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Department of Justice

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SATURDAY, APRIL 26, 1980

LAW DAY ADDRESS

OF

BENJAMIN R. CIVILETTI

ATTORNEY GENERAL OF THE UNITED STATES

*(Actually delivered by Roger Young, information
director of the FBI. Civiletti detained in
Washington in immediate aftermath of aborted
Iranian hostage rescue attempt.)*

DELIVERED AT

THE UNIVERSITY OF GEORGIA

Athens, Georgia

Saturday, April 26, 1980

I am very pleased to have the opportunity to address this Law Day gathering. It is well worth celebrating the role that law plays in all civilized societies, but particularly in our own, which is composed of such a multitude of backgrounds and traditions. There are many things, of course, which bind all of us together, but probably none touches our lives at more critical points than does our system of law. Law provides us with assurances of freedom, equality, opportunity, and fair treatment. It guarantees that when the inevitable wrongs of human societies are committed, there will be a probability if not a certainty of redress. And it brings with it the order and security which are so essential for unleashing the creative powers of our citizens which make this nation and the world better places in which to live. In short, our laws not only express the common values of the variety of heritages which we carry, but they actually help to create new values and to refine the old. When we observe Law Day we are therefore observing and considering a major source of our national strength.

The theme of Law Day 1980 is "Law and Lawyers -- Working for You." Since my job is to administer the federal justice system, I would like to approach this topic from the perspective of that system. The federal government actually does a great deal of legal work for the people of this country, but it does

so in ways different from the usual relationship of lawyer and client in the private sector. Some of these are readily recognizable. For example, when we see to it that laws protecting the environment are respected and obeyed, all Americans benefit in a tangible way; our enforcement of the antitrust statutes helps the consumer and, in fact, all who depend on a free and competitive economic system; when the government is represented by the Justice Department in civil, and particularly tax, litigation, the real investment of all taxpayers is thereby protected. But the Justice Department works as the public's legal representative in the realm of criminal law as well. When criminals are pursued, tried, convicted, and appropriately punished, society gains a great deal. It is protected from those who would violate the rights of others, it symbolizes its commitment to the rule of law, and above all it is spared the demoralizing effect of seeing wrongdoing undetected and unpunished. As I learned as head of the Criminal Division, the enforcement of the criminal law is a very heavy responsibility, but the benefits it provides to our citizens are as great as those which result from any other government activity.

In fact, to dramatize the point for you, I am going to focus today on an organization which few people normally think of as providing legal service to the American people, but

which actually is primarily responsible for the indispensable work of enforcing the federal criminal law. I am referring to the Federal Bureau of Investigation, which is the largest component of the Department of Justice. The name "FBI" conjures up many images, stereotypes, and historical episodes. Some of these are attractive, a few unattractive, some ring true, and some are unfair or at least exaggerations. The fact, however, is that the FBI today performs extraordinary service on behalf of the American people, and is striving, in ways that I shall describe, to improve that service while maintaining the highest possible standards of equity and responsibility. I believe that the FBI qualifies as a corps of public servants who make the law work for you. But it is worth recalling briefly how the FBI reached this level of achievement.

I must have pointed out in several speeches this year that the Justice Department was not created until 1870, although the Office of Attorney General had been established in 1789. Incidentally, it was the establishment of the Justice Department in 1870 that centralized federal criminal law enforcement under the Attorney General for the first time. But if the Justice Department is young when compared to the nation, the FBI is considerably younger. There was, until 1908, no corps of criminal investigators in the Justice Department. In 1907, Attorney General Charles J. Bonaparte stated that the Department

of Justice simply could not do its work without some permanent force of police, as he put it, under its control. So in 1908, Bonaparte started a small bureau for that purpose, and Attorney General Wickersham formally named it the Bureau of Investigation in 1909.

