those offenses are committed by repeat offenders. The President's mandatory minimum sentence proposal also includes provisions to insure fairness by allowing a judge to find, in certain narrow categories or circumstances, that an offender need not go to prison even though he has been convicted of a crime normally carrying a mandatory minimum sentence. A mandatory minimum sentence need not be imposed if the offender was less than 18 years old when the offense was committed, or was acting under substantial duress or was implicated in a crime actually committed by others and participated in the crime only in a very minor way. Under proposals now before Congress, the trial judge's sentencing decision would be reviewable by appellate courts. One of the most significant of these proposals would permit a prosecutor to petition a federal appellate court for review of a sentence less than three-fifths of the statutory maximum and a defendant to petition if the sentence was more than one-fifth of the maximum. The appellate court would have the discretion to deny the petition or hear argument. The sentence could be overturned if it were held clearly unreasonable.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The Sentencing Commission, if it came into being, would be bound by these provisions, as it would be by the statutory maximum terms for any offense. There would be a large area, both where there are mandatory minimums and where there are not, in which the Commission could operate to insure greater certainty and equality. It would establish guidelines for all federal offenses within the limits of the criminal sanctions provided in the law. Building on the pioneering efforts of the United States Board of Parole, the guidelines would create categories based on offender characteristics, such as age and prior criminal record, and offense characteristics, such as whether or not injury resulted. The categories would provide the basis for establishing relatively narrow sentencing ranges for particular categories of offenders committing particular categories of offenses. If a sentence fell outside the approved range, the judge would be required to state the reason for the deviation. Any sentence within the approved range would be considered presumptively valid and immune from appellate review. A sentence above that range would be appealable by the defendant, and one below by the prosecution.

A second proposal in which the Department is much interested in exploring is the replacement of the federal parole system. At the present time every federal prisoner is eligible for parole after serving no more than one-third of the sentence imposed. Indeed, the latest statistics indicate that over 30 percent of all federal

defendants have been sentenced under a provision which provides for immediate parole eligibility. The discretion to grant parole is designed, in part, to mitigate unfair disparities in sentences. We believe the Sentencing Commission, however, would accomplish this purpose better and more completely. Parole has also been urged, as I have indicated, in order to mitigate the harshness of penalties. Sometimes the point is made that in the United States there are more people in prison, per unit of population, than in perhaps any other country in the free world. This argument forgets that our rate of serious crime is higher than that in these countries, that, compared to these nations, our rate of imprisonment to serious crimes is very low. Prison population figures indicate that in practice those convicted of serious offenses in other countries in the free world are much more likely to be imprisoned than they are in the United States. Moreover, the objective of the sentencing standards is not necessarily longer sentences, but much more certain sentences. As James Wilson has written, studies suggest that certainty has a significant deterrent effect on the crime rate, while severity has such an effect only on murder.

We believe that replacement of the existing parole system would add credibility to our sentencing process from the perspectives of both the public and the offender. Each would know that the sentence imposed would be the sentenced served, with only the possibility of a reduction in time served for good behavior.

I have not belabored you once again with a recitation of the purposes suggested as the aim and measure of punishment: rehabilitation, deterrence, incapacitation and just punishment. We know today, as perhaps we should have known before, how little we do know. I do not believe any enlightened society can give up the hope of accomplishing rehabilitation, particularly with young offenders. But we also know that rehabilitation has not proven to be the solution within our reach. We are forced to the realization that some of the primary functions of law in a civilized society are being slighted by our present practice. The law's candor, its fairness in application through equal treatment where discretionary deviation cannot be justified by predictability, and its certainty of application are all clouded. As Norval Morris has written, present sentencing practices are so arbitrary, discriminatory and unprincipled that it is impossible to build a rational and humane prison system on them. It is also impossible to give the society through this means the support it requires. The society must exist with trust, but a fair and determined application of law with a greater certainty of detection, a greater assurance of swift and less discretionary punishment, a simplification and standardization of measures can help secure that trust. It can help secure our cities and help restore rights to all our citizens.