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TEXT OF REMARKS BY THE PRESIDENT
TO BE DELIVERED AT THE
YALE SESQUICENTENNIAL CONVOCATION DINNER

YALE UNIVERSITY

The 150th anniversary of this law school -- one of the great institutions of the world for the study of law -- suggests better than I can the subject for my remarks tonight. On May 1, we celebrate Law Day. Most of you in this audience have devoted your academic years and a good part of your lives to the development and the promulgation of the law.

Today -- as President of our Nation -- I sense, and I think the American people sense, that we are facing a basic and serious problem of disregard of the law. I want to talk with you tonight about law, and the spirit of abiding by the law.

I ask you to think along with me about the concern of so many Americans about the problem of crime. Let us start with the great Preamble of our Constitution which seeks "to insure domestic tranquility." Have we achieved on our streets and in our homes that sense of domestic tranquility so essential to the pursuit of happiness?

With the launching of our Bicentennial year, it has been argued that the American Revolution was the most successful in history because the principles of the Revolution -- liberty and equality under the law -- became the functioning constitutional principles of our government.

The founding fathers governed well and prudently, with restraint and respect for justice and law. There was no reign of terror, no repression, no dictatorship. The institutions they founded have been durable and effective. Because of all this, we tend to think of them now as respectable and conservative. But the fact is that ours remains the great Revolution of modern world history. And we should be proud of it.

A leading feature of the American Revolution was its devotion to justice under law. Once one gets past those two glorious opening paragraphs, the Declaration of Independence reads very much like a legal brief. The argument was made that sound government and just laws had to be restored to the land. The theme was that independence was needed to restore a representative government of laws in order to secure liberty.

Our revolutionary leaders heeded John Locke's teaching: "Where there is no law, there is no freedom."

Law makes human society possible. It pledges safety to every member, so that the company of fellow human beings can be a blessing instead of a threat. Where law exists, and is respected, and is fairly enforced, trust replaces fear.

Do we provide that domestic tranquility which the Constitution seeks? If we take the crime rates as an indication, the answer has to be "no".

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The number of violent crimes rises steadily. And we have recently suffered the national disgrace of lawbreaking in high places.

Violent crimes on our streets and in our homes make fear pervasive. They strike at the very roots of community life. They sever the bonds that link us as fellow citizens. They make citizens fear each other.

Crime in high places -- whether in the Federal Government, state governments, local governments, or in business and organized labor -- sets an example that makes it all the more difficult to foster a law-abiding spirit among ordinary citizens.

When we talk about obeying the law, we think of police and courts and prisons and the whole apparatus of the law enforcement process. But the truth is that most of us obey the law because we believe that compliance is the right thing to do -- and not because the police may be watching.

As far as law violations in high places are concerned, let me stress this point: In my Administration, I have made it a matter of the highest priority to restore to the executive branch decency, honesty, and adherence to the law at all levels. This has been done. It will continue to be.

I urge the same effort and the same dedication in State governments where recently there have been too many scandals. I urge the same standards in local governments. And also in industry and labor. There is no way to inculcate in society the spirit of law if society's leaders are not scrupulously law-abiding.

We have seen how law-breaking by officials can be stopped by the proper functioning of our basic institutions -- executive, legislative and judicial branches. But America has been far from successful in dealing with the sort of crime that obsesses America -- I mean street crime, crime that invades our neighborhoods and our homes -- murders, robberies, rapes, muggings, hold-ups, break-ins -- the kind of brutal violence that makes us fearful of strangers and afraid to go out at night.

In thinking about this problem, I do not seek vindictive punishment of the criminal but rather protection of the innocent victim. The victims are my primary concern. That is why I do not talk about law and order and why I return to the constitutional phrase -- insuring domestic tranquility.

The overwhelming majority of Americans obey the law willingly, and without coercion. But even the most law-abiding among us are still human. And so it makes ordinary common sense, that we promulgate rules, and that there be enforcement of rules, to buttress the normal inclination of most people to obey the rules.

As James Madison asked in The Federalist: "What is government itself but the greatest of all reflections on human nature?" "If men were angels," said Madison, "no government would be necessary."

Since men -- and women -- are not angels, we must have the apparatus of law enforcement.

Those who prey on others, especially by violence, are very few in number. A small percentage of the whole population accounts for a very large proportion of the vicious crimes committed. For example, in one study of nearly 10,000 males born in 1945, it was found that only six percent of them accounted for two-thirds of all the violent crimes committed by the entire group. Most serious crimes are committed by repeaters. These relatively few persistent criminals, who cause so much misery and fear, are the core of the problem. The rest of the American people have a right to protection from their violence.

Most of the victims of violent crime are the poor, the old, the young, the disadvantaged minorities, the people who live in the most crowded parts of our cities, the most defenseless. These victims have a valid claim on the rest of society for protection and the personal safety that they cannot provide for themselves -- in a phrase, for domestic tranquility.