The new Bureau's first decade and a half served to remind us of the dangers posed by a federal police force not subject to public scrutiny and review. Through the years of World War I and thereafter, the Bureau was involved in a good number of highly questionable activities involving so-called subversives and aliens, which not only intruded on the lives of many people, but brought discredit on the law enforcement community itself. It was only in the mid-1920's that the Bureau, renamed the FBI in 1925, began to develop into the large structured organization that it is today, one which has well-defined responsibilities and limitations, which is accountable to the public, and which endeavors to respond to the public's needs. In fact, the FBI became so large and well-known that its relationship to the Justice Department was not always clear in the public mind. For example, a Department employee recently reported that he entered a taxicab and asked to be taken to the Department of Justice building, at 10th and Constitution Avenue. The driver, who was a Washington old-timer, responded: "10th and Constitution? Oh, you mean the old FBI building."

At any rate, the sound and impressive characteristics of the FBI today did not appear overnight. As a new organization in the early part of the century, in a nation which has from its beginning found the idea of a national police force repugnant, the FBI inevitably had to travel a difficult and uneven road before arriving at a point of equilibrium, where it could render valuable service to the Department of Justice as chief investigators and not pose a threat of a national police force of peacekeepers. The FBI has succeeded in reaching that point. Many people -- and experience itself -- are responsible.

Times have changed and the profile of the FBI has changed dramatically with them. Whereas the agent force formerly was composed almost entirely of white males, the picture today is quite different. Out of a total of 7,788 agents, 219 are black, 215 are hispanic, and 229 are women. More significant than these figures is the fact that they represent 50 percent, forty percent, and 250 percent increases in less than two years. In fact, in 1979, nearly 48 percent of all Special Agents hired were minorities or women. In that same year, three minority agents were promoted to Special-Agent-In-Charge of field offices, and gains were made in other supervisory positions as well. These statistics suggest a fundamental, and extremely healthy, change in the composition of the public which it serves.

I have alluded several times to the many ways in which the FBI enhances the role of the law in our society. I shall now be specific, and catalogue the three areas I will cover. These are assistance, special activities, and criminal law enforcement proper.

Under the category of assistance, I note that the FBI is the acknowledged pacesetter for law enforcement and investigative agencies worldwide. This is not an FBI claim, but rather its true reputation in the profession: to serve with the FBI or even to participate in a training session run by the FBI is to achieve a standing in the law enforcement field which is unsurpassed. The best indication of this enormous influence of the FBI is the demand for training programs at the Bureau's National Academy in Quantico, Virginia. Last year, the Academy trained 9,575 criminal justice personnel, of which 4,452, nearly half, were state and local police officers. Since its creation, the Academy has graduated nearly 14,000 mid-level and senior police administrators. Having received training by the FBI, these officers assume law enforcement leadership roles in their communities. This, then, is the primary indicator of how the Bureau discharges its responsibility to assist and lead all law enforcement in the United States.

It does so in other ways as well. Perhaps the most famous of these is the Identification Division, which was begun

in 1924, and currently contains nearly 200 million fingerprint records. If those cards were stacked up, they would rise to a height of more than 25 miles, or five times the height of Mount Everest. Last year, for example, more than six million new cards were received. More significant, however, is the fact that over four million identification requests were received and processed from law enforcement agencies throughout the country and world. Incidentally, an auxiliary function of this Division is to provide its services in cases of great humanitarian need. Last year, for example, the Division assisted in efforts to identify victims of two major air disasters.

The FBI also has a laboratory which is in the vanguard of scientific methods in law enforcement. The laboratory has expertise in handwriting analysis, tire tread analysis, polygraph, fluid analysis, and composite drawings. It is now developing techniques for determining sex from blood and hair samples and for the identification of gasoline in arson debris. Over 20,000 requests for various examinations are received by the laboratory every year, many from state and local agencies. A truly remarkable use of technology cracked a worrismatic case last October. At that time five letters addressed to different persons threatened the life of the Pope, who was then in the United States. The five letters were processed by a new electrostatic machine, which revealed legible identations

on the pages. These were apparently the result of something written earlier on a higher sheet of the pad; they revealed a name, an address, and a zip code, which led agents to the suspect, who then made full confession.

The National Crime Information Center likewise provides computerized information to police departments around the country. This invaluable resource has helped to solve innumerable cases fast.

Finally, the Bureau conducts frequent training seminars on such current matters as coping with terrorism, investigating computer fraud, and bank robbery prevention.

