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I appreciate the opportunity to speak with you on the topic of public corruption, which I consider one of the most challenging problems we face today. Part of the challenge for those of us in law enforcement is to overcome the general resignation that we encounter when we tackle this issue. Many of our citizens seem to believe that corruption is so entrenched in some areas that little can be done to root it out. But while some shrug their shoulders and say, "What are you going to do?", experience shows that in fact a lot can be done to remove this parasitic growth from the body politic.

Before I became Assistant Attorney General for the Criminal Division in 1986, I spent five years as the U.S. Attorney for the District of Massachusetts. During those years I made public corruption the number one priority of our office. We committed the largest share of resources of any U.S. Attorney's office in the country to this problem, and we achieved results: out of one hundred and eleven individuals we indicted in corruption cases, we convicted all but three.

This type of prosecution can change the way the public's business gets done. When I was in Massachusetts, for example, we prosecuted a series of pension fraud cases against several prominent Boston city officials. These officials had claimed phoney "slip-and-fall" accidents, which allowed them to retire from the City with $30,000-a-year disability pensions. The total

cost to the taxpayers of Boston would have run into the millions of dollars. But after the juries came back with guilty verdicts in these cases,it was interesting to observe the effects. In 1981, the year before we started our investigations, the City of Boston awarded 260 disability pensions. In 1984, after the convictions were handed down, it awarded only 44 such pensions.

The point is that aggressive investigation and prosecution of public corruption cases actually produce results. Not only are the bribe taker, the pension skimmer, and the bid rigger sent to jail, but their convictions also serve as effective deterrents against future acts of corruption.

Now some may grant that it is possible to combat public corruption, but they complain that investigations and prosecutions are too long and drawn out. So is it worth the time and money? My response would be an emphatic "yes".

After all, we must remember that public corruption is not a victimless crime, in spite of the fairly common belief that it is. Often the first casualties of public corruption are the interests of the average citizen. In Chicago, for instance, this Department's Operation Greylord caught numerous judges taking bribes in exchange for fixing criminal cases. These judges not only lined their pockets, they also lined the streets of their communities with the criminals they had wrongly freed.

In Massachusetts, corruption in the system of selecting architectural and construction firms for public projects led to

substituting inferior grades of materials, employing poor quality products, and cutting corners on workmanship. Construction of public buildings was so slipshod that some actually had to be closed for fear of structural collapse.

Of even greater concern is the long-term impact on civic life in this country. A perception that the system is corrupt or rigged will, by a political Gresham's Law, eventually drive the good players out of the game. I saw that happen in Massachusetts, when I was engaged in the private practice of law: many reputable contractors, architects and engineers simply refused to bid on government contracts.

In a free political and economic system such as ours, we believe that all citizens should have equal opportunity to compete, whether in the market place or at the polls. Public corruption, however, erects artificial barriers to this competition. It means that people are being handicapped because of a lack of funds to grease the palm of some government official.

Since public corruption is so offensive to the vast majority of honest Americans, it undermines another vital element of our free society -- citizen participation in our electoral and governmental systems. To the extent that a perception of public venality takes hold, it will be little wonder if many upright citizens decide against running for office or applying for a

government job. The real losers would be the rest of us, who are denied the talents and moral integrity of these people.

To address these problems, the first order of business is to change attitudes. Here, two things are necessary. First, we in government must emphasize that public corruption affects Americans directly and personally. Once this is made clear, we must then ask citizens to become intolerant of corruption -- even, or perhaps especially, petty corruption.

As is true of other evils, what starts out as a minor moral infraction often widens into a morass of immorality. I recall a case in which a police officer who had become entirely corrupt explained that it had all started with his taking free cups of coffee from a local sub shop -- then free subs, then ten dollar bills in the wax paper wrapped around the subs, and pretty soon he was on the "pad." A former police commissioner of this same city, describing corruption on his force, once said, "There are grass-eaters and there are meat-eaters. The grass-eaters will take a reasonable amount. The meat-eaters will rip into everything they can get." My experience has been that grass-eaters grow into meat-eaters.

An example of this snowballing effect occurred in the so-called "River Cops" case down in Miami. As many of you know, that case involved corruption within the narcotics division of the Miami Police Department. One thing that struck me was the way some of these police officers got started down the road to

becoming bad cops. One fellow, for instance, was a decorated patrolman. He started to keep the relatively small amounts of petty cash he happened to find in drug dealers' cars. Soon he was keeping larger and larger discoveries, including at one point 5,000 pounds of marijuana. Finally, he graduated to robbing boats and houses, and eventually made millions selling vast quantities of cocaine to dealers.

