

NYTimes JAN 26 1973

F.B.I. CHIEF ASSAYS GOAL OF JUSTICE

Asks Protection of Society,
Not 'Just the Accused'

Special to The New York Times

WASHINGTON, Jan. 25—

The head of the Federal Bureau of Investigation said today that the object of the criminal justice system should be "the protection of society, not just the protection of the rights of the accused."

L. Patrick Gray 3d, the bureau's acting director, added that he believed that, while "rehabilitation is fine" for some convicted criminals, "it is a useless gesture for those who resist every such effort, or take advantage of such efforts to gain early release and do it all over again."

Mr. Gray, in a speech to the National Conference on Criminal Justice, said there was a need for "judges who know how to sentence" and added that in some cases it might be wiser not to attempt to rehabilitate felons but to "protect society" by keeping them in prison.

"The accused on trial is not the only person whose unalienable rights are on the line in a criminal case," he declared. "The people in whose name the prosecution is brought have a rather substantial set of rights on the line, too."

Panel's Views Weighed

Mr. Gray, who has headed the F.B.I. since the death of J. Edgar Hoover last May, addressed about 500 delegates on the second day of a three-day meeting sponsored by the Justice Department's Law Enforcement Assistance Administration.

The conference was called to discuss the implementation of recommendations in the report of the National Advisory Commission on Criminal Justice Standards and Goals, a two-year project completed earlier this month. About 1,500 law enforcement, judicial and corrections officials are attending.

Mr. Gray said that the F.B.I. had not had time to study the report thoroughly, but another speaker, Justice William H. Rehnquist of the Supreme Court commended the commission for its "innovative emphasis."

Although he avoided taking an outright position on any of its proposals, Justice Rehnquist singled out as "probably the most controversial" a recommendation that the practice of

plea bargaining be abolished over a five-year period.

He noted that on this point the commission had "parted company" with both the President's Commission on Law Enforcement and an American Bar Association study group. He said he "would have welcomed, as I am sure the commission would have welcomed, some empirical data" on the probable effects of such a step in the criminal caseload before the courts.

From 80 to 90 per cent of all criminal cases, Justice Rehnquist said, are now being settled by pleas of guilty. He questioned whether the judiciary had "the necessary resources to provide for handling the increase" in the number of cases going to trial if defendants were prohibited from pleading guilty to a lesser charge.

Pretrial Move Questioned

He also characterized as "controversial" the commission's proposal that pretrial discovery, the process in which lawyers for both sides in a civil case are permitted to question the opposition's witnesses and examine its evidence before the trial starts, be broadened significantly in criminal proceedings.

The commission has proposed that a criminal defendant be exempted from such discovery by the prosecution, Justice Rehnquist said, but it does favor the discovery of which witnesses the defense proposes to call.

"Obviously," he said, "at some point in expanding discovery we reach an area where we trench on the defendant's privilege against self-incrimination."

In response to a question after his speech earlier in the day, Mr. Gray said that he had been "unable to uncover any statistics that prove that the death penalty does not deter crime."

He said he had studied last June's Supreme Court decision that rendered unconstitutional the death penalty as it is now imposed and had not found "any absolute prohibitions" that would keep states from passing properly worded and properly enforced capital punishment statutes.

In its decision, the Court held that the death penalty, as now administered in the United States, violates the constitution.

Mr. Gray, who is still awaiting president Nixon's nomination as permanent F.B.I. director, repeatedly echoed the sympathetic attitude of other Nixon Administration officials toward the law enforcement profession. He said at one point that the problems facing the police did not require "more enlightenment or more rhetoric. Support is what we need," he said.