The many resources which are shared in these ways by the FBI are now a highly significant part of the Bureau's operations. No one should any longer have the idea that the FBI is composed only of a corps of Special Agents investigating and arresting suspected criminals. Increasingly, FBI work is being done in laboratories and with electronic equipment rather than "on the street."

But this is not to say that FBI Special Agents are less active. On the contrary, their roles have developed in action areas too. This brings me to the second area of Bureau activity, what I have called special activities. These are the unusual events which require FBI involvement because the FBI's reputation and performance demand the best for these specialized or complex events.

A very recent example of this was the Lake Placid Olympics. I am sure that you all recall the tragedy which occurred at the 1972 Olympics in Munich. In order to ensure that no such incident would take place in Lake Placid, the FBI made elaborate and sophisticated security arrangements and had Special Weapons and Tactics teams on location before the games. Such activities would certainly have been beyond even the splendid capability of the New York State Police, and it would have been unfair to expect them to carry the full load of peacekeeping and these special duties too.

Another example of effective FBI special activities arose out of the wave of violent crime which developed in the Virgin Islands. At the request of the local police at St. Croix for help in solving these crimes, the Bureau sent two agents to the Islands to make an assessment of the situation. Thereafter eight agents were assigned for intensive investigative work. Within 60 days after the arrival in St. Croix of the task force, the FBI arrested two persons on charges of murder and three on charges of rape and robbery.

Other extraordinary events are skyjackings and hostage takings. Hundreds of agents have been trained in behavioral psychology and the negotiating skills necessary to defuse these highly dangerous situations. The Bureau's skills in negotiating the release of hostages are so well developed

that in no instance where a dialogue was established between an FBI negotiator and a captor has any hostage been killed. Fortunately, skyjacking and hostage-taking are not at epidemic levels within the United States; they are in fact on the decline. But the Bureau continually prepares itself to deal with any eventuality.

Terrorist incidents are also on the decline in this country, with only six having taken place in the first quarter of 1980. Nevertheless, intense preparation continues, with a great deal of international cooperation and sharing of information. Thirteen domestic terrorist organizations are now being investigated by the Bureau.

The successes of the FBI in these vital areas must go unnoticed, by definition. That is why it is right and important to reflect on the security which these operations provide to all of us.

That brings me to the third and final area of activity, which is that of the regular criminal investigative role for which the FBI was originally founded. Here, too, the image needs to be changed to meet reality. Priority investigation areas have changed considerably over the last few years, with comparatively fewer resources being devoted to bank robberies and interstate auto theft. The Bureau's watchword today, "quality over quantity," is more than just a slogan. It

demonstrates that the Bureau, in consonance with the leadership of the Department of Justice, and working hand-in-glove with the rest of the Department, is concentrating its formidable investigative resources on several high priority areas. The Director of the FBI, Judge William Webster, working with the Criminal Division and the United States Attorneys, has established as priorities the areas of white collar crime, organized crime, public corruption, and foreign counterintelligence. And within those areas, the concentration is on the most important and far-reaching cases. Those sound like enormous challenges for the Department, and indeed they are.

It has been estimated that white collar crime invisibly adds 15 percent to the overall price of goods and services, and thus amounts to a hidden tax burden on every American. Nearly three times as much money is embezzled from banks each year than is stolen in bank robberies. Because of this alarming trend, over a third of the Bureau's agents are trained in and assigned to white collar crime investigations. Last year, this intensive activity resulted in the convictions of 3,268 individuals.

Typically, these investigations require an ability to detect wrongdoing in extremely complex and technical settings, often involving far-flung financial dealings intended to cover up the offense. A criminal method used with increasing frequency

is computer fraud. When computers are used to steal, the average haul is about half a million dollars. Last year, for example, a computer expert in San Diego was arrested for embezzling \$10.2 million from a Los Angeles bank. Apparently he had learned the code which gave him access to a Federal Reserve computer which transferred funds. He used that access to transfer the embezzled money electronically to a Swiss bank and accomplished it within hours.

Detection of such crimes has been low and the punishment far too lenient. These efforts by the FBI and other Justice Department components, together with a recently proposed statute which would expand federal jurisdiction in computer fraud cases, will do a great deal to reverse the trend of white collar crime and restore confidence in the fairness of our system of laws.