Both the "River Cops" prosecutions and the case of the submarine sandwich reinforce the point that once you start breaking the smaller rules, it soon becomes a slippery slope. That is why we must react to the earliest signs that rules are being broken, and nip trouble in the bud before it blossoms into full-blown violations of the public's trust.

In this battle against corruption, the Federal government must take an active role, and for the last seven years, we have been doing so. In 1986, for example, the Justice Department filed more than twice as many public corruption cases as we did in 1976.

Drawing on that experience, we have also just published a manual on public corruption, and how to fight it. This manual covers the whole gamut, from bid-rigging, to narcotics-related corruption, to election crimes. It outlines in detail the various forms of public corruption crimes, and different ways to combat them.

The manual also contains a section on tactics and strategies that should be particularly helpful to investigators and prosecuting attorneys across the country. As with the section on the crimes themselves, the tactics and strategies section contains articles by the leading experts in the Justice Department. Undercover techniques, the proper use of informants, trial tactics, and many other subjects are discussed thoroughly in this section. All of the authors have had years of experience battling public corruption in the trenches of the courtroom. The accumulated knowledge and wisdom captured on the pages of this "how to" manual will, I hope, raise the floor from which inexperienced prosecutors and agents jump off.

A major reason our Department was able to produce such a manual is that we have been so aggressive in pursuing public corruption. It is an area where you have to be aggressive -- public corruption offenses, like the activities of La Cosa Nostra, are protected by a code of silence. All parties to the offense have an incentive not to come forward, which means that electronic surveillance, undercover operations, the compulsion of immunized testimony, and vigorous use of the grand jury's investigative powers have got to be the order of the day.

Let me attempt to allay one fear. Some have tried to conjure up the image of the Federal government as Big Brother, running roughshod over state and local jurisdictions in pursuit of matters of essentially local concern. This is not the case.

The byword we have adopted is not usurpation, but cooperation. We do not simply go into an area and say, "We are the Federal government, and we are going to clean up this town." That might be fine for the late-night western, but it does not describe what we do. I have had occasion to seek the opinion of state and local prosecutors around the country on this point, and they are overwhelmingly in favor of a vigorous federal enforcement effort against public corruption at all levels.

In cases across the country we are coordinating our activities with state and local prosecutors. Many times, in fact, a state attorney general or local district attorney comes to us and asks for help. One of the reasons they may do so is because Federal laws in areas such as drugs and racketeering are now, partly thanks to 1984 and 1986 legislation, tougher than most if not all state laws. These local prosecutors know, for example, that a corrupt official who is collaborating with drug dealers is likely to go to prison for a longer term under the Federal narcotics statutes than under state drug laws.

Also, the procedural laws in most states are less favorable to public corruption cases. In the Miami "River Cops" case, for instance, local prosecutors asked for federal treatment of the matter because they believed state discovery procedures would jeopardize the case. Florida law allows attorneys from both sides to take depositions from all witnesses in criminal cases, while this is not allowed under Federal law.

There are other factors. Many state attorneys general lack statewide criminal jurisdiction. All local district attorneys must respond first to violent crime and conditions in the street, or be voted out of office. None of them enjoys the support of a white-collar investigative establishment combining the Federal Bureau of Investigation with the Internal Revenue Service. Their budgets are hardly unlimited. Many of them, in fact, may have their budgets and salaries established by county commissioners or state legislators who are themselves part of the corruption problem, not its solution.

With the enthusiastic support of local governments, this Administration has taken some innovative steps, such as frequently cross-designating local prosecutors as Assistant U.S. Attorneys, and appointing local police officers as Deputy U.S. Marshals. These measures have helped to ensure that public corruption criminals receive the punishment they deserve.

One way that states and localities could assume greater responsibility for prosecution of public corruption cases would be through the passage of tougher state statutes. Effective racketeering, wiretapping, and money laundering laws would give the states the tools to handle many public corruption cases with less assistance from the Federal government.

We are concerned, of course, about public corruption not just at the local level, but at all levels of government. In our public corruption manual, for instance, the section on

legislative corruption focuses on the Federal legislature. By coincidence, just after I came to Washington, I read that a group of Federal legislators had toured the facilities of a commercial enterprise over which their Committee had jurisdiction, and for this had each received expenses plus a $2,000 "fee" -- not for their campaign treasuries, but for their personal bank accounts.

This sounded to me, fresh in from the hinterlands, like a prima facie criminal violation. But when I went to the law books, I discovered to my surprise that in fact only members of the executive branch and the independent agencies are prohibited from supplementing their salaries with fees and honoraria for job-related activities. Thus, actions that would be illegal if committed by someone in the executive branch were perfectly all right if committed by a member of Congress. Congress has exempted itself from coverage of this law.