Hardly a day passes when some politician does not call for a massive crackdown on crime. But the problem is more complex than that. Such an approach has not proved effective in the long haul. It is not the American style. We need a precise and effective solution.

One problem is that our busiest courts are so overloaded that very few cases are actually tried. One study showed that, in a county in Wisconsin, only six percent of the convictions resulted from cases which came to trial. According to another study, over a three-year period, in Manhattan, only about three percent of the persons indicted were convicted after a trial.

This audience knows the explanation: it is plea bargaining -- in many instances, plea bargaining required by the ever-growing pressure of an increasing case load.

The popular notion that trial follows arrest is a misconception in a vast majority of cases.

And this audience will also be quick to guess one of the reasons: The increase in arrests has been much more rapid than the increase in the numbers of judges, prosecutors, and public defenders. The most obvious response to this imbalance has been to accept pleas of guilt in return for short prison sentences or no sentences at all. According to a recent report, half of the persons convicted of felonies in New York received no detention whatever. And of the other half, only one-fifth were sentenced to more than one year of imprisonment.

Imprisonment thus too seldom follows conviction for a felony. In the Sixties, crime rates went higher, but the number of persons in prisons, State and Federal, actually went down. A Rand Corporation report of one major jurisdiction showed that of all convicted robbers with a major prior record, only 27 percent were sent to prison after conviction.

Notice, please, that I am speaking only of convicted felons. I am not chastising our system for determining guilt or innocence.

I am urging that virtually all of those convicted of a violent crime should be sent to prison. And this should be done especially if a gun was involved or there was other substantial danger or injury to a person or persons. There certainly should be imprisonment if the convicted person has a prior record of convictions.

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Most serious offenders are repeaters. We owe it to their victims, past, present, and future, to get them off the streets. This is just everyday common sense. The crime rate will go down if persons who habitually commit most of the predatory crimes are kept in prison, for a reasonable period, if convicted, because they will then not be free to commit more crimes.

Convicts should be treated humanely in prison. Loss of liberty should be the chief punishment. Improvement in the treatment of and facilities for prisoners is long overdue. They need not be sentenced to cruelly long terms--one, three, or five years may be sufficient. But it is essential that there be less delay in bringing arrested persons to trial, less plea bargaining and more courtroom determination of guilt or innocence, and that all, or practically all, of those actually convicted be sent to prison.

What can the White House do about this? The Federal role is limited because most violent crimes are matters for state and local authorities. Further, the creation of criminal sanctions and their interpretation are the concerns of the legislative and judicial branches, as well as the executive branch.

The principal role of the Federal Government in the area of crime control has centered on providing financial and technical assistance to the several States. However, while we are all aware that the actual control of crime is a matter primarily of State responsibility under our Constitution, there are several areas in which it is the chief responsibility of the Federal Government. In many other areas, it is the responsibility of the Federal Government to augment the enforcement efforts of the States when it becomes necessary. What else can we do?

The Federal Code can be modified to make more sentences mandatory, and therefore punishment more certain for those convicted of all violent crimes. We can provide the benefit of leadership to put first priority on making funds available to add judges, prosecutors, and public defenders to the Federal system. This Federal model should encourage States to adopt similar priorities for the use of their own funds and those provided by the Law Enforcement Assistance Administration.

We can encourage better use of existing prison facilities to minimize detention of persons convicted of minor crimes, thus making more room for the convicted felons to be imprisoned.

There are a number of estimates of how much the crime rate would be reduced if all convicted criminals with major records were sent to prison, instead of being set free after conviction, as too many are today. Although we might expect the certainty of a prison sentence to serve as a deterrent, let us remember that one obvious effect of prison is to separate lawbreakers from law-abiding society.

In totalitarian states, it is easier to assure law and order. Dictators eliminate freedom of movement, of speech, and of choice. They control the news media and the educational system.

They conscript the entire society and deprive people of basic civil liberties. By such methods, crime can be strictly controlled. But, in effect, the entire society becomes one huge prison. That is not a choice we are willing to consider.

Edmund Burke commented appropriately in his REFLECTIONS ON THE FRENCH REVOLUTION. Burke said:

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"To make a government requires no great prudence. Settle the seat of power, teach obedience, and the work is done. To give freedom is still more easy. It is not necessary to guide; it only requires to let go the rein. But to form a free government, that is, to temper together these opposite elements of liberty and restraint in one consistent work, requires much thought, deep reflection, a sagacious, powerful, and combining mind."

Since these words were written, the world has changed profoundly. But the old question remains. Can a free people restrain crime without sacrificing fundamental liberties and a heritage of compassion?

I am confident of the American answer. Let it become a vital item on America's new agenda.

Let us show that we can "temper together these opposite elements of liberty and restraint" into one consistent whole.

Let us set an example for the world of a law-abiding America glorying in its freedom as well as its respect for law.

Let us at last fulfill the Constitutional promise of domestic tranquility for all of our law-abiding citizens.

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