Organized crime refers to those ongoing criminal enterprises which not only account for some major crimes of violence, but also for property crimes of staggering proportions. Major thieves and fences have been targeted as part of this area of activity, and sting operations have been highly effective in detecting, and more important, in deterring such crimes. One of the most successful of these was an operation called COUNTERFENCE, conducted in cooperation with the Los Angeles sheriff's office. After two years, that operation resulted

in over 200 local arrests and 72 federal arrests. Another organized crime investigation involving shippers, warehousemen, and longshoreman's union officials over five years in development, resulted in 121 indictments, and 75 convictions thus far. These major investigations provide benefits to the law-abiding public which far outweigh the investment of time and resources they require. That is what "quality over quantity" means. They also require great courage in the face of the constant dangers present in undercover investigations.

Public corruption cases are particularly important since wrongdoing in government is a cancer which can quickly eat away the foundation of law and respect for it on which our society is built. Kickbacks, bribery, and fraud against all forms of government cost the taxpayers enormous sums of money each year. That is why the Department, and the FBI in particular, are devoting great energy to investigating those cases. Such investigations are conducted with extreme care, since the reputation of any public official is both valuable and fragile. But if reliable evidence is received, the FBI must and does investigate vigorously.

In this area, too, there have been impressive successes. To illustrate the strange avenues into which the FBI can be led, consider the case of the Department of Transportation clerk who embezzled \$850,000 in a four-month period. To recover

that sum, the government seized the criminal's collection of luxury cars and a topless bar located a block from the FBI building. The Justice Department finally did sell that property, thank goodness.

The importance of the FBI's foreign counterintelligence work also should be remembered. It is essential that the American government keep itself informed about the hostile activities of foreign powers within the United States. This has never been more clear than in the current period of international tension. In the past three years, the Department has brought more espionage prosecutions than in the previous 11 years, despite the tremendous difficulties involved in prosecuting these cases. Even where prosecution is not a real possibility, however, either because of the likelihood that new unknown agents would be recruited to do the work of those we do know or because classified information cannot be disclosed at trial, we must protect against the efforts of foreign governments to obtain through illegitimate means the secrets to the technological, military, and diplomatic strength of this country. The FBI must continue to devote some of its most painstaking efforts to these difficult investigations.

The law enforcement challenges are still great. And conversely, the memories of Watergate, when a number of government agencies were misused, are still fresh. These two

facts present problems for the future which both Judge Webster and I are committed to solving. Earlier, I mentioned the word "equilibrium," and that is precisely the problem at hand: to define and supervise investigative activities in such a way that the proper balance is struck between the sophisticated demands of law enforcement on the one hand, and the protection of our civil liberties on the other.

I believe that a principal job of the Justice Department is to conduct itself in such a way as to demonstrate to the American public that effective law enforcement is compatible with the preservation of civil and constitutional rights, and in a profound sense is its sine qua non. This is not to say that broad investigative authority cannot lead to abuses; it is to say that efforts to prevent such abuses made in good faith can succeed. That is the real importance of the FBI Charter which has been proposed to the Congress and strongly supported by the Justice Department.

As proposed, the Charter consists of four general types of provisions: First, it states general principles which apply to all criminal investigations. Second, it sets limits on who and what can be investigated, and under what circumstances. Third, it authorizes and provides limits for the use of certain sensitive investigative techniques. Finally, it limits the purposes and duration of retention of information obtained in the course of legitimate investigation.

I am confident that the FBI will keep in clear sight the goals and priorities of the Department, and that it will have the authority to open investigations where indicated, and to vigorously pursue them, or promptly close them as necessary.

I am pleased to have had a part in these Law Day ceremonies. It has always seemed to me that you can tell something about a society by the names it gives to certain things, especially places. Travel around the United States, and you will encounter the names of places from antiquity, cities and towns named Bethlehem, Alexandria, Syracuse, Rome, and so on. That is one of the ways in which we acknowledge the roots which we have in the classical traditions. Today we are discussing the importance of the law in a place called Athens. There is no doubt that similar discussions took place in Athens long ago, where democracy was nurtured and philosophers spoke of the rule of law and the ideal society. I can think of no more appropriate setting for this observance today.