Congress has also exempted itself from other laws, including the Freedom of Information Act, the conflict of interest laws (18 U.S.C. §207, 208 and 209), provisions of the Civil Rights Act of 1964 which ban discrimination based on race or national origin, the Age Discrimination Act of 1975, and the 1973 law banning discrimination based on a person's handicapped status.

I point this out not as a Hill-basher. I have worked in both Houses of Congress, and am as great a believer in the efficacy of legislative hearings as anyone I have encountered in

Department of Justice

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EMBARGOED FOR RELEASE
UNTIL 9:00 A.M. EST
TUESDAY, MARCH 8, 1988

REMARKS OF

WILLIAM F. WELD

ASSISTANT ATTORNEY GENERAL

CRIMINAL DIVISION

U.S. DEPARTMENT OF JUSTICE

AT THE

MORNING NEWSMAKER

THE NATIONAL PRESS CLUB

WASHINGTON, D.C.

the executive branch. I believe that Members of Congress are almost without exception intelligent and dedicated. It is not my purpose to be critical of any Members of the legislative branch. My point relates to the system. But the system I do find disturbing, if not dangerous.

First, there is the double standard involved. To criminalize behavior by one branch of government while permitting it for another flies in the face of logic and violates the concept of fair play.

Second, as in criminal corruption cases, those who receive payments may begin to expect them. When those Congressmen made their trek to view the facilities of that special interest and received their $2,000 "honoraria", it was said in defense of the arrangement that "Members of Congress, taking time to do something like this, expect to get some compensation for it." Taking time out? This wasn't a dogsled to the Yukon. This was private jets and executive dining rooms, albeit related to official duties. Compensation? That's the very word used in the criminal statute (18 U.S.C. § 209) prohibiting such conduct by members of the executive branch.

Congressmen who expect the public to believe that large monetary donations do not affect their votes or their views, or their decisions about how they spend their time, underestimate the intelligence of the American people. One court put the general point this way: "Even if corruption is not intended by

either the donor or donee, there is still a tendency in such a situation to provide conscious or unconscious preferential treatment of the donor by the donee, or the inefficient management of public affairs." (U.S. v. Evans, 572 F.2d 455 [5th Cir.], cert. denied, 429 U.S. 870 [1978], describing the gratuity provisions of 18 U.S.C. §201.)

There is nothing new about this. Daniel Webster insisted that his "retainer" be "refreshed" before he would agree to stand again for the Senate, there to continue to represent the mercantile interests of New England. But just because a practice is traditional doesn't mean it's good.

My opinion is that something must be done to curb the potentially corrupting influence of these "fees" and "honoraria" within the legislative branch. I personally am attracted by the idea of raising the salary of all Members of Congress to somewhere between $150,000 and $175,000 per year, at the same time prohibiting all honoraria. This would be very, very expensive -- and it would be worth every penny.

First of all, there would not be any possibility that fees or honoraria would influence a legislator's sense of legislative priorities, let alone his vote. Second, if the Members did not have to scramble to support their families and two residences, they would have more time to devote to the public's business. Third, I dare say those higher salaries might well attract to the national legislature at least some able women and men who would

not otherwise be able to make the sacrifice. I have worked with and supervised a lot of professionals, both in Boston and in Washington, and I truly believe that the top people, in terms of ability, make an enormous difference.

Something else we should examine seriously is the double standard that exists on the Federal level with regard to conflict of interest laws. As with the acceptance of "fees" and "honoraria", Congressmen have exempted themselves from laws that constrain the activities of members and former members of the executive branch. As opposed to the executive branch, for instance, members of Congress may act on matters in which they have a personal financial interest. Also, there are no restrictions on lobbying by former members of Congress. The day after a Congressman leaves office, he is free to lobby his former colleagues on behalf of himself or his friends or clients, while continuing to enjoy full access to the House and Senate floors. As recent events have made abundantly clear, such behavior by a former member of the executive branch would land one in jail. I am reminded of the observation of the Roman satirist Juvenal, who said, "Many commit the same crime with different results. One bears a cross for his crime, the other a crown."

For all the talk about ethics in this city, or the lack thereof, we must face the fact that an inequality of treatment prevails in Washington, D.C. If we are truly a nation of laws, then it should not matter whether one is a member of the

executive or the legislative branch: the law should apply equally to all.

No matter how you come out on that issue, though, I can assure you that the bringing of public corruption cases has been and will continue to be a high priority for this Department. Whether found on the local level, the state level, or the Federal level, whether in the executive branch, the legislative or the judicial, this insidious problem will be addressed with every weapon at our disposal. It is worth the effort, because public confidence and trust in our system of government is essential to our free society. If America is to be as a shining city on the hill, a vigorous fight against public corruption is an indispensable building block.