



Department of Justice

STATEMENT

OF

BENJAMIN R. CIVILETTI
ATTORNEY GENERAL

BEFORE THE

SUBCOMMITTEE ON JUDICIARY,
MANPOWER AND EDUCATION
COMMITTEE ON THE DISTRICT OF COLUMBIA
HOUSE OF REPRESENTATIVES

CONCERNING

H.R. 7988

September 23, 1980

I am pleased to appear here today to discuss with you H. R. 7988, the recently proposed District of Columbia Criminal Justice Reform Act. That bill proposes the transfer of local prosecution and judicial appointment authority, as well as certain marshals' and prisoner custody functions, from the Federal government to the District of Columbia. The bill is no stranger to the Department of Justice. Indeed departmental representatives have been working closely with local officials for more than a year to assist in developing such a legislative proposal. Those efforts have resulted in a good working draft that sets the stage for serious discussion and consideration of the transfer issue. In the short time available to me this morning, I would like to share with you my major concerns on the subject.

First, I believe as a matter of principle that the responsibility for the local criminal justice system should rest not with federal entities but with agencies of the District of Columbia. The transfer of the responsibilities covered by the bill is the next logical step in the process of establishing a unified criminal justice system for the District of Columbia, a process that began with the enactment of the D. C. Court Reform and Criminal Procedure Act of 1970 and continued with the 1973 passage of the D. C. Self-Government and Governmental Reorganization Act. Creating a local prosecutors' office to handle violations of the District

of Columbia Code is, in my view, an appropriate extension of home rule for the District. The transfer of that authority to a locally-appointed official should increase not only the actual responsiveness of the prosecutor to community concerns, but also the community's sense that its interests are being served by its principal law enforcement authority.

At the same time, I am greatly concerned that any proposed transfer plan recognize and protect the special federal interest in law enforcement in the District. The instant bill demonstrates that the movement toward greater local autonomy need not compromise our interest in the security of federal property, officials and operations in the nation's capital. The certification procedure envisioned by Section 216, for example, affords the Federal government the continuing ability -- consistent with the public interest -- to prosecute local offenses which involve a legitimate and compelling federal interest.

The bill also seeks to minimize any potential conflict between the activities of the local and federal prosecutors' office. Section 217 of the bill is designed to coordinate local and federal activities to avoid the duplication of effort, and collateral estoppel or double jeopardy problems, that might otherwise arise. For example, Section 217(b)(2) makes it clear that Rule 6(e) of the Federal Rules of Criminal Procedure is not intended to delimit the exchange of grand

jury information between the local and federal prosecutor in the District of Columbia. I wish to emphasize that I consider the certification process outlined in Section 216 of the bill, and provisions ensuring effective coordination of the two offices, to be imperative to an effective and workable transfer plan. In fact, I consider these features so important that I would be unwilling to support legislation that omitted them.

In supporting the concept of transfer, the Department of Justice advocates that the District of Columbia assume as much responsibility for the marshals' and prisoner custody functions as is reasonably practicable. I recognize that it may be more appropriate, at least in the foreseeable future, for the Bureau of Prisons to continue to make space available to house a limited number of District of Columbia prisoners than for the District to undertake the construction of its own facilities. However, should the envisioned transfer occur, other related law enforcement functions could be transferred in their entirety. Federal marshals should, for example, be relieved of responsibility for process and prisoner custody functions routinely performed elsewhere by State governments.

The Department of Justice has identified for officials of the District of Columbia government a number of outstanding technical and substantive questions and disagreements that we have with the proposed bill. We do, however, see the bill as

a very satisfactory beginning to an important legislative effort. I pledge our continuing interest, assistance and support in working toward a final product that we can all enthusiastically endorse.

Thank you for considering my views. Charles F. C. Ruff, the United States Attorney for the District of Columbia, and Jerome Bullock, the United States Marshal for the District of Columbia, have accompanied me today and will be happy to respond to your questions.